

Colorado, individually and as trustee of all of the trusts listed; the Bergmann 2011 Irrevocable Trust Under Agreement, Alma F. Bergmann, trustee, both of Bow Mar, Colorado; the Community Property Trusts under the Michael Dean Bergmann and Alma F. Bergmann Declaration of Trust, Alma F. Bergmann and Michael D. Bergmann, as co-trustees, all of Bow Mar, Colorado; Earl L. Wright, Castle Pines, Colorado; Nathan Bergmann and Kelley Bergmann, both of Denver, Colorado; to form the Wright/Bergmann group, a group acting in concert, to retain voting shares of AMG National Corp., Greenwood Village, Colorado, and thereby indirectly retain voting shares of AMG National Trust Bank, Boulder, Colorado.

B. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Scott A. Erickson and Matthew P. Bock, both of Sioux Falls, South Dakota: To retain voting shares of Leackco Bank Holding Company, Inc., Huron, South Dakota, and thereby indirectly retain voting shares of American Bank & Trust, Wessington Springs, South Dakota.

Additionally, the 2021 Jeffery A. Erickson Irrevocable Trust No. 5 (Erickson Trust 5), the 2021 Jeffery A. Erickson Irrevocable Trust No. 6 (Erickson Trust 6), the 2021 Jeffery A. Erickson Irrevocable Trust No. 7 (Erickson Trust 7), and the 2021 Jeffery A. Erickson Irrevocable Trust No. 8 (Erickson Trust 8), and collectively, the "New Erickson Trusts", Matthew P. Bock, as trust protector of the New Erickson Trusts, Scott A. Erickson as investment trust advisor of the New Erickson Trusts and trustee of Erickson Trust 5, 6 and 8, and Jamie L. Brown as trustee of Erickson Trust 7, all of Sioux Falls, South Dakota; to join the Erickson family shareholder group, a group acting in concert, by retaining voting shares of Leackco Bank Holding Company, Inc., and thereby indirectly retaining voting shares of American Bank & Trust.

Finally, the 2021 Preston B. Steele Irrevocable Trust No. 1, the 2021 Preston B. Steele Irrevocable Trust No. 2, and the 2021 Preston B. Steele Irrevocable Trust No. 3, collectively, "the New Steele Trusts", Matthew P. Bock, as investment trust advisor and trustee of the New Steele Trusts, and Scott A. Erickson, as trust protector of the New Steele Trusts, all of Sioux Falls, South Dakota; to join the Steele family shareholder group, a group acting in concert, by retaining voting shares of Leackco Bank Holding Company, Inc.,

and thereby indirectly retaining voting shares of American Bank & Trust.

Board of Governors of the Federal Reserve System, December 30, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

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**BILLING CODE P**

## FEDERAL TRADE COMMISSION

[File No. P222100]

### HISA Racetrack Safety

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of Horseracing Integrity and Safety Authority (HISA) proposed rule; request for public comment.

**SUMMARY:** The Horseracing Integrity and Safety Act of 2020 recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission. The proposed rules and rule modifications must be published in the **Federal Register** for public comment. Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification. The Authority submitted to the Commission a proposed rule on Racetrack Safety on December 6, 2021. The Office of the Secretary of the Commission determined that the proposal complied with the Commission's rule governing such submissions. This document publicizes the Authority's proposed rule text and explanation, and it seeks public comment on whether the Commission should approve or disapprove the proposed rule.

**DATES:** If approved, the HISA proposed rule would have an effective date of July 1, 2022. Comments must be received on or before January 19, 2022.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write "HISA Racetrack Safety" on your comment and file your comment online at <https://www.regulations.gov> under docket number FTC-2021-0076. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B),

Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

### FOR FURTHER INFORMATION CONTACT:

Austin King (202-326-3166), Associate General Counsel for Rulemaking, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

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## Background

The Horseracing Integrity and Safety Act of 2020<sup>1</sup> recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission.<sup>2</sup> The proposed rules and rule modifications must be published in the **Federal Register** for public comment.<sup>3</sup> Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification.<sup>4</sup>

The Authority submitted to the Commission a proposed rule on Racetrack Safety on December 6, 2021. The Office of the Secretary of the Commission determined that the proposal complied with the Commission's rule governing such submissions.<sup>5</sup>

Pursuant to Section 3053(a) of the Horseracing Integrity and Safety Act of 2020 (the "Act") and Federal Trade Commission Rule 1.142, notice is hereby given that, on December 6, 2021, the Horseracing Integrity and Safety Authority ("HISA" or the "Authority") filed with the Federal Trade Commission (the "Commission") the proposed Racetrack Safety rule and supporting documentation as described in Items I, II, III, IV, and X below, which Items have been prepared by HISA, as well as the Appendix. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

### I. Self-Regulatory Organization's Statement of the Background, Purpose of, and Statutory Basis for, the Proposed Rule

#### a. Background and Purpose

The Horseracing Integrity and Safety Act of 2020 ("Act") recognizes that a national uniform set of standards for racetrack safety will apply to a broad range of racetracks with widely varying environments in terms of economic structure, race dates, physical attributes, prevailing weather conditions, and other factors. As such, the Act directs the Horseracing Integrity and Safety Authority ("HISA" or the "Authority") to develop and implement "training and

racetrack safety standards and protocols taking into account regional differences and the character of differing racing facilities." The proposed Racetrack Safety rule utilizes a practical approach to this implementation, recognizing that some practices are already in place or can be put in place immediately, while others will require adequate time and resources to implement.

As directed in Section 3052(c)(2) of the Act, the Authority's Racetrack Safety Standing Committee (the "Committee") was constituted and undertook developing a comprehensive proposed rule setting forth a uniform set of training and racing safety standards and protocols. The Committee spent hundreds of hours in reviewing and analyzing existing standards and research, meeting and discussing key human and horse safety and welfare issues. The Racetrack Safety Standing Committee comprises four independent members and three industry members:

Susan Stover from California is an industry director on the HISA Board of Directors and chairs the Racetrack Safety Standing Committee of the Authority. Dr. Stover is a professor of surgical and radiological science at the University of California, Davis and an expert in clinical equine surgery and lameness. Her research investigates the prevalence, distribution and morphology of equine stress fractures, risk factors and injury prevention, as well as the impact of equine injuries on human welfare.

Lisa Fortier is an independent member from New York. Fortier is the James Law Professor of Surgery, Equine Park Faculty Director and associate chair for Graduate Education and Research at the Cornell University College of Veterinary Medicine. Her primary clinical and translational research interests are in equine orthopedic surgery, tendonitis, arthritis and regenerative medicine.

Peter Hester is an independent member from Kentucky. Hester is an orthopedic surgeon specializing in sports medicine and previously worked for equine veterinary surgeon William Reed at Belmont Park.

Paul Lunn is an independent member from North Carolina. Lunn is dean of the College of Veterinary Medicine at North Carolina State University. Previously, he was a professor and administrator at Colorado State University and the University of Wisconsin. Lunn's scholarly interests are in equine immunology and infectious disease.

Carl Mattacola is an independent member from North Carolina. Mattacola is dean of the University of North

Carolina, Greensboro School of Health and Human Sciences. Prior to this, he was associate dean of academic and faculty affairs for the College of Health Sciences at the University of Kentucky. Mattacola's research has focused on neuromuscular, postural and functional considerations in the treatment and rehabilitation of lower extremity injury.

Glen Kozak is an industry member from New York. Kozak is senior vice president of operations and capital projects for the New York Racing Association's (NYRA) facility and track operations, which include Belmont Park, Saratoga Race Course, Aqueduct Racetrack and others. Prior to joining NYRA, Kozak worked for the Maryland Jockey Club as vice president of facilities and racing surfaces.

John Velazquez is an industry member from New York. Velazquez is one of the most accomplished and respected jockeys in the history of horse racing, having won almost 6,250 races. He is North America's all-time leading money-earning jockey and holds the record for most graded stakes wins. He is a board member of the Permanently Disabled Jockeys' Fund and co-chairman of the Jockeys' Guild. He was inducted into the National Museum of Racing and Hall of Fame in 2012.

Beginning in September 2021, HISA representatives shared various working drafts with several interested stakeholders for input as the rule proposals were being developed. Those interested stakeholders included: Racing Officials Accreditation Program; Racing Medication and Testing Consortium (Scientific Advisory Committee); Water Hay Oats Alliance; National Thoroughbred Racing Association; The Jockey Club; The Jockeys' Guild; Thoroughbred Racing Association; Arapahoe Park; Grants Pass Downs; Arizona Downs; Colonial Downs; Association of Racing Commissioners International (Model Rules Committee); California Horse Racing Board; Kentucky Racing Commission; Delaware Racing Commission; Maryland Racing Commission; National Horsemen's Benevolent and Protective Association; Thoroughbred Horsemen's Association Mid-Atlantic Safety Coalition; Thoroughbred Owner's and Breeders Association; Kentucky Thoroughbred Association; American Association of Equine Practitioners; American Veterinary Medical Association; North American Association of Racetrack Veterinarians; Thoroughbred Safety Coalition; New York Racing Association; Stronach Racing Group (5 Thoroughbred racetracks); Churchill Downs (6 Thoroughbred racetracks); Breeders' Cup; Keeneland; and Del Mar.

<sup>1</sup> 15 U.S.C. 3051 through 3060.

<sup>2</sup> 15 U.S.C. 3053(b)(2).

<sup>3</sup> 15 U.S.C. 3053(b)(1).

<sup>4</sup> 15 U.S.C. 3053(c)(1).

<sup>5</sup> 16 CFR 1.140–1.144; see also Fed. Trade Comm'n, Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act, 86 FR 54819 (Oct. 5, 2021).

Additionally, videoconferences were conducted with all state racing commissions (except Arkansas), and a number of industry organizations.

Likewise, prior to finalization of the submissions by HISA to the Commission, working drafts of proposed regulations were made available to the public for review and comment on the HISA website at <https://www.hisaregs.org/>. The website received 1,864 unique visitors, 3,097 total visits, 162 registered users, 137 regulation downloads, and 360 comments. All submitted comments were catalogued by HISA.

With the review, input, and ultimate approval of the Authority's Board of Directors, the proposed Racetrack Safety rule would: (1) Put in place a mandatory national accreditation program for racetracks that utilizes the best practices developed to date for the safety and welfare of racehorses and human participants in horse racing and training; (2) set forth comprehensive record retention and data collection programs to aid HISA in further analysis, research and education on racetrack safety issues for purposes of continuous improvement based on the best empirical evidence available; and (3) establish specific restrictions, requirements and prohibited practices to address key health and safety issues in a uniform manner that can be implemented and enforced immediately in all racing jurisdictions and venues.

#### b. Statutory Basis

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. 3051 through 3060.

## II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule

### a. Rule Series 2100—Racetrack Safety Accreditation Program

The proposed rule submitted by the Authority would establish a mandatory national accreditation program for all U.S. racetracks that conduct Covered Horseraces (as defined in the Act).

#### Existing Standards

In developing the mandatory national accreditation program, HISA considered and relied heavily on the substantive provisions of the National Thoroughbred Racing Association Safety and Integrity Alliance Code of Standards ("NTRA Code of Standards"), as directed by the Act. The NTRA Safety and Integrity Alliance ("Alliance"), comprising the largest tracks and horsemen's groups in the U.S. and Canada, was developed to function as a

certification/accreditation body for the purpose of recognizing and incentivizing compliance by all stakeholders. Since its inception, the Alliance has helped spearhead reforms in the areas of improved medication and testing policies, guidelines for injury reporting and prevention, safety research, providing a safer racing environment, and post-racing care for retired racehorses. The Alliance reports that through its initiatives there has been a 29.5% drop in the rate across all surfaces since 2009. The NTRA Code of Standards has been maintained and updated based on in-the-field findings, consultation with regulators and industry participants, and collaboration with other industry organizations focused on safety and integrity. A broad-based Alliance Advisory Board as well as the NTRA Board of Directors approve updates to the Code of Standards. Twenty U.S. racetracks have been granted full Safety and Integrity accreditation under the NTRA program.

In developing the national accreditation program set forth in the proposed rule, HISA relied, in part, on the 2021 NTRA Code of Standards (Exhibit 1). The NTRA Code of Standards incorporates many of the specific standards and protocols set forth in the Association of Racing Commissioners International's Model Rules of Racing ("ARCI Rules") (Exhibit 2). The ARCI "Model Rules" of racing and wagering are recognized worldwide as a standard for the independent and impartial regulation of horse racing as well as the conduct of pari-mutuel wagering. Relying on the collective expertise of regulatory personnel in member jurisdictions in consultation with regulated entities, industry stakeholders, fans and individuals, ARCI committees consider ways to improve and enhance the regulation of racing. In some racing jurisdictions, the Model Rules have the force of law as they have been adopted by reference statutorily or through a regulatory rule making. In others they form the basis on which rules are written ensuring substantial uniformity in the regulation of the sport. HISA prepared a comparison of the substantive terms of the proposed rule with various safety standards and provisions of the NTRA Code of Standards and the specific ARCI Rules (Exhibit 3). In addition to these existing standards, HISA also considered and relied on the International Federation of Horseracing Authority's International Agreement on Breeding, Racing, and Wagering (Exhibit 4) and the British Horseracing

Authority's Equine Health and Welfare Program (Exhibits 5–7).

### 1. Rule 2110 *et seq.*—Accreditation Process

The Accreditation process allows the Authority to take into account the regional differences and the character of differing racetracks by providing various levels of accreditation and by allowing racetracks adequate time to comply with the accreditation requirements. At its core, the accreditation process creates a collaborative approach between the Authority and the Racetracks that recognizes all the requirements of accreditation cannot be fully implemented as of the Program Effective Date. A Racetrack that has already been accredited by the National Thoroughbred Racing Association is granted interim Racetrack Safety Accreditation. All other Racetracks are granted provisional Racetrack Safety Accreditation. The initial designations of interim and provisional Racetrack Safety Accreditation last at least until the Committee completes an accreditation assessment under the regulations. The accreditation assessment will evaluate whether a subject racetrack is in compliance with the accreditation requirements in the Rule 2100 Series. If the accreditation assessment concludes that the applicable Racetrack has not reached full compliance with the accreditation regulations, the Committee may grant provisional accreditation for one year and may extend such provisional accreditation if the subject racetrack is undertaking good faith efforts to comply with the accreditation requirements and achieve Accreditation.

### 2. Rule 2120 *et seq.*—Accreditation Requirements

#### i. Rule 2121—Racetrack Safety and Welfare Committee

Accreditation requires injury assessment and risk management protocols be in place to investigate equine and human injuries, to identify contributing factors, to educate participants, and to identify risk prevention and risk management measures to reduce the incidence/prevalence of injuries. These requirements are designed to enhance a culture of safety at the racetrack and thus improve safety for covered persons and covered horses. Injury incidence/prevalence will be reduced for the racetrack and racing commission. Racehorse attrition due to injury will be

reduced, maintaining racehorse inventory.<sup>6</sup>

ii. Rule 2130 *et seq.*—Required Safety Personnel: Safety Director

The proposed rule designates an individual that is responsible for overseeing risk assessment, risk management, and interacting with the Authority for Racetrack Safety Accreditation compliance. The proposed rule creates a position that establishes a reporting structure between the Authority and the State Racing Commissions who have entered into agreements with the Authority. This structure also enables coordination of risk assessment and risk management between the State Racing Commissions and the Authority, and thus standardizes risk assessment and risk management among the State Racing Commissions. Covered persons and covered horses will benefit from risk assessment, risk management, and development and implementation of strategies to mitigate future risk, thus creating a safer training and racing environment. Racetracks and racing commissions will benefit from fewer injuries, lower racehorse attrition, and enhanced social license to operate. The position of Safety Director is patterned after existing positions of “Equine Medical Director” in several racing jurisdictions including California, Kentucky, Maryland, New York, Virginia, and West Virginia. The position has expanded oversight (in addition to equine safety) of racetrack safety and safety of personnel working with horses.

Likewise, the proposed rule: (1) Designates that current stewards in jurisdictions having an agreement with the Authority will also enforce the Authority Regulations; (2) describes the duties and responsibilities of a Safety Officer who will oversee safety of the barn area, oversee safety protocols, and participate in the Safety and Welfare Committee; and (3) describes the duties and responsibilities of the Regulatory Veterinarian. The proposed rule is intended to ensure that specific individuals have designated responsibilities for creating a culture of safety by overseeing safety in the barn area, contributing to risk assessment and risk management, enforcing Authority regulations, and overseeing racehorse safety.<sup>7</sup>

<sup>6</sup> See also Exhibit 8; Exhibit 9 (pages 6–9); Exhibit 10.

<sup>7</sup> See also Exhibit 9 (pages 2–3); Exhibit 2 (ARCI–006–015 Stewards); Exhibit 8; Exhibit 2 (ARCI–006–070 Official Veterinarian); Exhibit 11.

iii. Rule 2140 *et seq.*—Racehorse Inspections and Monitoring

Rules 2141–2142—Racehorse Veterinary Inspections and Assessments

The rule requires that racehorses are screened and inspected by regulatory veterinarians at several times (opportunities) to detect horses that are unsound, injured or medically compromised. The purposes are to identify at-risk horses and prevent exacerbation of the condition by preventing racing while the horse is compromised, alert the trainer so an affected horse can be appropriately treated and rehabilitated, and detect abuse (*e.g.*, injuries from improper crop use). The rule promotes regulatory veterinarian collaboration with trainers in the appropriate management of racehorses. The proposed rule deters abusive practices such as excessive use of the crop on the racehorse. The rule enhances racehorse welfare by preventing career-ending and catastrophic injuries. The rule enhances jockey welfare because many jockey injuries are the result of racehorse falls from a catastrophic injury during a race. The rule enhances racetrack welfare by reducing racehorse attrition due to career-ending or catastrophic injuries. The rule enhances social perception of racing by preventing catastrophic injuries during racing.<sup>8</sup>

Rule 2143—Racehorse Monitoring

The rule requires that racehorses entering a racetrack be inspected by a veterinarian and determined to be in good health and to have been vaccinated for transmissible and life-threatening diseases. The purpose is to ensure racehorses entering the racetrack are in good health and to prevent transmission of disease by unhealthy racehorses to other racehorses in the racetrack environment. Further, the rule requires that for racehorses leaving the racetrack, information about their intended destination and transporter are provided so that in the case of a disease outbreak contact tracing can occur for disease investigation and containment. The stated “purpose” for exiting a racetrack is required for knowledge useful for investigation of medication and training-related factors for racehorse injury and attrition. The rule prevents disease entry and transmission to a dense population of racehorses in racetrack environments and allows for disease investigation and containment in the event of a disease outbreak. The rule also enhances investigations into causes of racehorse injury and attrition

<sup>8</sup> See also Exhibit 1; Exhibit 2.

by collection of data useful for epidemiological studies. Racehorses travel among racetracks due to the scheduling of race meets at different racetracks throughout a calendar year. Disease prevention and containment are critical to maintaining a healthy racehorse population. The rule optimizes racehorse welfare and prevents closure of racing and racetracks due to a disease outbreak in the racehorse population.<sup>9</sup>

iv. Rule 2150 *et seq.*—Racetrack and Racing Surface Monitoring and Maintenance

The rule requires that racetracks are designed, configured, tested, maintained, and monitored to optimize the racing surface for safety of the racehorse and jockey. Racetracks must be constructed with components that optimize safety of racehorses and human participants. The rule stipulates design criteria for safest known products that are intended to prevent racehorse and jockey injury during training and racing events. The race surface and race surface material are known to influence risk for racehorse injury, and management of the race surface material is known to influence race surface properties. Because the safest design criteria for race surface materials and the effect of management procedures on surface material properties are largely unknown, there is a requirement for data collection to enable studies for association with racehorse injuries. The rule is intended to enhance racehorse welfare by preventing career-ending and catastrophic injuries due to poor race surfaces and preventing accidents due to poor racetrack design and racetrack component design (*e.g.*, starting gate padding). The rule similarly enhances jockey welfare because many jockey injuries are the result of racehorse falls from a catastrophic injury during a race and reducing the severity of jockey accidents by safer racetrack construction (*e.g.*, safety rails). The rule enhances racetrack welfare by reducing racehorse attrition due to career-ending or catastrophic injuries. The rule enhances the social perception of racing by the public by preventing catastrophic injuries during racing.<sup>10</sup>

<sup>9</sup> See also Exhibit 12; Exhibit 13; Exhibit 14; Exhibit 17.

<sup>10</sup> See also Exhibit 1; Exhibit 2 (ARCI–007–020, Facilities and Equipment); Exhibit 18 (Surfaces); Exhibit 19 (Racing Surfaces Testing Laboratory website); Exhibit 15.

v. Rule 2160 *et seq.*—Emergency Preparedness

The rule includes accreditation requirements that racetracks adequately undertake various emergency preparedness steps with respect to catastrophic injuries, fire safety, hazardous weather, infectious disease outbreaks and emergency drills. These provisions require racetracks to train emergency response personnel in the types of injuries and situations specific to racetracks. These requirements are intended to ensure racetracks and Covered Persons are adequately prepared to address emergencies in an effective manner if and when they arise. In particular, the rule also specifically provides for a dedicated ambulance to respond to human injuries that occur in the course of training and racing.<sup>11</sup>

vi. Rule 2170—Necropsies

The rule requires that a necropsy (autopsy) be performed on all horses that die or are euthanized at covered racetracks and training centers. The rule also outlines the types of necropsies acceptable to the Authority and unifies necropsy examination protocols and reporting of resultant examinations. Necropsies identify factors that caused or contributed to the horse's death and provide an opportunity to survey racehorses for other injuries. The resulting information will be used to identify abnormalities and implement protective measures to mitigate future injuries. The collected data will be used for research, to make improvements where needed and reduce equine injuries. This information is critical for making associations of causation between racetrack conditions, race and training data and injury. Some racing commissions do not require necropsies or limit them to certain circumstances. Thus, factors that cause racehorses' deaths are not always documented. The regulatory veterinarian will have the responsibilities of establishing the SOP and uploading the resultant necropsy data into the Equine Injury Database.<sup>12</sup>

vii. Rule 2180 *et seq.*—Safety Training and Continuing Education

The first part of the rule requires that participating State Racing Commissions use a uniform national trainer's test as

part of the requirements for an individual to be a trainer. The purpose is to have a standardized test among all jurisdictions. The second part of the rule states that persons responsible for racehorse or racecourse management are required to have continuing education for the purpose of enhancing knowledge and conveying new knowledge to industry participants. Implementation of safety and welfare measures relies on the transfer of information known and generated through research to the industry participants that can implement change. Current continuing education opportunities are scarce, variable in quality, non-uniformly applied among jurisdictions, and address only some industry participants. The rule institutes uniform hourly requirements for existing offerings for a greater number of industry participants. Increasing the level of education of industry participants will help ensure that covered persons are familiar with best practices and regulatory requirements governing safety and integrity, promote a culture of safety at the racetrack, enhance safety and welfare of covered horses and covered persons, and increase welfare of the racehorse industry.<sup>13</sup>

viii. Rule 2190 *et seq.*—Jockey Health

The rule will require State Racing Commissions or Racetracks to conduct drug and alcohol testing for jockeys. The rule is intended to help ensure that jockeys are not impaired when riding in a race. Horse racing can be a dangerous sport and it is imperative that jockeys be mentally and physically fit while performing their duties. A jockey that is impaired is a danger to themselves, other jockeys, licensees, and horses.

The rule also requires Racing Commissions or Racetracks to develop protocols for concussion management. A concussion is a type of traumatic brain injury that interferes with normal function of the brain. Continuing to ride is dangerous for the jockey and may cause additional damage/injury. In addition, the impairment creates a dangerous situation for other jockeys and horses.

The rule provides an opportunity to assess a jockey for a possible concussion injury and if detected, reduce the chance of elevating the injury. It also protects other jockeys and horses that may be negatively affected by the injured jockey's impairment. Concussion assessment and requiring

clearance for return to the sport from a medical provider are standard practices in most sports prone to concussion injuries. The rule will require that a jockey to be examined and "cleared" to return to ride by a qualified medical provider.<sup>14</sup>

b. Rule Series 2200—Specific Rules and Requirements

1. Rules 2220–2230—Attending Veterinarian and Treatment Restrictions

These rules require that only veterinarians licensed by the State Racing Commission can examine, diagnose, and treat racehorses and that the veterinarian is working with the trainer (agent of owner) to appropriately examine, diagnose abnormalities and treat racehorses. The rules are intended to ensure medications and treatments administered to racehorses are given by only veterinarians that have the specific knowledge and expertise to make diagnoses and treat racehorses. Further, the rules require that there is a valid veterinarian-owner/trainer relationship for treatment of racehorses. The rules optimize racehorse care by ensuring that racehorses are appropriately examined by veterinarians specifically knowledgeable about racehorse medicine and surgery, and racing regulations; and that veterinarians and trainers are working collaboratively for optimizing racehorse health.<sup>15</sup>

2. Rule 2240 *et seq.*—Veterinarians' List

The rule establishes a list of horses that have compromised health or unsoundness and prohibits these horses from racing. Further, the rule outlines the process by which the horses are determined to have recovered from their illness or unsoundness and may return to racing. Horses that participate in a race while medically or physically compromised are at risk for exacerbating the illness or physical injury, and in some cases having a career-ending or catastrophic injury, also risking severe injury to the jockey. The rule prevents affected horses from racing until the horses have recovered from their illness or injury. The rule is designed to protect horses from worsening an existing condition, and allow for recovery, rehabilitation, and return to racing in a healthy state. The rule is intended to protect jockeys from injuries associated with falls from horses due to the horse incurring a severe injury during a race and falling at high speed. Racetracks

<sup>14</sup> See also Exhibit 23; Exhibit 24; Exhibit 25; Exhibit 26.

<sup>15</sup> See also Exhibit 1 (pages 42–43, referencing ARCI-011–10); Exhibit 2 (ARCI Model Rules of Racing—ARCI-011–010 Veterinary Practices).

<sup>11</sup> See also Exhibit 2 (ARCI-007–020, Facilities and Equipment); Exhibit 1 (pages 13–17, referring to ARCI standards above); Exhibit 16; Exhibit 15; Exhibit 17.

<sup>12</sup> See also Exhibit 10 (Veterinary Practices 1846.5, Postmortem Examination. (a)–(h)); Exhibit 1 (ARCI Model Rules ARCI-011–030 Physical Inspection of Horses, Assessment of Racing Condition, C. Postmortem Examinations(1)–(6)); Exhibit 20; Exhibit 8; Exhibit 9; Exhibit 21.

<sup>13</sup> See also Exhibit 1 (referencing ARCI Model Rules ARCI 008–020(A)(4); ARCI 006–015(A), ARCI 006–015(A)); Exhibit 22.

will benefit from the prevention of horse fatalities during races. Racetracks and Racing Commissions will benefit because the Veterinarians' List will be shared among all Racing Jurisdictions so that horses put on the list at one jurisdiction will be identifiable when the horse moves to another jurisdiction.<sup>16</sup>

### 3. Rule 2250 *et seq.*—Racehorse Treatment History and Records

The rule requires attending veterinarians and trainers to report all medications, treatments, surgical procedures, and off-racetrack exercise history for all covered horses to the Authority's database. The purpose is to discover high risk practices so that injuries and illnesses can be prevented in the future. Knowledge of medication, treatments, surgical procedures, and off-track exercise history data is necessary to correlate medication, treatments, surgical procedures, and off-track exercise history with risk for injury and illness, so that high risk practices can be discovered, and injuries and illnesses can be prevented in the future.

Collection and correlation of the information with data on injuries and illnesses will enhance equine welfare by allowing the development of strategies for injury and illness prevention. Jockey welfare and safety will be enhanced by a decrease in the incidence of horse falls due to injury and associated jockey injuries. Industry welfare will be enhanced by lower racehorse attrition. The Authority will develop technology (*e.g.*, tablet apps) to minimize the burden on covered persons.<sup>17</sup>

### 4. Rule 2260 *et seq.*—Claiming Races

Claiming races are races in which horses entered in the race may be purchased for the claiming price by a new trainer/owner. The horse becomes the property of the new trainer/owner as soon as the horse leaves the starting gate in the race. The rule provides the exceptions that, if the horse dies, is euthanized, is vanned off (due to the inability of the horse to exit the racecourse), becomes unsound or medically compromised, bleeds from the nostrils (and presumably the lungs) after the race, or has a positive drug test, transfer of the horse does not occur. The rule protects the purchaser of the horse from acquiring an injured,

compromised, or dead horse. The rule provides disincentives to a trainer/owner to enter a horse compromised from latent injury or ailment in a race with the intent for another trainer/owner to take responsibility by claiming the horse in the race. The option for the claim not to be voided by the potential new trainer/owner is useful in circumstances in which a compromised horse may be rehabilitated after the race, or where the new trainer/owner desires to acquire a horse for breeding purposes as opposed to continuing to train and race. The Waiver Claim Option also allows a horse trainer/owner that rehabilitated a horse and wishes to start the horse in a race to start the horse in a claiming race without the possibility of the horse being claimed by another trainer/owner. This allows a horse trainer/owner to take time to rehabilitate a horse and allow them to then start the horse in a race without the possibility of losing the horse to another trainer/owner. The rule incentivizes trainers/owners to rehabilitate horses for long term health and an extended racing career.

In the case of a successful claim (horse purchase) the rule effects transfer of medical records to the new trainer/owner. Knowledge of medical history provides information to the new trainer/owner so the horse may be managed appropriately, given its history, and obtain the best training and medical care for the horse's optimal health.

The rule protects covered horses from being raced when they are not physically or medically fit to do so. The rule protects covered persons from purchasing a compromised horse. Racetracks, racing commissions, and the racing industry benefit because compromised horses in races are more likely to suffer a catastrophic injury; thus, some catastrophic or career-ending injuries are prevented.<sup>18</sup>

### 5. Rule 2270 *et seq.*—Prohibited and Restricted Practices

#### i. Rule 2271—Prohibited Practices

The rule regulates the use of practices that either: (1) Mask pain to allow horses to train and race with injuries or joint disease (*e.g.*, neurectomy, shock wave therapy, electrical medical devices); (2) induce inflammation and pain with the intent to speed healing of injured structures (*e.g.*, thermocautery); or (3) cause pain to stimulate a horse to run faster (*e.g.*, electrical shock). Certain specific practices (such as shock wave therapy) are also addressed in specific rules in this section. The rule is

intended to prevent abuse of racehorses by preventing the masking of pain that allows horses to train and race while injured, and by preventing the stimulation of pain to coerce racehorses to perform beyond their athletic potential. Inhumane and dangerous practices on racehorses will be prevented.<sup>19</sup>

#### ii. Rule 2272—Shock Wave Therapy

The rule regulates the use and monitoring of a treatment (shock wave therapy) used on bone, tendon, and ligament injuries. Shock wave therapy can also provide pain relief that allows affected horses to continue to train and race on a mild injury. Continued training and racing on a mild injury could precipitate a career-ending or catastrophic injury. The rule addresses the problem by closely monitoring treatments and requiring treated horses to refrain from training at high speed or racing until an appropriate time for rehabilitation of the injury that was treated. The rule enhances safety of covered horses by reducing the incidence of career-ending and catastrophic injuries. Because jockey injuries are associated with horse falls due to catastrophic injuries during high-speed training and racing, the rule also enhances jockey safety and welfare.<sup>20</sup>

#### iii. Rules 2273–2275—Devices

The rules prohibit the use of any device meant to alter the speed or performance of a horse. The rules are in place in all U.S. racing jurisdictions. The penalty for noncompliance is not standard across jurisdictions and varies from a 10-year loss of racing license to suspensions and fines. The rules are intended to standardize the language nationally and standardize sanctions. Stewards will have national standardized language and sanctions when adjudicating cases and issuing sanctions. Covered Persons will know the industry considers use of performance-affecting devices a serious issue.<sup>21</sup>

#### iv. Rule 2276—Horseshoes

The rule limits the height of rims used as traction devices on forelimb and hindlimb horseshoes. The rule prohibits use of any other traction devices. Traction devices have been thought to

<sup>16</sup> See also Exhibit 2 (ARCI-011-030 Physical Inspection of Horses, B. Veterinarians' List; Exhibit 9 (pages 20–21); Exhibit 1 (Section E).

<sup>17</sup> See also Exhibit 1 (NTRA Safety & Integrity Alliance—Code of Standards 2021, Trainer Records and Reporting, page 21); Exhibit 2 (ARCI-008-020 Trainers); Exhibit 9 (“Layoff Report”); Exhibit 10 (Rule Nos. 1842, 1842.1, 1842.5).

<sup>18</sup> See also Exhibit 27; Exhibit 9 (pages 16–18).

<sup>19</sup> See also Exhibit 1 (Shock Wave Therapy, page 20); Exhibit 2 (ARCI Model Rules of Racing ARCI-011-015(4) (shock wave therapy), ARCI-006-020, ARCI-010-030, ARCI-024-025 (heel nerving), ARCI-011-015 (prohibited practices)).

<sup>20</sup> See also Exhibit 1 (page 20); Exhibit 2 (ARCI-011-015 Prohibited Practices).

<sup>21</sup> See also Exhibit 2 (ARCI-010-035 Running of the Race E(7)(c)—Use of Riding Crop); Exhibit 4.

increase a horse's ability to "dig in" to the track surface and prevent slipping. Traction devices reduce the horse's ability to plant its hoof properly and move correctly through the surface. That reduction of movement contributes to catastrophic breakdowns and skeletal and muscle-related injuries. The rule follows the scientific evidence that shows that traction devices increase equine injuries. The rule is intended to increase the safety of covered riders and covered horses by reducing the number of accidents resulting from injuries associated with the use of traction devices. Lower racehorse attrition will enhance racetrack welfare by having greater racehorse inventory to fill races, larger race fields, and consequently greater parimutuel betting. The rule will standardize traction device use nationwide.<sup>22</sup>

<sup>22</sup> See also Exhibit 28 (In a study of 201 Thoroughbred racehorses that died during racing or training at California racetracks, toe grabs were identified as possible risk factors for fatal musculoskeletal injury, fetlock suspensory apparatus failure, and fetlock condylar fracture. The odds of fatal musculoskeletal injury, fetlock suspensory apparatus failure, and fetlock condylar fracture were 1.8, 6.5, and 7.0, respectively, times greater for horses shod with low toe grabs than for horses shod without toe grabs on front shoes. Horses shod with regular toe grabs on front shoes had odds 3.5, 15.6, and 17.1 times greater ( $P < 0.05$ ) for fatal musculoskeletal injury, fetlock suspensory apparatus failure, and fetlock condylar fracture, respectively, compared with horses shod without toe grabs. The odds of horses shod with rim shoes were a third ( $P < 0.05$ ) of those shod without rim shoes for either fatal musculoskeletal injury or fetlock suspensory apparatus failure.); Exhibit 29; Exhibit 30 (The results supported the hypothesis that using studs will decrease foot slip distance in horses cantering on a grass surface.); Exhibit 31 (A marginal association ( $p=0.08$ ) was detected between moderate ligamentous suspensory apparatus injury and height of toe grab. Toe grab height may remain a risk factor for suspensory apparatus failure and condylar fracture because moderate ligamentous suspensory apparatus injury is a risk factor for suspensory apparatus failure and condylar fracture.); Exhibit 32 (Horses that wore low, regular, or Quarter Horse height toe grabs the week of injury had higher odds of having a mild suspensory apparatus injury, compared with horses that did not wear toe grabs that week ( $p=0.16$ )); Exhibit 33 (Odds of injury in racehorses with toe grabs on front shoes were 1.5 times the odds of injury in horses without toe grabs, but this association was not statistically significant (95% confidence interval, 0.5–4.1).); Exhibit 34 (Although toe grab height was not a significant risk factor in the multivariable or univariable models in the present study, a prior related study, and a Florida study, found the direction of the relationship between toe grab height and injury in both studies was consistent with higher risk with higher toe grabs. Furthermore, toe grab height is associated with the development of mild suspensory apparatus injury, which is a risk factor for suspensory apparatus failure. The use of high toe grabs has decreased in recent years, and variability in toe grab height is associated with 10% to 16% of the variability in exercise variables, perhaps making it more difficult to detect a significant toe grab effect in univariable and multivariable analyses, respectively. It is possible that a toe grab effect is also confounded by other factors; but, in the absence of other known

#### 6. Rule 2280 *et seq.*—Use of Riding Crop

Allowing use of the crop is critical for the safety of horses and riders. The rule limits the number of times the crop can be used for encouragement. The rule unifies crop design and use of the crop across all jurisdictions. The rule unifies penalties for crop abuse or use of prohibited devices across jurisdictions. There has been heated debate about use of the riding crop, especially for encouragement. Some believe the new crops do not hurt the horse at all, while others remain concerned about the public perception of using a crop for encouragement. The rule allows riding crop use for safety of the horse and jockey. It also limits the number of times the crop can be used for encouragement during a race. This compromise of use of the crop for safety, and limited use for encouragement that will be unified across racing jurisdictions, is in the best interest of the horses, horsemen, the owners, the jockeys, the betting public, racing commissions, and the general public. The rule is intended to protect horses from excessive use of the crop. Jockeys will have a clear understanding of crop use rules and will be able to adapt their usage due to uniformity of the rules.<sup>23</sup>

#### 7. Rule 2290 *et seq.*—Safety and Health of Jockeys

The rule requires that a jockey have a physical examination including baseline concussion testing in order to be eligible to ride in races. Further, the rule states that starting gate personnel and any person mounted on a horse must wear a protective helmet and vest. When mounted on a horse, jockeys must have medical information pertinent to emergency care on their vest. The rule ensures that jockeys are physically fit and capable of riding without endangering other participants during a race. The rule ensures that jockeys and starting gate personnel wear safety vests and helmets to minimize injury in case of an accident. In the case of a jockey injury, medical information pertinent to emergency care will be readily available to medical providers. In the case of a jockey injury, baseline concussion data is available for comparison to the injury-related concussion assessment.

relationships, avoidance of use of high ( $\geq 4$  mm) toe grabs is still recommended for injury prevention.); Exhibit 35; Exhibit 4 (Article 7, Racing (Shoeing of Racehorses)); Exhibit 2 (ARCI-010-030 (30)); Exhibit 10 (California Rule 1690.1).

<sup>23</sup> See also Exhibit 10 (Crop Rule); Exhibit 36; Exhibit 37; Exhibit 38; Exhibit 39; Exhibit 40; Exhibit 41; Exhibit 42; Exhibit 43; Exhibit 44; Exhibit 45; Exhibit 46; Exhibit 47; Exhibit 48; Exhibit 49; Exhibit 50; Exhibit 51; Exhibit 52; Exhibit 53; Exhibit 54; Exhibit 10; Exhibit 55; Exhibit 56; Exhibit 35; Exhibit 57; Exhibit 58.

Stewards and the Clerk of Scales are responsible for monitoring and reporting non-compliance.<sup>24</sup>

### III. Self-Regulatory Organization's Summary of Comments

As encouraged by the Commission's rule, beginning in September 2021, HISA representatives shared various working drafts with several interested stakeholders for input as the rule proposals were being developed. Those interested stakeholders included: Racing Officials Accreditation Program ("ROAP"); Racing Medication and Testing Consortium (Scientific Advisory Committee) ("RMTC"); Water Hay Oats Alliance ("WHOA"); National Thoroughbred Racing Association ("NTRA"); The Jockey Club; The Jockeys' Guild; Thoroughbred Racing Association ("TRA"); Arapahoe Park; Grants Pass Downs; Arizona Downs; Colonial Downs; Association of Racing Commissioners International (Model Committee) ("ARCI"); California Horse Racing Board; Kentucky Racing Commission; Delaware Racing Commission; Maryland Racing Commission; National Horsemen's Benevolent and Protective Association; Thoroughbred Horsemen's Association Mid-Atlantic Safety Coalition; Thoroughbred Owners and Breeders Association; Kentucky Thoroughbred Association; American Association of Equine Practitioners; American Veterinary Medical Association; North American Association of Racetrack Veterinarians; Thoroughbred Safety Coalition; New York Racing Association, Stronach Racing Group (5 Thoroughbred racetracks); Churchill Downs (6 Thoroughbred racetracks); Breeders' Cup; Keeneland; and Del Mar. Additionally, videoconferences were conducted with all State racing commissions (except Arkansas), and a number of industry organizations.

Likewise, prior to finalization of the submissions by HISA to the Commission, working drafts of proposed regulations were made available to the public for review and comment on the HISA website <https://www.hisaregs.org/>. The website received 1,864 unique visitors, 3,097 total visits, 162 registered users, 137 regulation downloads, and 360 comments. All submitted comments were catalogued by HISA and were submitted to the Commission herewith.

The primary areas of the Racetrack Safety Rule that received comments were with regard to Safety and

<sup>24</sup> See also Exhibit 1 (pages 22–24); Exhibit 2 (ARCI-007-020 Facilities and Equipment); Exhibit 2 (ARCI-008-030 Jockeys).

Continuing Education (2182); Claiming Races (2260–2262); Veterinarians' List (2142, 2220–2242); Safety and Welfare Committee and Safety Director (2121–2131); Stewards and Safety Officer (2133–2136); Racehorse Treatment History (2250–2253); Prohibited Practices (2271); Medical Director (2132); Racetrack Surfaces, Monitoring and Maintenance (2150–2154); Necropsies (2170); Riding Crops (2280–2281); and Racehorse Treatment History and Records (2250–2253).

The Committee engaged in a continuous review and consideration process as comments were submitted, analyzed, and discussed both internally and with the various stakeholders.

Many of the proposed rules received substantial and wide-ranging support, and thus there were few comments suggesting changes. In several instances, significant changes were made in the ongoing rule development and revision process in direct response to comments received. In some instances, the Committee considered comments but elected to maintain the original proposed provisions based on statutory requirements and limitations and/or substantive analysis based on the expertise of the Committee and the supporting documentation it reviewed and considered.

#### **IV. Self-Regulatory Organization's Responses to Comments and Discussion of Alternatives**

The following is a description of the primary subjects that received comments and the manner in which the Authority addressed those comments in developing the proposed rule submitted to the Commission, as well as the reasonable alternatives the Authority considered alongside the option ultimately proposed.

##### *Safety and Continuing Education (Rule 2182)*

Comments were received from RMTTC, ROAP, WHOA, NTRA, and TRA among other individuals. Comments were highly supportive of requiring continuing education, and several comments asked for increased hourly requirements (e.g., Assistant Trainers should have the same requirements as Trainers: 4 hours). Hourly requirements were increased, more categories of covered persons were added to the list of individuals required to have annual continuing education. Requirements were modified to facilitate compliance for existing resources (e.g., Racing Officials have an 8-hour requirements every 2 years instead of annual requirements of 4 hours because the 8-hour requirements are achievable

using the ROAP meeting as a resource). Other comments expressed the need to have a centralized resource with quality-controlled content. The Racing Safety Committee concurs, and after the initial Racing Safety rule rollout, plans to engage in development and implementation of a strategic plan that incorporates a centralized resource, funding and development of education resources, and compliance monitoring after the initial Racing Safety rule rollout. The plan will likely build on the ad hoc evolving HorsemenU industry website. Concerns were also raised about funding, which will also be considered next.

##### *Claiming Races (Rule 2260)*

The Transfer of Claimed Horse Records had support from several individual regulatory veterinarians whose perspective was to optimize the welfare of horse by providing historical treatments to the new owner of the horse. The Void Claim rule had few comments (and thus wide acceptance). This rule is generally perceived to incentivize trainers to rehabilitate poorly performing horses instead of racing those horses which are at high risk for catastrophic injury. The rule is thought to contribute to the dramatic drop of catastrophic injuries in those racing jurisdictions that implemented a similar rule. Specific comments were related to including a positive medication violation as an additional reason for voiding the claim. The positive medication violation was added to the items that would void a claim. The Waiver Claiming Option, drawn from the void claim rule in existing jurisdictions, is generally accepted and had few comments. This option allows an individual to retain a claimed horse that otherwise meets some of the requirements for a voided claim. The rule allows an individual to retain the horse, usually for non-racing (breeding) purposes. The RMTTC, TRA, and individuals collectively commented and provided evidence that the purse to claim price ratio was unrealistic in consideration of the current structuring of purse monies for claiming races. The rule would penalize trainers/owners by dramatically lowering return for racing. The purse to claim price ratio text was removed from the regulations.

##### *Assessment of Racing Condition and Veterinarians' List (Rules 2142, 2220–2242)*

Assessment of Racing Condition by veterinary inspections/observations and placement of horses deemed ineligible to race due to unsoundness or medical conditions on the Veterinarians' List are

common practices in many jurisdictions and had generally positive support. The numerous comments ranging from individuals to RMTTC, CDI, WHOA, KHRC, NYRA, TRA, Mid-Atlantic Group, Oklahoma, and CNL related to specific items in the rules. In general, the first version of the rule was deemed too lax, and the second version of the rule was deemed too specific and not feasible for breeds other than Thoroughbreds (should the other breeds opt to participate under HISA). Further, there is general concern that there are not enough equine regulatory veterinarians for employment to support the rule. The submitted rule contained increased rigor by increasing the times of inspection by a veterinarian, with lesser regulation of the requirements for each inspection. The Authority intends to augment the requirements by distributing a "Best Practices" guidance document. Different jurisdictions had different standdown times for reasons to be put on the veterinarians' list—and commented accordingly. The rule, however, standardized standdown times and the requirements for removal from the veterinarians' list and incorporated a mandatory inspection of the horses by the attending veterinarian and trainer to ensure that a veterinarian attested to soundness and good health while facilitating consult and education of the trainer.

##### *Safety Director and Safety and Welfare Committee (Rules 2121–2131)*

The Safety Director and Safety and Welfare Committee are a new position and new structure for most racing jurisdictions. Some racing jurisdictions (e.g., California, Mid-Atlantic Group, New York) have an Equine Medical Director which has similar responsibilities as, but fewer than, the Safety Director. The Safety Director and Safety and Welfare Committee are established specifically for Risk Assessment and Risk Management. Comments were received from broad constituencies including the Minnesota Racing Commission, RMTTC, Maryland, WHOA, and Colonial Downs. Comments to the first version of the draft rules were largely related to the perception that jurisdictions would be required to hire additional individuals to fill these roles. Later versions of the rules clarified that existing individuals (e.g., Equine Medical Director) could fill these roles and perform the responsibilities. Further, later revisions clarified that jurisdictions could share individuals to fill the roles and responsibilities. Comments also pointed out that some stakeholders did not have representation on the Safety and



Welfare Committee. Additional committee members were included on the Safety and Welfare Committee (*e.g.*, track superintendent) to include broad representation of all stakeholders.

*Stewards and Safety Officer (Rules 2133, 2136)*

The Stewards and Safety Officer sections went through considerable revisions in response to comments from ROAP, TRA, KHRC, Maryland, RMTC, CNL, NTRA, and CDI. The Racing Safety Committee recognized that the Stewards are largely employed by the racetracks and eliminated regulatory oversight except to only ensure that the Stewards were also responsible for enforcing the Racing Safety regulations (subject to the applicable State Racing Commission electing to enter into an agreement with the Authority). Similarly, the Stewards' List section was deleted largely due to comments from the RMTC, ROAP, and TRA. The Safety Officer, generally a steward, is currently a position at only some racetracks, but is deemed an important position by the Racing Safety Committee; with oversight of general safety procedures including in the barn stable area. The requirement for a Safety Officer was left in the regulations. There was profound disagreement that a Safety Officer only be required at racetracks that held Graded Stakes races. The intent of the Racing Safety Committee was to reduce the burden of having an additional individual on smaller racetracks, but the perception was that only expensive horses mattered. Therefore, the requirement for a Safety Officer was made standard for all racetracks.

*Racehorse Treatment History (Rules 2250–2253)*

Racehorse treatment history obtained from attending veterinarians and trainers (Responsible Persons) is deemed important by the Racing Safety Committee because of the scientific reports that indicate that intra-articular corticosteroids,<sup>25</sup> non-steroidal anti-inflammatory drugs,<sup>26</sup> exercise history,<sup>27</sup> and return from lay-up (*i.e.*, rest from racing and training)<sup>28</sup> increase

<sup>25</sup> Whitton, et al. Musculoskeletal injury rates in Thoroughbred racehorses following local corticosteroid injection *The Vet J* 2014;200:71–76.

<sup>26</sup> Dirikolu, et al. Nonsteroidal anti-inflammatory agents and musculoskeletal injuries in Thoroughbred racehorses in Kentucky. *J Vet Pharmacol. Therap.* 2008;32:271–279.

<sup>27</sup> Anthenill, et al. Risk factors for proximal sesamoid bone fractures associated with exercise history and horseshoe characteristics in Thoroughbred racehorses. *Am J Vet Res* 2007;68:760–771.

<sup>28</sup> Carrier, et al. Association between long periods without high-speed workouts and risk of complete

the risk for career-ending or catastrophic musculoskeletal injury. This information will be stored in the Authority's database and used for research into associations with lay-up, and career-ending and catastrophic injuries. The Oklahoma Horse Racing Commission has numerous questions regarding the process and outcomes without suggestions. Comments from the Minnesota Racing Commission and ARCI indicated support for the centralization of data, suggested more rigorous reporting requirements (to those in the initial draft regulations), and the usefulness of the data for identifying horses needing additional scrutiny because of possible increased risk for injury. However, there was concern for the cumbersome process and burden on persons required to submit data. The Racing Safety Committee intends to work with the Authority's Technology section to facilitate ease of reporting and provide information back to data providers that will help them locally and incentivize data reporting.

*Prohibited Practices (Rule 2271)*

Several practices are prohibited because they may alleviate pain, mask signs of injury, or cause inflammation. These practices include shockwave therapy, neurectomy, thermocautery, and electrical medical therapeutic devices. RMTC, Minnesota Racing Commission, Maryland, KHRC, and Oklahoma Horse Racing Commission commented on the rule. Comments were largely related to two items: (1) Differences in regulating use of shockwave machines and stand down times for shockwave and (2) palmar digital neurectomy. The regulation of use of shockwave machines and stand down times were standardized in the rules. At least several racing jurisdictions currently (and historically) allow palmar digital neurectomy as permissible, stating that horses with palmar digital neurectomy can race safely without increased risk for injury. The Racing Safety Committee decided to disallow all neurectomies (including palmar digital neurectomy) on the principle that a procedure that alleviates pain without resolution of the underlying cause should not be permissible.

*Medical Director (Rule 2132)*

The Medical Director is included in the regulations to oversee the care and organization of medical needs for

humeral or pelvic fracture in Thoroughbred racehorses: 54 cases (1991–1994). *J Am Vet Med Assoc* 1998;212:1582–1587.

jockeys. The position was in the first draft of the regulations, removed because the Racing Safety Committee felt it needed more work, and then after further consideration and work, re-inserted the position of Medical Director to the last draft of the regulations. Consequently, while there are few written comments, the Racing Safety Committee has received verbal comments from stakeholders at the Global Symposium of Racing at the University of Arizona, conducted on December 6 and 7, 2020. Racing jurisdictions perceived that they would be required to hire a full-time physician, which is not the intent of the rule. Further, some racing jurisdictions thought they had adequate procedures in place and that the rule was not necessary. The Racing Safety Committee (with 3 members (athletic trainer, jockey, and physician) of a 7-member committee nominated by a separate Nominating Committee) thought it is important to ensure there is a standard minimum of care for jockey and exercise rider health and safety, and that national coordination of efforts would benefit the industry. Further, the Racing Safety Committee requires all racetracks to implement a concussion baseline assessment and evaluation protocol for determining fitness to ride, particularly after a fall or injury. A compromised jockey risks danger to not only him/herself but to other riders and horses in races.

*Racetrack Surfaces (Rules 2150–2154)*

The original draft of the Safety Regulations required that racetracks engaged in racetrack renovation consider the installation of a synthetic racing surface on the track. This requirement was based on data indicating that catastrophic injury rates for horses are reduced on synthetic surfaces. Several racetracks registered concerns about this provision, citing the cost of installing and maintaining synthetic surfaces, the training required for racetrack personnel in maintaining the surfaces, and the need for consideration of local climate conditions and product availability. The committee concluded that the proper course is to conduct further research and data on racetrack surfaces to guide the development of future regulations. Therefore, the rule as previously developed was removed from the final draft.

*Necropsies (Rule 2170)*

Necropsy is a critical tool in determining the cause of equine fatalities. The necropsy provisions in the rules are modeled on AAEP

guidelines, comments received that highlighted the practical issues faced by racing commissions and racetracks located in areas of the country that do not have laboratory facilities close by, or that are not open seven days per week. In the final draft, the regulations were revised to permit field necropsies when suitable facilities and resources are not available.

#### *Racing Surface Monitoring and Maintenance (Rule 2154)*

Racetrack surface monitoring via data collection is critical in identifying factors that contribute to equine injuries. The regulations regarding racetrack surface monitoring and maintenance were significantly influenced by constituent input. Regional differences, number of race days and available staffing differ greatly between racetracks. The Committee considered the input and fine-tuned the requirements to allow for those differences. Comments from racetracks indicated that the collection of data may be burdensome. The Committee therefore reduced the data collection requirements. For example, the original draft required collection of moisture content and cushion depth at four locations at every  $\frac{1}{8}$  pole; the revision reduced data collection to two locations at every  $\frac{1}{4}$  pole. This section of the rules was also reworked to reduce the specific information to those items most impactful and common to racetracks. The Committee also plans to develop electronic applications that will speed and facilitate the process for the racetracks taking the measurements and increased the number of formats acceptable for submission of the required information. The Committee will produce "Standard Protocol" documents to provide guidance for complying with the rule.

#### *Riding Crops (Rules 2280–2281)*

The comments received concerning use of riding crops were numerous and ranged from urging that the use of crops be prohibited altogether except for safety and accident avoidance to urging full discretionary use of the crop by the jockey. Numerous regulations of differing character are presently in effect among racing jurisdictions across the country. After much consideration, the Committee settled on a rule that represents a reasonable accommodation of the various comments and concerns expressed. The rule allows unlimited use of the crop for safety of the jockeys and horses in the race, but limited use for encouragement to 6 uses of the crop on the horse. In addition, there were multiple concerns that the penalties for

violation of the crop rule were not severe enough to deter violations. Further, comments were received urging the Committee to also incorporate owner and trainer accountability to relieve the jockey from pressure to make excessive use of the crop during a race. Therefore, loss of purse was incorporated in severe violations. Other comments referred to communication with the public when a jockey will ride without a crop in a race. The Committee adopted the recommendation that in addition to announcement at race time that the public would be notified further in advance by posting the information in the official racing program.

#### *Hazardous Weather (Rule 2164)*

The initial drafts contained very detailed requirements and protocols concerning fire safety, hazardous weather, and related provisions. Comments from the racetracks indicated many of these areas are already regulated in detail under local and state law. In response, the Committee removed some requirements in favor of requiring racetracks to document and report compliance with the applicable state and local requirements.

#### *Horseshoes (Rule 2276)*

Initial draft allowed some usage of toe grabs but, based on significant industry input and considered research and available industry information, ultimately concluded it was prudent and appropriate to totally preclude toe grabs on forelimbs and hind limbs.

#### *Comments That Were Inapplicable*

There were some comments that fell outside the jurisdiction of HISA, such as the following, so were not addressed in the proposed regulations. For example, one comment asked about the status of regulating two-year-old breeze up sales. The Act gives HISA authority over Covered Horses. Horses do not become Covered Horses until they have completed their first official work as defined by the Act, thus two-year-old horses offered in sales do not fall under the jurisdiction of HISA.

#### **V. Legal Authority**

This rule is proposed by the Authority for approval or disapproval by the Commission under 15 U.S.C. 3053(c)(1).

#### **VI. Effective Date**

If approved by the Commission, this proposed rule will take effect July 1, 2022.

#### **VII. Request for Comments**

Members of the public are invited to comment on the Authority's proposed

rule. The Commission requests that factual data on which the comments are based be submitted with the comments. The exhibits referred to in the Authority's filing, as well as the written comments it received before submitting the proposed rule to the Commission, are available for public inspection at [www.regulations.gov](http://www.regulations.gov) under docket number FTC–2021–0076.

The Commission seeks comments that address the decisional criteria provided by the Act. The Act gives the Commission two criteria against which to measure proposed rules and rule modifications: "The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with—(A) this chapter; and (B) applicable rules approved by the Commission."<sup>29</sup> In other words, the Commission will evaluate the proposed racetrack safety rule for its consistency with the specific requirements, factors, standards, or considerations in the text of the Act as well as the Commission's procedural rule.

Although the Commission must approve the proposed rule if the Commission finds that the proposed rule is consistent with the Act and the Commission's procedural rule, the Commission may consider broader questions about the health and safety of horses or the integrity of horseraces and wagering on horseraces in another context: "The Commission may adopt an interim final rule, to take effect immediately, . . . if the Commission finds that such a rule is necessary to protect—(1) the health and safety of covered horses; or (2) the integrity of covered horseraces and wagering on those horseraces."<sup>30</sup> The Commission may exercise its power to issue an interim final rule on its own initiative or in response to a petition from a member from the public. If members of the public wish to provide comments to the Commission that bear on protecting the health and safety of horses or the integrity of horseraces and wagering on horseraces but do not discuss whether HISA's proposed rule on racetrack safety is consistent with the Act or the applicable rules, they should not submit a comment here. Instead, they are encouraged to submit a petition requesting that the Commission issue an interim final rule addressing the subject of interest. The petition must meet all the criteria established in the Rules of

<sup>29</sup> 15 U.S.C. 3053(c)(2).

<sup>30</sup> 15 U.S.C. 3053(e).

Practice (Part 1, Subpart D)<sup>31</sup>; if it does, the petition will be published in the **Federal Register** for public comment. In particular, the petition for an interim final rule must “identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.”<sup>32</sup> As relevant here, the petition should provide sufficient information for the public to comment on, and for the Commission to find, that the requested interim final rule is “necessary to protect—(1) the health and safety of covered horses; or (2) the integrity of covered horseraces and wagering on those horseraces.”<sup>33</sup>

### VIII. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 19, 2022. Write “HISA Racetrack Safety” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the website <https://www.regulations.gov>.

Because of the public health emergency in response to the COVID-19 outbreak and the Commission’s heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write “HISA Racetrack Safety” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In

particular, your comment should not contain sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential”—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at [www.regulations.gov](https://www.regulations.gov)—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before January 19, 2022. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/siteinformation/privacypolicy>.

### IX. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner’s advisor, will be placed on the public record. See 16 CFR 1.26(b)(5).

### X. Self-Regulatory Organization’s Proposed Rule Language

#### Rule 2000 Series—Racetrack Safety Program

- 2010 Definitions
- 2100 Racetrack Accreditation
- 2110 Accreditation Process
- 2120 Accreditation Requirements
- 2130 Required Safety
- 2140 Racehorse Inspections and Monitoring
- 2150 Racetrack and Racing Surface Monitoring and Maintenance
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#### 2010. Definitions

When used in the Rule 2000 Series: *Act* means the Horseracing Integrity and Safety Act of 2020.

*Association Veterinarian* means a Veterinarian employed by a Racetrack.

*Attending Veterinarian* means a Veterinarian hired by the Trainer or Owner.

*Authority* means the Horseracing Integrity and Safety Authority.

*Bled* means that blood from one or both nostrils of a Horse has been observed after exercise.

*Claim* means, in the context of a Claiming Race, the purchase of a Covered Horse for a designated amount.

*Claiming Race* means a Race in which a Horse after leaving the starting gate may be claimed in accordance with the rules and regulations of the applicable State Racing Commission.

*Concussion* means an injury to the brain that results in temporary loss of normal brain function.

<sup>31</sup> 16 CFR 1.31; see Fed. Trade Comm’n, Procedures for Responding to Petitions for Rulemaking, 86 FR 59851 (Oct. 29, 2021).

<sup>32</sup> 16 CFR 1.31(b)(3).

<sup>33</sup> 15 U.S.C. 3053(e).

*Covered Horse* means any Thoroughbred horse, or any other horse made subject to the Act by election of the applicable State Racing Commission or the breed governing organization for such horse, beginning on the earlier of:

- (1) The date of the Horse's first timed and reported workout at a Racetrack;
- (2) the date of the Horse's first timed and reported workout at a Training Facility;
- (3) the date of the Horse's entry in a Covered Horserace; or
- (4) the date of the Horse's nomination for a Covered Horserace, and ending on the date on which the Authority receives written notice that the Horse has been retired in accordance with the Protocol.

Unless the context otherwise requires, Horse and Covered Horse shall have correlative meanings for purposes of this Rule 2000 Series.

*Covered Horserace* or *Race* means any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers.

*Covered Persons* means all Trainers, Owners, breeders, Jockeys, Racetracks, Veterinarians, and Persons licensed by a State Racing Commission, and the agents, assigns, and employees of such persons and other Horse support personnel who are engaged in the care, training, or racing of Covered Horses.

*Groom* means a Covered Person who is not an Owner, Veterinarian, Trainer, or assistant Trainer but is involved in the care of a Covered Horse.

*Jockey* means a rider of a Covered Horse in a Covered Horserace.

*Lead Veterinarian* means any Veterinarian appointed pursuant to Rule 2134(b).

*Medical Director* means an individual designated as Medical Director in accordance with the provisions of Rule 2132.

*Out-of-Competition* means any period which is not during race day.

*Owner* means a Person or entity who holds an ownership or property interest in one or more Covered Horses.

*Person* means a natural person or an organization or other entity.

*Program Effective Date* means July 1, 2022.

*Prohibited List* means the Equine Prohibited List identifying the Prohibited Substances and

*Prohibited Methods* means those prohibited methods set forth in the Rule 4000 Series.

*Prohibited Substance* means any substance, or class of substances, so described on the Prohibited List.

*Protocol* means the Equine Anti-Doping and Medication Control Protocol set forth in the Rule 3000 Series.<sup>34</sup>

*Race Meet* means the entire period granted by the State Racing Commission to a Racetrack for the conduct of Covered Horseraces on the Racetrack's premises.

*Racetrack* means an organization licensed by a State Racing Commission to conduct Covered Horseraces.

*Racetrack Safety Accreditation* or *Accreditation* means the process for achieving, and the issuance of, safety Accreditation to a Racetrack in accordance with the Rules 2100 through 2193.

*Racetrack Safety Committee* means the committee established pursuant to 15 U.S.C. 3052(c)(2).

*Racetrack Safety and Welfare Committee* means the committee established pursuant to Rule 2121.

*Regulatory Veterinarian* means a Veterinarian employed, contracted, or appointed by a State Racing Commission, Racetrack, or the Authority, who, in addition to other duties, is responsible for monitoring the health and welfare of Covered Horses during Covered Horseraces.

*Responsible Person* means the individual designated in the registration with the Authority as the Responsible Person in accordance with the following:

- (1) For a Covered Horse that has not yet performed its first Workout (or competed in a Race, whichever is earlier), the Responsible Person shall be the Owner of the Covered Horse unless the Horse is in training in another country.

(2) Once in training, the Responsible Person shall be the licensed Trainer for the Covered Horse. The licensed Trainer's designation as the Responsible Person shall be filed with the Authority. The Trainer designation must be kept current with the Authority. Designation transfers must be in writing and on record with the Authority prior to the effective date of the transfer, except for claiming Races in which transfers must be recorded the same day.

(3) If a Covered Horse ceases training for a period of time, the designation may be transferred to the Owner prior to the effective date.

(4) If the Owner is an entity, the managing Owner shall be named.

*ROAP* means the Racing Officials Accreditation Program.

*Safety Director* means an individual designated as, and having the responsibilities of, a Safety Director as set forth in Rule 2131.

*Safety Officer* means an individual designated as, and having the responsibilities of, a Safety Officer as set forth in Rule 2136.

*Shock Wave Therapy* means extracorporeal shock wave therapy or radial pulse wave therapy.

*Starting Gate Person* means any individual licensed as an assistant starter or any individual who handles Horses in the starting gate.

*State Racing Commission* means the regulatory body established or recognized by a State or the Federal government with authority to regulate, approve, or license Covered Persons and Covered Horses.

*Trainer* means a Person engaged in the training of Covered Horses.

*Training Facility* means a location that is not a Racetrack that operates primarily to house Covered Horses and conduct Workouts.

*Veterinarian* means a licensed veterinarian who provides veterinarian services to Covered Horses and who, as a prerequisite to providing veterinarian services to Covered Horses, has registered with the Authority.

*Workout* means an official timed running of a Covered Horse over a predetermined distance not associated with a Race.

## **2100. Racetrack Accreditation**

### **2101. General**

(a) The Racetrack Safety Committee and the Authority shall oversee Racetrack Safety Accreditation in accordance with the provisions of Rules 2100 through 2193. The Racetrack Safety Committee may also adopt best practices and guidance in accordance with the Act and the rules and regulations promulgated thereunder to provide further guidance to the Racetracks in the Accreditation Process.

(b) All Racetracks are required to seek and meet the requirements of Racetrack Safety Accreditation with the Racetrack Safety Committee in accordance with the provisions of Rules 2100 through 2193.

### **2110. Accreditation Process**

#### **2111. Interim and Provisional Accreditation**

(a) Interim Accreditation.

(1) A Racetrack that is accredited by the National Thoroughbred Racing Association as of the Program Effective Date shall be granted interim Racetrack Safety Accreditation, which shall be effective until the later of:

<sup>34</sup> The Commission notes that the 3000 Series and 4000 Series rules have not yet been proposed by the Authority. This and other cross-references to forthcoming rule proposals will be effective if such rules are proposed by the Authority and approved by the Commission under the same process as this proposed rule.

(i) Such time as the Racetrack Safety Committee completes an Accreditation assessment under Rule 2112 with respect to such Racetrack; or

(ii) the time period established by the Authority under Rule 2114(a).

(b) Provisional Accreditation.

(1) A Racetrack that is not accredited by the National Thoroughbred Racing Association as of the Program Effective Date shall be granted provisional Racetrack Safety Accreditation, which shall be effective until the later of:

(i) Such time as the Racetrack Safety Committee completes an Accreditation assessment under Rule 2112 with respect to such Racetrack; or

(ii) the time period established by the Authority under Rule 2114(b).

(2) The Authority may at any time upon reasonable notice require a Racetrack with provisional Racetrack Safety Accreditation to report on its progress in achieving Accreditation. The Authority may request any additional information from the Racetrack necessary to make its determination and may conduct unannounced on-site inspections at any time.

#### **2112. Accreditation Assessment**

(a) Upon the initiation of an Accreditation assessment by the Racetrack Safety Committee, the subject Racetrack shall submit or provide access to any relevant information and documentation requested by the Racetrack Safety Committee. The Racetrack Safety Committee may request any additional information and documentation required for the assessment and may propound additional written questions or inquiries to the Racetrack. The Racetrack shall respond in writing to all additional questions and inquiries within 60 days of receipt of any additional questions and inquiries.

(b) After review of all information submitted by the Racetrack under of Rule 2112(a), the Racetrack Safety Committee shall conduct an on-site inspection of the Racetrack. The Racetrack Safety Committee shall then prepare a post-inspection report identifying any aspects of the Racetrack's operations that are not in compliance with the requirements of Rules 2100 through 2193.

(c) Within 60 days of the Racetrack's receipt of the post-inspection report under Rule 2112(b), the Racetrack shall respond in writing to the Racetrack Safety Committee setting forth all actions to be taken by the Racetrack to remedy the areas of non-compliance identified in the post-inspection report, and the timeframes necessary for

implementation of such remedial actions.

(d) The Racetrack Safety Committee shall assess the Racetrack's response and make a written recommendation to the Authority whether to issue or deny Accreditation or provisional Accreditation of the Racetrack.

#### **2113. Issuance of Accreditation**

(a) The Authority shall determine whether a Racetrack is entitled to Accreditation by evaluating compliance with the requirements set forth in Rules 2100 through 2193.

(b) In determining whether to grant, renew, or deny Accreditation to a Racetrack, the Authority shall review all information submitted by the Racetrack and the Racing Safety Committee's recommendation.

#### **2114. Effective Periods of Accreditation**

(a) Accreditation.

(1) Accreditation shall be effective for a period of 3 years.

(2) The Authority may modify the Accreditation period to a period of 1 to 7 years if the Authority determines that such modified period will be consistent with the requirements of Accreditation outlined in Rules 2100 through 2193.

(b) Provisional Accreditation.

(1) Provisional Accreditation shall be effective for an initial period of 1 year.

(2) Upon the expiration of the initial 1 year period referenced in paragraph (1) above, provisional Accreditation may be extended for additional 1 year periods if the Authority determines that the subject Racetrack is continuing to undertake good faith efforts to comply with the requirements of Rules 2100 through 2193 and achieve Accreditation.

#### **2115. Annual Reporting**

All Racetracks granted Accreditation under these Rules shall participate in ongoing reporting and review to the Racetrack Safety Committee. All accredited Racetracks shall, by December 31 of each calendar year, submit annual reports to the Racetrack Safety Committee demonstrating compliance with all Accreditation requirements.

#### **2116. Suspension and Revocation of Accreditation**

(a) An accredited Racetrack that is in material noncompliance with the Accreditation requirements, after having received notice of the noncompliance and been given a reasonable opportunity to remedy the noncompliance, may have its Accreditation suspended by the Authority.

(b) A provisionally accredited Racetrack that is in material

noncompliance with the provisional Accreditation requirements, after having received notice of the noncompliance and been given a reasonable opportunity to remedy the noncompliance, may have its provisional Accreditation suspended by the Authority.

(c) A Racetrack under suspension shall not conduct any Covered Horserace.

(d) A suspended Racetrack that fails to remedy the noncompliance in a reasonable time may have its Accreditation or provisional Accreditation revoked by the Authority.

#### **2120. Accreditation Requirements**

##### **2121. Racetrack Safety and Welfare Committee**

(a) General. The Racetracks in each State shall form a Racetrack Safety and Welfare Committee to review the circumstances around fatalities, injuries, and racetrack safety issues with the goal of identifying possible contributing risk factors that can be mitigated. The Regulatory Veterinarian shall chair the Racetrack Safety and Welfare Committee.

(b) Composition. The composition of the Racetrack Safety and Welfare Committee may vary among jurisdictions, provided that each Racetrack Safety and Welfare Committee shall include, at a minimum, the following:

- (1) Regulatory Veterinarian;
- (2) Association Veterinarian;
- (3) Medical Director;
- (4) Safety Officer or steward, subject to the applicable State Racing Commission electing to enter into an agreement with the Authority if such individual is employed by the State Racing Commission;
- (5) Horsemen's representative;
- (6) Jockey;
- (7) Trainer;
- (8) racing secretary, and
- (9) racetrack superintendent.

(i) The Regulatory Veterinarian shall chair the Racetrack Safety and Welfare Committee.

(ii) If the Safety Director is not a committee member, the Safety Director shall be an ex officio member of the Racetrack Safety and Welfare Committee.

(c) Responsibilities. The Racetrack Safety and Welfare Committee shall be responsible for:

(1) Review of all equine catastrophic injuries and the circumstances surrounding those injuries, including, at a minimum:

- (i) Interviews with Trainers, Jockeys, exercise riders, and Attending Veterinarians, and when appropriate, a qualified human health provider;

(ii) examination of past performances, Workouts, pre-race inspection findings, necropsy examination findings, and Trainer and Veterinary treatment records;

(iii) review of Race or training video footage, if applicable;

(iv) review of racetrack surface conditions and weather information;

(v) convening a meeting with connections of the Covered Horse and other interested Persons, including, at a minimum, the Regulatory Veterinarian, Trainer, and Attending Veterinarian, and if applicable, the Jockey, exercise rider, and racetrack superintendent to:

(A) Convey the findings of the review;

(B) acquire additional information useful for developing strategies for injury prevention; and

(C) provide continuing education or continuing education recommendations related to cause of equine injury, if available, to persons related to the applicable Covered Horse;

(vi) evaluation of factors that may have contributed to injuries;

(vii) evaluation of the effectiveness of protocols and procedures for managing the equine injury scenario; and

(viii) developing strategies to mitigate identified factors that may have contributed to the injury.

(2) Review of all environmental factors related to racing and training that may have contributed to human injury occurrences including:

(i) Evaluation of external factors that may have contributed to injuries;

(ii) development of strategies to mitigate identified factors that may have contributed to the injury; and

(iii) evaluation of the effectiveness of protocols and procedures for managing human injury occurrences;

(3) Consideration of Racetrack safety issues brought to the Racetrack Safety and Welfare Committee's attention;

(4) Summary review of all injuries and considerations to review existing practices;

(5) Development of strategies to reduce or mitigate injury occurrences;

(6) Enhancement of the identification of Horses or conditions for which intervention is warranted;

(7) Enhancement of racetrack safety for equine and human participants; and

(8) Preparation and submission of a report that summarizes the findings of the Racetrack Safety and Welfare Committee under this paragraph (c) to the Authority within 60 days of the end of the applicable Race Meet, unless the Racetrack Safety Committee requires earlier submission.

## 2130. Required Safety Personnel

### 2131. Safety Director

(a) The Safety Director shall oversee equine safety, racetrack safety, and risk management and injury prevention at each Racetrack in accordance with the provisions of these rules. The Safety Director may at the same time serve in the applicable jurisdiction as a Regulatory Veterinarian or Safety Officer. Subject to the approval of the Racetrack Safety Committee, the Safety Director may be shared within and among jurisdictions.

(b) If the applicable State Racing Commission does not enter into an agreement with the Authority, then the Racetracks in such jurisdiction shall implement the requirements set forth in this Rule, subject to the Racetrack Safety Committee's approval of the individual named as Safety Director.

(c) The Safety Director shall be responsible for:

(1) Creating a culture of safety for Horses, riders, and Racetrack personnel;

(2) Overseeing all aspects of equine safety, racetrack safety, and safety of personnel working with Horses by ensuring that all activities and practices involving the training and racing of Horses at the track meet required safety standards;

(3) Implementing a risk management and injury prevention program under the oversight of the Racetrack Safety Committee;

(4) Providing guidance to Attending Veterinarians on safety issues;

(5) Maintaining and annually reviewing standard operating procedures and protocols;

(6) Coordinating and overseeing emergency drills that include equine injury and starting gate malfunction;

(7) Reporting all equine injuries and fatalities to the Authority within 72 hours of injury; and

(8) Interacting with the Authority concerning Racetrack Safety Accreditation compliance.

### 2132. Medical Director

(a) The Medical Director shall oversee the care and organization of the medical needs of Jockeys. The Medical Director shall be either a licensed physician or a board-certified athletic trainer. Subject to the approval of the Racetrack Safety Committee, the Medical Director may be shared within and among jurisdictions.

(b) In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Medical Director consistent with this Rule, the Authority shall appoint and employ a Medical Director to serve as

Medical Director in that jurisdiction. The Racetracks in the applicable jurisdiction shall reimburse the Authority for all costs associated with the employment of the Medical Director. Such reimbursement shall be shared by the Racetracks in such jurisdiction proportionally by total handle wagered in the applicable State in the prior calendar year.

(c) The Medical Director shall:

(1) Identify professional medical providers and referral networks that are licensed and certified to oversee racetrack emergency services, which may include, hospital affiliations, nursing staff, EMT service and paramedics, internists, surgeons, family practitioners, dentists, athletic trainers, or psychiatrists;

(2) Make medical provider contact information readily available for ease of communication and immediate coordination of care for any medical event;

(3) Report all human injuries to the Authority within 72 hours of injury;

(4) Coordinate and oversee a plan for on-site medical care, including provisions for emergency medical facilities and staffing;

(5) Implement an emergency drill for a rider injury;

(6) Coordinate and oversee a comprehensive plan for transportation of an injured rider to the nearest Trauma Level One or Two facility;

(7) Coordinate and oversee a plan for transportation of an injured rider to the Racetrack's first aid facility;

(8) Ensure compliance with mandatory annual rider physical examination requirements to indicate readiness to ride for Jockeys, and document compliance to the Authority;

(9) Exercise oversight of medical standards, including the minimum criteria for riding fitness;

(10) Certify a rider's fitness to resume riding after any on-track incident that may impair the rider's reflexes, decision-making or ability to maintain control of his or her Horse in a race;

(11) Implement the program for Concussion evaluation, rider exclusion and clearance, and return to ride protocol;

(12) Develop in writing, subject to annual review and revision as necessary, the Racetrack's Emergency Action Plan, which shall include readiness for medical needs of racing participants, workers, and spectators; and

(13) Work with local, State, and Federal regulators to standardize the approach and response to pandemic-related issues among riders, workers, and spectators.

**2133. Stewards**

(a) In States where the applicable State Racing Commission elects to enter into an agreement with the Authority, the stewards, in addition to their duties under State law, shall enforce the safety regulations set forth in Rules 2200 through 2293.

(b) To qualify for appointment as a steward, the appointee shall meet the experience, education, and examination requirements necessary to be accredited by the ROAP and be in good standing with all racing jurisdictions.

(c) The requirements of Rule 2133 for any steward employed by a State Racing Commission are subject to the applicable State Racing Commission electing to enter into an agreement with the Authority. If the applicable State Racing Commission does not enter into such an agreement, the Racetracks in the jurisdiction shall implement the requirements set forth in Rule 2133, subject to the Racetrack Safety Committee's approval of the individuals named as stewards by the Racetracks. The stewards named by the Racetracks shall enforce only the safety regulations set forth in Rules 2200 through 2293.

**2134. Regulatory Veterinarian**

(a) The Regulatory Veterinarian shall:

- (1) Subject to the provisions of Rule 2134(b), be employed by the State Racing Commission or similar agency having jurisdictional authority;
- (2) be licensed to practice in the applicable jurisdiction;
- (3) refuse employment or payment, directly or indirectly, from any Owner or Trainer of a Horse racing or intending to race in the jurisdiction while employed as a Regulatory Veterinarian;
- (4) refrain from directly treating or prescribing for any Horse within the applicable jurisdiction except in cases of emergency, accident, or injury; and
- (5) be trained, and their proficiency verified, in identifying and stabilizing common musculoskeletal injuries.

(b) In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian consistent with Rule 2134, the Authority shall employ a Veterinarian to serve as the Lead Veterinarian in such jurisdiction. The Lead Veterinarian shall perform all the duties, obligations, and responsibilities of the Regulatory Veterinarian in these regulations. The Racetracks in the applicable jurisdiction shall reimburse the Authority for all costs associated with the employment of the Lead Veterinarian. The reimbursement shall be shared by the Racetracks in the

jurisdiction proportionally by total handle wagered in the applicable State in the prior calendar year.

**2135. Responsibilities and Duties of Regulatory Veterinarian**

(a) The Regulatory Veterinarian shall have the following responsibilities and duties:

- (1) Notify the stewards of any Horse deemed unsafe to be raced, or a Horse that it would be inhumane to allow to race;
- (2) conduct pre-race inspections on all potential starters on race day;
- (3) inspect any Horse when there is a question as to the physical condition of such Horse independent of the Horse's entry status;
- (4) be present in the paddock during saddling, on the racetrack during the post parade, and present at the starting gate until the Horses are dispatched from the starting gate for the Race;
- (5) scratch any Horse that is, in the opinion of the Regulatory Veterinarian, injured, ill, or otherwise unable to compete due to a medical or health-related condition;

(6) inspect any Horse which appears to be in physical distress during the Race or at the finish of the Race;

(7) provide emergency medical care to Horses injured while racing and effect case transfer to the Attending Veterinarian;

(8) be authorized to euthanize, consistent with the current version of the AVMA Guidelines for the Euthanasia of Animals, any Horse deemed to be so seriously injured that it is in the best interests of the Horse to so act;

(9) report to the Safety Director the names of all Horses euthanized or which otherwise die at the meeting and the reasons therefor;

(10) maintain the Veterinarians' List of Horses ineligible to race and notify the stewards of the identities of all Horses placed on the Veterinarians' List; and

(11) collaborate with the Safety Director, Chief Veterinarian of the State Department of Agriculture, and other regulatory agencies to take measures to control communicable or reportable equine diseases.

(b) If the Regulatory Veterinarian and his or her staff are unable to fulfill any of the duties described in Rule 2135(a), such duties may, at the request of the Regulatory Veterinarian, be performed by an Association Veterinarian. In such case, the Association Veterinarian shall be responsible for adhering to and upholding the rules and regulations of the Authority and the State Racing Commission.

(c) The Regulatory Veterinarian, and any Association Veterinarian exercising duties of the Regulatory Veterinarian as provided in paragraph (b) above, are authorized to:

- (1) Access any and all Horses housed on Racetrack grounds regardless of entry status;
- (2) perform inspections of any Horse at any time;
- (3) observe Horses during training activities and Workouts;
- (4) perform pre-Race veterinary inspections and post-Race observations; and
- (5) Place a Horse on the Veterinarians' List.

(d) The Regulatory Veterinarian shall have jurisdiction over the Attending Veterinarians within the grounds of the Racetrack and shall review and consult with the stewards, and State Racing Commission regarding the State Racing Commission license applications of Attending Veterinarians, veterinary technicians or assistants, vendors of medical supplies and equipment, and non-Veterinarian health care providers. The authority and responsibilities of the Regulatory Veterinarian under this paragraph (d) shall not be performed by an Association Veterinarian pursuant to Rule 2135(b).

**2136. Racetrack Safety Officer**

(a) Each Racetrack shall have a Safety Officer to ensure that all activities and practices involving the training and racing of Horses at the Racetrack meet required safety standards and regulatory guidelines. The Safety Officer may also be a steward.

(b) The Safety Officer shall:

(1) Monitor daily stable area activities and practices in the barn area and on the racetrack for compliance with the applicable State Racing Commission safety regulations and the Rules of the Authority;

(2) Conduct pre-Race Meet racetrack safety inspections;

(3) Monitor outrider compliance with Racetrack rules during morning workouts;

(4) Monitor starting gate procedures;

(5) Monitor ambulance and medical personnel protocols for Horses and riders;

(6) Assist Regulatory Veterinarians with follow-up on Horses barred from training or vanned off during training and racing;

(7) Review ship-in and ship-out lists and undertake appropriate investigations;

(8) Conduct random license checks in the stable area;

(9) Conduct random barn inspections to monitor safety and regulatory

compliance, including fire safety regulations;

(10) Conduct random inspections to verify acceptable management, equine husbandry, and veterinary practices;

(11) Advise stewards of all planned and random inspections;

(12) Enforce fire safety rules in the stable area;

(13) Serve as a member or ad hoc member of the Racetrack Safety and Welfare Committee; and

(14) Make recommendations to Racetrack management and racing officials to ensure the welfare of Horses and riders, the integrity of racing, and compliance with applicable horse racing laws and regulations.

#### **2140. Racehorse Inspections and Monitoring**

##### **2141. Veterinary Inspections**

(a) Veterinary inspections shall be performed by the Regulatory Veterinarians on all Horses entered in a Race. Such inspections shall include the items listed in Rule 2142.

(b) If, prior to starting a Race, a Horse is determined to be unfit for competition, or if the Regulatory Veterinarian is unable to make a determination of racing soundness, the Regulatory Veterinarian shall notify the stewards that the Horse is scratched. Regulatory Veterinarians shall have the unconditional authority to scratch a Covered Horse from a Race.

##### **2142. Assessment of Racing Soundness**

(a) Post-entry screening. The Regulatory Veterinarian shall perform post-entry screenings of previous pre-Race inspection findings of entered Horses to identify Horses that may be at increased risk for injury. The Regulatory Veterinarian shall review past performances, lay-ups (more than 60 days without a timed Workout or Race), last 30 days medical history, previous injury and lameness diagnostics, intra-articular corticosteroid injections, previous surgery, and individual Horse risk factors.

(b) Pre-race veterinary inspection. Every Horse entered to participate in a Covered Horserace shall be subjected to inspection by a Regulatory Veterinarian prior to starting in the Race for which it is entered on race day not later than 1 hour prior to scratch time for the Race in which the Horse is to compete.

(1) The Trainer of each Horse or a representative of the Trainer who is knowledgeable about the Horse and able to communicate with the Regulatory Veterinarian must present the Horse for inspection. Horses presented for inspection must have bandages

removed, and the legs must be clean and dry. Prior to inspection, Horses may not be placed in ice and no device or substance shall be applied to the Horse that impedes veterinary clinical assessment.

(2) The Regulatory Veterinarian's inspection of each Horse prior to participating in a Race shall include, at a minimum, the following:

(i) Identification of the Horse;

(ii) Ascertainment of the sex of the Horse;

(iii) Performance of an overall inspection of the entire Horse, assessing general appearance, behavior, disposition, posture, and body condition;

(iv) Observation of the Horse jogging in hand, moving toward and away from the Veterinarian so that both hind-end and front-end motion can be evaluated;

(v) Performance of a digital palpation on both distal forelimbs;

(vi) Placement of the Horse on the Veterinarians' List if the Horse does not jog sound or warm up to the Regulatory Veterinarian's satisfaction;

(vii) Visual observation in the paddock and saddling area, during the parade to post, and at the starting gate; and

(viii) Any other inspection deemed necessary by the Regulatory Veterinarian, including Jockey consultation for the Jockey's mount.

(3) A report summarizing the results of a pre-Race inspection under paragraph (a) shall be submitted to the Authority on the day of the inspection.

(c) Post-race assessment. Post-Race visual observations shall be performed by a Regulatory Veterinarian on all Horses leaving the racetrack at the conclusion of every Race.

(1) If a Horse is determined to have Bled or to be physically distressed, medically compromised, injured, or unsound at any time before exiting the racetrack or leaving the test barn, the Horse shall be placed on the Veterinarians' List and the Regulatory Veterinarian shall document post-race inspection findings to the Authority.

(2) If a Horse is determined to have skin lacerations, swellings, or welts that resulted from crop use, the stewards and Attending Veterinarian shall be notified, and the information documented to the Authority.

(d) Training. Regulatory Veterinarians may observe Horses during training activities. Horses deemed physically distressed, medically compromised, injured, or unsound may be placed on the Veterinarians' List and reported to the Authority.

#### **2143. Racehorse Monitoring**

(a) All Horses, including stable ponies, entering the Racetrack grounds must have proof of health certificate and required vaccinations, which shall include:

(1) Certificate of veterinary inspection within the prior 5 days or fewer days if high risk situations dictate;

(2) Verification of EEE/WEE/WNV (encephalitides), rabies, and tetanus vaccinations within the prior 12 months;

(3) Verification of Influenza and Rhinopneumonitis vaccinations within the prior 180 days or fewer days if high risk situations dictate; and

(4) Verification of Negative Equine Infectious Anemia (Coggins) Test within the calendar year or in a shorter period of time if high risk situations dictate.

(b) Each Racetrack shall submit the following information to the Authority with respect to each Horse on its grounds:

(1) Horse identification;

(2) Origin of Horse;

(3) Date of entry;

(4) Verification of certificate of veterinary inspection; and

(5) Verification of vaccinations.

(c) Each Racetrack shall submit the following information to the Authority with respect to each Horse leaving its grounds:

(1) Horse identification;

(2) Intended destination;

(3) Reason for departure;

(4) Date of exit;

(5) Vehicle license plate; and

(6) Transporter.

(d) Horses moving interstate must meet the entry requirements of the destination State, the State Racing Commission in the destination State, and the individual Racetracks or Training Facilities to which the horse is being shipped in the destination State.

#### **2150. Racetrack and Racing Surface Monitoring and Maintenance**

##### **2151. Data Collection, Recordkeeping and Submission**

(a) Racetracks shall have data collection protocols in place to assist in the proper and consistent maintenance of all racing and training surfaces. Racing and training surface testing and maintenance should be performed based on the Racetrack's written standard operating procedures which are reviewed annually and updated as needed. The Racetrack Safety Committee, or its designees, shall develop and annually update a Racetrack Surface Standard Practices Document.

(b) All Racetrack design records, racing and training surface maintenance



records, surface material tests, and daily tests data shall be recorded in a format acceptable to the Authority and shall be submitted to the Authority. Any test results shall be submitted to the Authority within 1 week of the test results.

#### 2152. Testing Methods

Surface test methods and surface material test methods must be documented and consistent with testing standards from internationally recognized standards organizations including ASTM International, American Society of Agricultural and Biological Engineers, or other relevant international standards, and when possible for unpublished standards, methods consistent with those documented by the Racing Surfaces Testing Laboratory.

#### 2153. Racetrack Facilities

The Racetrack facilities must be designed, constructed, and maintained as provided in Rule 2153 to provide for the safety of Covered Persons and Covered Horses.

##### (a) Rails.

(1) Racetracks shall have inside, outside, and gap rails designed, constructed, and maintained to provide for the safety of Jockeys and Horses.

(2) Objects within 10 feet of the inside rail shall be flexible enough to collapse upon impact of a Horse or rider, or sufficiently padded as to prevent injury.

(3) Rails shall be inspected prior to each Race Meet and daily during training and racing events.

##### (b) Gaps.

(1) All gaps must be clearly marked, must have protective padding covering any sharp edges or unique angles, and have proper mechanisms to allow for secure closure when needed.

(2) Main gaps and on-gaps should include signage with safety rules, Racetrack hours, and other applicable rules.

(3) For Races breaking from a chute there should be sufficient temporary rail extension to prevent Horses from ducking in or out.

##### (c) Starting gate.

(1) All gates, and the vehicle that moves the gates, must be inspected pre-Race Meet and documented to be in proper working condition.

(2) All gates must have protective padding to ensure the safety of the Horse, Jockey, and gate personnel. Protective padding shall protect the riders and gate personnel from contact with sharp edges and help to distribute impact loads. All padding shall be designed to ensure durability for outdoor use and shall be capable of

maintaining safety and physical integrity during all weather conditions.

(3) Gates and the vehicle that moves the gates shall be inspected and tested each race day before the Races and each morning before schooling to ensure proper functioning.

(4) No personnel, other than those required for steering the gate, shall ride on the gate while the gate is in motion or being transported.

(5) Racetracks shall have in place annually reviewed and documented standard operating procedures for the removal of the starting gate after the start of each Race as needed in a safe and timely manner. This plan shall also include procedures for gate removal if the primary removal mechanism fails.

(6) Every Starting Gate Person shall wear protective gear when working on or around the starting gate, including approved helmets and safety vests.

(7) If the starting gate becomes inoperable during racing hours, racing may not continue until the starting gate is brought back to safe operating standards or the inoperable gate is replaced with a properly functioning alternate gate.

(8) During racing hours, a Racetrack should ensure that sufficient assistant starters are available to safely handle each Horse entered in a Race.

(9) A Racetrack shall make at least one starting gate and one Starting Gate Person available for racehorse schooling during designated gate training hours.

##### (d) Emergency warning system.

(1) Each Racetrack shall have an operational emergency warning system on all racing and training tracks. The emergency warning system shall be approved by the State Racing Commission, subject to the applicable State Racing Commission electing to enter into an agreement with the Authority. If such agreement does not exist, the emergency warning system shall be approved by the Authority.

(2) The emergency warning system shall be tested bi-weekly before training or racing.

(3) During training, when the emergency warning system is activated, all persons on horseback shall slow to a walk and no one on horseback shall enter the racetrack.

(4) The Racetrack announcer shall be trained to utilize the public address system to:

(i) Warn riders of potentially dangerous situations and provide direction; and

(ii) Warn patrons of potentially dangerous situations and provide direction.

#### 2154. Racetrack Surface Monitoring

(a) Racetracks shall provide equipment and personnel necessary to maintain the racetrack surface in a safe and consistent condition.

(b) Pre-meet inspection shall be performed on all surfaces prior to the start of each Race Meet with sufficient time allotted to facilitate corrections of any issues prior to racing. For Race Meets spanning periods with significant weather variation, inspections shall be performed seasonally prior to anticipated weather changes.

(1) Inspections for dirt and synthetic surfaces shall include the following elements:

(i) Determine and document race and training track configurations and geometries, including:

(A) Geometry and slopes of straights and turns and slopes at each distance marker pole;

(B) The accuracy of distances from the finish line to the marker poles; and

(C) Cushion and base geometries;

(ii) Base inspection, including windrowing and base survey, surface survey, ground penetrating radar, or other method;

(iii) Mechanical properties of racing and training tracks using a biomechanical surface tester shall be determined and documented;

(iv) Surface material samples of racing and training tracks shall be analyzed for material composition pursuant to the Racetrack Surface Standard Practices Document; and

(v) Corrective measures to address issues under paragraphs (i) through (iv) above.

(2) Inspections for turf surfaces shall include the following elements:

(i) Determine and document racetrack configuration and geometry, including:

(A) Geometry and slopes of straights and turns and slopes at each distance marker pole;

(B) irrigation systems;

(C) turf profile; and

(D) ensure distances from the finish line to the marker poles are correct;

(ii) Document turf species;

(iii) Mechanical properties of racing and training tracks using a surface tester should be determined and documented;

(iv) Surface material samples of racing and training tracks shall be analyzed for material composition pursuant to the Racetrack Surface Standard Practices Document;

(v) The irrigation system must be tested to evaluate function of all components and water coverage including gaps and overlap; and

(vi) Corrective measures to address issues under paragraphs (i) through (v) above.

(c) Daily measurements shall be taken at the beginning of all daily training and racing sessions for racing and training tracks, and taken at each ¼ mile marker pole at locations 5 and 15 feet outside the inside rail.

(1) For dirt and synthetic surfaces, such daily measurements shall include:

- (i) Moisture content;
- (ii) Cushion depth; and
- (iii) Weather conditions and

precipitation at 15-minute intervals from a national or local weather service.

(2) For turf surfaces, such daily measurements shall include:

- (i) Moisture content; and
- (ii) Penetration and shear properties.

(d) Surface equipment inventory, surface maintenance logs, and surface material addition or renovation logs shall be maintained and submitted to the Authority.

(1) Daily surface maintenance logs should include equipment used, direction of travel, and water administration.

(2) Documentation of the source, timing, quantity, and method of all additions to the surfaces shall be submitted to the Authority.

## 2160. Emergency Preparedness

### 2161. Emergency Drills

Emergency protocols shall be reviewed, and drills shall be conducted, prior to the beginning of each Race Meet for purposes of demonstrating the Racetrack's proficiency in managing the following emergencies:

- (a) Starting gate malfunction;
- (b) Paddock emergencies;
- (c) Equine injury;
- (d) Jockey injury;
- (e) Loose Horse;
- (f) Fire;
- (g) Hazardous weather condition; and
- (h) Multiple injury scenarios for both Horses and Jockeys.

### 2162. Catastrophic Injury

Racetracks and Training Facilities under the jurisdiction of a State Racing Commission shall have protocols in place for instances of catastrophic injury to Horses during racing and training. Protocols should include, but not be limited to, requiring collection of biological samples in sufficient volume, to permit comprehensive drug testing. Planning shall include appropriate means of communication to the public.

### 2163. Fire Safety

Racetracks and Training Facilities under the jurisdiction of a State Racing Commission shall plan for and have protocols in place for instances of fire within their enclosures. Fire and life safety inspections shall be performed in

accordance with the local authority and appropriate National Fire Protection Association standards and shall be conducted at the required frequency. Racetracks shall document adherence to the applicable local fire protection authority.

### 2164. Hazardous Weather

Each Racetrack shall develop, implement, and annually review a hazardous weather protocol which shall include:

(a) Designation of the personnel responsible for monitoring weather conditions, immediately investigating any known impending threat of dangerous weather conditions and determining if conditions exist which warrant delay or cancellation of training or racing and the notification to the public of such dangerous weather conditions;

(b) Use of a designated weather watcher and a reliable source for monitoring the weather, including lightning strike distance/radius notifications;

(c) Implementation of a dangerous weather protocol, which includes for extreme heat and chill factors and air quality;

(d) Designation by the Racetrack of an official responsible for monitoring weather conditions during training and racing hours;

(e) Consideration by the Racetrack of lightning safety guidelines such as the National Athletic Trainers' Association Position Statement, or more recent evidence-based recommendations;

(f) Requirements that the stewards shall contact Racetrack management when weather conditions may become hazardous, and that the stewards shall commence a racing and training delay when weather conditions pose risks to human and equine welfare; and

(g) Designation by the Racetrack of an official responsible for enforcing any weather associated training delay.

### 2165. Infectious Disease Management

(a) Plans and protocols shall be put in place by each Racetrack to manage an infectious disease outbreak. Such protocols shall be based on guidelines recommended by the AAEP General Biosecurity Guidelines and AAEP Healthy Horse Protocols: Biosecurity Guidelines for Racetrack Entry and Stabling or more recent versions or developed in consultation with the appropriate State agency or official.

(b) The Regulatory Veterinarian shall maintain written biosecurity guidelines and standard operating procedures and train Racetrack safety personnel in basic biosecurity protocols. All Covered

Persons must report any symptoms that may be attributed to an infectious disease to the Regulatory Veterinarian and Safety Director.

(c) During an infectious disease outbreak, the above requirements may be revised as dictated by the circumstances, and all Covered Persons shall adhere to disease control measures implemented by State Racing Commissions or applicable State veterinary authorities.

(d) The Safety Director, or Regulatory Veterinarian if the Safety Director is not a licensed veterinarian, must notify the Chief Veterinarian of the relevant State Department of Agriculture (or comparable State government official) to enable timely and accurate reporting of disease outbreaks at the racetrack to the Equine Disease Communication Center.

### 2166. Human Ambulance Support

(a) A Racetrack shall provide a properly staffed and equipped Advanced Life Support ambulance during training and racing hours. If the ambulance is being used to transport an individual, the Racetrack may not conduct a race, or allow Horses with riders on the racetrack, until the ambulance is replaced or available for service.

(b) Racetracks shall ensure the Advanced Life Support ambulance staff has been trained in Concussion management. Any Jockey who falls or is thrown from a Horse during a race must be examined by the Advanced Life Support staff. Advanced Life Support staff shall report their findings to the stewards who will determine if the Jockey may continue riding.

(c) Unless otherwise approved by the State Racing Commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

(d) The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

### 2167. Accident Reporting System

(a) Racetracks shall develop standard operating procedures for the collection of data associated with all incidents resulting in Jockey or exercise rider injuries sustained at the racetrack and submit such information to the Authority within 10 days of the injury occurrence. Covered Persons involved in, or witnesses to, the circumstances surrounding the injury shall make themselves available to and cooperate with those individuals collecting data for the database.

- (b) Data collected shall include:
- (1) Name of person injured;
  - (2) nature of the injury;
  - (3) date and time of day of injury;
  - (4) occupation of person;
  - (5) cause of the incident;
  - (6) weather;
  - (7) location of the incident; and
  - (8) witness statements.

#### **2168. Equine Ambulance**

A dedicated Horse ambulance with personnel trained to operate the ambulance shall at all times be available for rapid deployment during racing and training periods. It is recommended that a second ambulance be available in the case of multiple equine injuries or failure of the primary Horse ambulance.

#### **2169. Paddock Safety**

Racetracks shall have protocols in place to manage the safety of their saddling paddocks and walking rings. Such protocols should include crowd management policies as well as emergency response procedures for human and equine injuries. An emergency medical technician or paramedic shall be present during saddling.

#### **2170. Necropsies**

(a) All Horses that die or are euthanized on Racetrack grounds shall have an autopsy (necropsy) examination performed.

(b) Necropsies should be performed at facilities and by personnel with capabilities and expertise to perform necropsy examination of racehorses. Relationships and contact information shall be included in the necropsy standard operating procedure. The Veterinarian performing the necropsy shall not be an Attending Veterinarian of the affected Horse.

(c) Field necropsy is strongly discouraged. When a field necropsy is the only practical option available, necropsy examinations shall be performed under direct or indirect supervision of a board-certified pathologist including phone call guidance or video conferencing. Necropsies shall be performed in a secure area on all Horses that die or are euthanized on Racetrack premises, isolated from the general public. Whenever possible, the Veterinarian performing the necropsy shall not be an Attending Veterinarian of the affected Horse.

(d) Transportation options for necropsy cases and invoicing for the transportation and necropsy shall be identified prior to need and included in a standard operating procedure. Secure storage, pending transport, and

transportation of the body should be managed in such a way that tissue degradation and the development of post-mortem artifacts are minimized. Care shall also be taken to implement sound infection control practices with respect to equine infectious or zoonotic disease.

(e) Gross necropsy examination findings must be submitted by the Regulatory Veterinarian to the Authority within 72 hours of receiving the necropsy report, and updates submitted to the Authority within 72 hours as the results of ancillary tests and the final report are received. This workflow shall be included in the necropsy standard operating procedures.

#### **2180. Safety Training and Continuing Education**

##### **2181. Uniform National Trainers Test**

Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall require the use of a uniform National Trainers Test in addition to any State licensing requirements. This test shall have a written component and include practical interviews that demonstrate knowledge and proficiency in basic horsemanship skills, knowledge of racing office protocols, State specific information, and basic equine health care.

##### **2182. Continuing Education**

(a) Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall identify existing, or provide locally, training opportunities for all Racetrack employees having roles in Racetrack safety or direct contact with Covered Horses.

(b) Required annual continuing education shall include:

(1) Regulatory Veterinarians must complete, on an annual basis, at least 8 hours continuing education specific to racetrack regulatory medicine;

(2) Attending Veterinarians must complete, on an annual basis, at least 8 hours continuing education specifically applicable to racetrack practice;

(3) Medical Directors must complete, on an annual basis, at least 8 hours continuing education;

(4) stewards shall be either accredited or actively participating in gaining accreditation through the ROAP and Certification Programs (maintenance of the ROAP Accreditation requires at least 16 hours of continuing education every 2 calendar years);

(5) Trainers must complete, on an annual basis, at least 4 hours annual continuing education;

(6) assistant trainers must complete, on an annual basis, at least 4 hours annual continuing education;

(7) Owners must complete, on an annual basis, at least 2 hours annually;

(8) Racetrack surface managers must complete at least 8 hours of continuing education every 2 years;

(9) Grooms must complete, on an annual basis, at least 2 hours annual continuing education offered in English and Spanish;

(10) outriders must complete, on an annual basis, at least 2 hours safety and outrider protocol training delivered locally prior to the beginning of a Race Meet;

(11) Jockeys and exercise riders must complete at least 2 hours safety and rider protocols delivered locally in English and Spanish prior to the beginning of a Race Meet;

(12) starters and assistant starters must complete, on an annual basis, at least 2 hours safety training either delivered locally prior to the beginning of a Race Meet or through the ROAP certification; and

(13) Equipment operators must complete, on an annual basis, at least 2 hours safety training either delivered locally prior to the beginning of a Race Meet or through a continuing education program.

#### **2190. Jockey Health**

##### **2191. Jockey Drug and Alcohol Testing**

Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall develop and implement a testing program for drugs and alcohol for Jockeys. The program shall include provisions for medications prescribed by licensed medical doctors that do not affect mental and physical abilities. If a State Racing Commission does not elect to enter into an agreement with the Authority, the Racetracks in such States shall develop and implement a testing program for drugs and alcohol for Jockeys, subject to the approval of the Authority.

##### **2192. Concussion Management**

State Racing Commissions, or Racetracks if the applicable State Racing Commission does not enter into an agreement with the Authority, shall implement a Concussion management program for Jockeys containing the following elements:

(a) Each Jockey shall acknowledge in writing that they have been made aware of the Concussion protocols in place for the facility at which they are riding;

(b) A minimum assessment shall include a current Concussion assessment tool examination;

(c) A return-to-ride guideline shall be established in order to clear a Jockey who has been concussed, or is believed to have been concussed, once the Jockey is declared fit-to-ride; and

(d) The stewards shall be notified when a Jockey is not permitted to ride and when the Jockey has been authorized to return to riding.

### 2193. Insurance

In States where workers compensation benefits are not afforded to Jockeys by State statute or regulation, Racetracks shall maintain a minimum standard of One Million Dollars (\$1,000,000) per incident worth of accident medical expense coverage for all Jockeys.

### 2200. Specific Rules and Requirements of Racetrack Safety Program

#### 2210. Purpose and Scope

(a) The purpose of Rules 2200 through 2293 is to establish specific safety rules and requirements designed to enhance equine and Jockey safety in Horse racing.

(b) Violation of, or failure to comply with, the requirements of Rules 2200 through 2293 shall result in disciplinary action by racing officials and the Authority.

(c) Safety rules arising under State laws or regulations not preempted by 15 U.S.C. 3054(b) shall be governed by applicable State laws and regulations.

#### 2220. Attending Veterinarian

(a) Only Veterinarians licensed by the State Racing Commission may attend to Covered Horses at any location under the jurisdiction of a State Racing Commission.

(b) Veterinarians attending at any location under the jurisdiction of a State Racing Commission are under the authority of the Regulatory Veterinarian and the stewards.

#### 2221. Treatments by Attending Veterinarian

The following limitations apply to drug treatments by Attending Veterinarians of Covered Horses that are engaged in activities related to racing, including training:

(a) No drug shall be prescribed, dispensed, or administered except in the context of a valid Veterinarian-client patient relationship between a Veterinarian, the Owner (who may be represented by the Trainer) and the Covered Horse. The Owner is not required to follow the Veterinarian's instructions, but no drug may be

administered without a Veterinarian having examined the Horse and provided the treatment recommendation. Such relationship requires the following:

(1) The Veterinarian, with the consent of the Trainer (on behalf of the Owner), has accepted responsibility for making medical judgments about the health of the Horse;

(2) the Veterinarian has sufficient knowledge of the Horse to make a preliminary diagnosis of its medical condition;

(3) the Veterinarian has performed an examination of the Horse and is acquainted with the keeping and care of the Horse;

(4) the Veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(5) the relationship is maintained by veterinary visits as needed; and

(6) the medical judgments of the Veterinarian are independent and are not dictated by the Trainer or Owner of the Horse.

(b) The Trainer and Veterinarian are both responsible for ensuring compliance with this Rule, except that the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the Veterinarian, and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the Owner (who may be represented by the Trainer or other agent).

#### 2230. Treatment Restrictions

(a) Only Trainers or their designees shall be permitted to authorize veterinary medical treatment of Covered Horses under their care, custody, and control at locations under the jurisdiction of the State Racing Commission.

(b) No person other than a Veterinarian licensed to practice veterinary medicine in the State and licensed by the State Racing Commission may prescribe medication with instructions for administration by a Responsible Person for a Covered Horse.

(c) Attending Veterinarians shall not have contact with an entered Horse within 24 hours before the scheduled post time of the race in which the Horse is scheduled to compete unless approved by the Regulatory Veterinarian, or in an emergency. Any unauthorized contact may result in the Horse being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the stewards.

(d) The Regulatory Veterinarian may administer emergency treatment to Horses on Racetrack grounds when the Attending Veterinarian is not present.

(e) Except as set forth in paragraph (f) below, no person shall possess a hypodermic needle, syringe capable of accepting a needle or injectable of any kind on racetrack grounds or any facility under the jurisdiction of the Regulatory Authority, unless otherwise approved in writing by the State Racing Commission.

(f) At any location under the jurisdiction of the State Racing Commission, Veterinarians may use only one-time disposable syringes, needles, or IV infusion sets; and shall dispose of items in a manner approved by the State Racing Commission and applicable State and governmental regulations.

(g) If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the State Racing Commission, that person may request permission of the stewards or the State Racing Commissioning in writing, shall furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and shall comply with any conditions and restrictions set by the stewards and the State Racing Commission.

#### 2240. Veterinarians' List

(a) A Veterinarians' List shall be maintained by the Authority of all Horses that are determined to be ineligible to compete in a Covered Horserace in any jurisdiction until released by a Regulatory Veterinarian.

(b) The following Horses shall be placed on the Veterinarians' List until removed in accordance with Rules 2241 and 2242:

(1) Horses affected by illness, physical distress, medical compromise, unsoundness, injury, infirmity, heat exhaustion, positive test or overage, administration of a medication invoking a mandatory stand down time, administration of Shock Wave Therapy, positive Out-of-Competition test or any other assessment or determination by Regulatory Veterinarians that such Horse is unfit to race;

(2) Horses which have not started in more than 365 days; and

(3) Horses which have not made a start prior to January 1 of their 4-year-old year.

(c) Trainers and Owners shall be notified in writing within 24 hours that their Horse has been placed on the Veterinarians' List.

(d) Diagnostic testing may be required for any Horse placed on the Veterinarians' List, at the discretion of

the Safety Director, Regulatory Veterinarian, or Association Veterinarian.

#### **2241. Duration of Stay on the Veterinarians' List**

Horses placed on the Veterinarians' List in accordance with Rule 2240 shall remain on the Veterinarians' List as follows:

(a) Horses placed on the Veterinarians' List for unsoundness or Epistaxis shall remain on the list for 14 days;

(b) Horses placed on the Veterinarians' List multiple times for unsoundness within the previous 365 days shall remain on the Veterinarians' List for 45 days for the second time, 75 days for the third time, and shall be barred from further racing after the fourth time;

(c) Horses placed on the Veterinarians' List multiple times for Epistaxis within the previous 365 days shall remain on the Veterinarians' List for 30 days for the second time, 180 days for the third time, and shall be barred from further racing after the fourth time;

(d) Horses placed on the Veterinarians' List for illness shall remain on the list for 7 days;

(e) Horses treated with Shock Wave Therapy shall be placed on the Veterinarians' List for 30 days; and

(f) If before, during, or after the workout for removal from the Veterinarians' List, the Horse is deemed to be unsound or to have Bled, the stay on the Veterinarians' List shall be extended an additional 14 days, and further diagnostic testing may be required as determined by the Regulatory Veterinarian.

#### **2242. Removal of Horses From the Veterinarians' List**

Regulatory Veterinarians may remove Horses from the Veterinarians' List in accordance with Rule 2242 and shall document such removal to the Authority.

(a) A Horse placed on the Veterinarians' List as unsound or suffering from Epistaxis may be removed from the Veterinarians' List upon satisfaction of paragraphs (1) through (3) below.

(1) A trainer must apply to the Regulatory Veterinarian for permission to work the Horse for removal from Veterinarians' List. Upon receiving such approval, the Trainer and Attending Veterinarian must observe the Horse jog and submit to the Regulatory Veterinarian a co-signed statement that the Horse is fit to perform a Workout.

(2) The Horse must perform a Workout under the supervision of the Regulatory Veterinarian and demonstrate to the satisfaction of the Regulatory Veterinarian that the Horse is sound to race.

(3) The Regulatory Veterinarian determines there is no evidence or signs of Epistaxis, physical distress, medical compromise, unsoundness, or lameness within 1 hour after the Workout conducted pursuant to paragraph (a)(2) above.

(b) A Horse placed on the Veterinarians' List as physically distressed or medically compromised may be removed from the Veterinarians' List provided sound health has been declared by the Attending Veterinarian or demonstrated to the Regulatory Veterinarian and documented to the Authority.

(c) In addition to the requirements set forth herein and any requirements of the Protocol, if a Horse is placed on the Veterinarians' List for a positive test or overage of a primary substance invoking a mandatory stand down time, a positive Out-of-Competition test, or any other veterinary administrative withdrawal, the Horse shall be prohibited from entering a Race and may be released from the Veterinarians' List only after also undergoing a post-Workout inspection by the Regulatory Veterinarian.

#### **2250. Racehorse Treatment History and Records**

##### **2251. Veterinary Reports**

(a) All Veterinarians shall provide treatment records pursuant to Rule Series 3000. In addition to the uses set forth therein, these records may be used by Regulatory Veterinarians in the performance of their duties at the racetrack, for transfer of 60 day medical records to the new trainer of a claimed Horse, and for purposes of research to enhance the safety and welfare of racehorses.

(b) In addition to the information required to be submitted by Veterinarians pursuant to Rule Series 3000, every Veterinarian who examines or treats a Covered Horse shall, within 24 hours of such examination or treatment, submit the following information in an electronic format designated by the Authority:

- (1) The identity of the Horse treated;
- (2) the name of the Trainer of the Horse;
- (3) the name of the Veterinarian;
- (4) contact information for the Veterinarian (phone, email address);
- (5) any information concerning the presence of unsoundness and responses to diagnostic tests;

- (6) diagnosis;
- (7) condition treated;
- (8) any medication, drug, substance, or procedure administered or prescribed, including date and time of administration, dose, route of administration (including structure treated if local administration), frequency, and duration (where applicable) of treatment;

- (9) any non-surgical procedure performed (including but not limited to diagnostic tests, imaging, and shockwave treatment) including the structures examined/treated and the date and time of the procedure;

- (10) any surgical procedure performed including the date and time of the procedure; and

- (11) any other information necessary to maintain and improve the health and welfare of the Horse.

#### **2252. Responsible Persons' Records**

(a) In addition to the information required to be submitted by Responsible Persons under Rule Series 3000, a Responsible Person is responsible for maintaining a record of medical, therapeutic, and surgical treatments and procedures for every Covered Horse in his or her control.

(b) For purposes of this Rule, the term treatment:

- (1) Means the administration of any medication or substance containing a medication to a Horse by a Responsible Person or his or her designee;

- (2) includes the administration of medications that are prescribed by a Veterinarian but administered by the Responsible Person or his or her designee, or medications prescribed or administered by a Veterinarian not licensed by the State Racing Commission; and

- (3) specifically excludes medications or procedures directly administered by a Veterinarian licensed by the State Racing Commission or that Veterinarian's employees.

(c) Records must include the information outlined in paragraphs (1) and (2) below.

- (1) For medical treatments:
  - (i) Name of the Horse (or, if unnamed, the registered name of the dam and year of foaling);
  - (ii) name of Trainer;
  - (iii) generic name of the drug, or brand name if a non-generic drug is used;
  - (iv) name of the prescribing Veterinarian;
  - (v) date of the treatment;
  - (vi) route of administration;
  - (vii) dosage administered;
  - (viii) approximate time (to the nearest hour) of each treatment; and

(ix) full name and contact information of the individual who administered the treatment.

(2) For medical procedures, including, but not limited to, physiotherapy, acupuncture, chiropractic, and surgeries:

(i) Name of the Horse, or, if unnamed, the registered name of the dam and year of foaling;

(ii) name of Trainer;

(iii) diagnosis and condition being treated;

(iv) name of procedure or surgery;

(v) date of the procedure;

(vi) first and last name of the individual who administered or performed the procedure; and

(vii) any other information necessary to maintain and improve the health and welfare of the Horse.

(d) In addition to the uses of records set forth in the Rules Series 3000, records may be used by Regulatory Veterinarians in the performance of their duties at the Racetrack, for transfer of 60 day medical records to the new Owner of a claimed Horse, and for purposes of research to enhance the safety and welfare of racehorses. Records may also be accessed by the State Racing Commission or the stewards.

### 2253. Records for Horses Shipping to the Racetrack

(a) If a Horse is not stabled at a facility under the Authority's jurisdiction for the full 30 days prior to a Race or Workout for purposes of removal from the Veterinarians' List, the Responsible Person shall obtain and maintain the following information for the previous 30 days:

(1) Name of the Horse or, if unnamed, the registered name of the dam and year of foaling;

(2) generic name of the drug, or brand name of the drug if a non-generic drug is used;

(3) date and duration of the treatment;

(4) route of administration;

(5) dosage administered;

(6) surgical procedures;

(7) non-surgical therapies and procedures; and

(8) any other information necessary to maintain and improve the health and welfare of the Horse.

(b) If a Horse is not stabled at a facility under the Authority's jurisdiction for 60 days prior to a Race or Workout for purposes of removal from the Veterinarians' List, the Responsible Person shall obtain and maintain the following information:

(1) The last 30 days of exercise activity at the facility;

(2) the last 30 days of treatments and procedures at the facility; and

(3) any other information necessary to maintain and improve the health and welfare of the Horse.

### 2260. Claiming Races

#### 2261. Transfer of Claimed Horse Records

(a) Entry of Horses subject to being claimed in a Claiming Race implies Owner (Trainer as the agent of the Owner) consent for transfer of all Trainer and veterinary examination and treatment records for the last 60 days to the new Trainer of the claimed Horse.

(b) If a Horse is successfully claimed by a new Trainer, the previous Trainer must transfer Trainer records and authorize transfer of veterinary records to the new Trainer within 3 days of transfer of the Horse to the new Trainer.

#### 2262. Void Claim

(a) Title to a Horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the Horse becomes a starter.

(b) All claimed Horses shall go to the test barn for observation by the Regulatory Veterinarian.

(c) The claim shall be voided, and ownership of the Horse retained by the original Owner if:

(1) The Horse dies on the racing track;

(2) the Horse is euthanized before leaving the racing track;

(3) the Horse is vanned off of the racing track by discretion of the Regulatory Veterinarian;

(4) the Regulatory Veterinarian determines within 1 hour of the race that the Horse will be placed on the Veterinarians' List as Bled, physically distressed, medically compromised, unsound, or lame before the Horse is released to the successful claimant; or

(5) the Horse has a positive test for a Prohibited Substance.

(d) The claim shall not be voided if, prior to the Race in which the Horse is claimed, the claimant elects to claim the Horse regardless of whether the Regulatory Veterinarian determines the Horse will be placed on the Veterinarians' List as Bled or unsound or the Horse tests positive for a Prohibited Substance.

#### 2262. Waiver Claiming Option

At time of entry into a Claiming Race an Owner or Trainer may opt to declare a Horse ineligible to be claimed provided:

(a) The Horse has not started in 120 days;

(b) the Horse's last start must have been for a claiming price; and

(c) the Horse is entered for a claiming price equal or greater than the price it last started for.

### 2270. Prohibited Practices and Requirements for Safety and Health of Horses

#### 2271. Prohibited Practices

The following are prohibited practices:

(a) Use of physical or veterinary procedures to mask the effects or signs of injury so as to allow training or racing to the detriment of the Horse's health and welfare.

(b) Use of extracorporeal shock wave therapy in a manner that may desensitize any limb structures during racing or training.

(c) Surgical or chemical neurectomy to cause desensitization of musculoskeletal structures associated with the limbs.

(d) Thermocautery including but not limited to pin firing and freeze firing, or application of any substance to cause vesiculation or blistering of the skin, or a counter-irritant effect.

(e) Use of a device to deliver an electrical shock to the Horse including but not limited to cattle prods and batteries.

(f) Use of electrical medical therapeutic devices including magnetic wave therapy, laser, electro-magnetic blankets, boots, electro-shock, or any other electrical devices that may produce an analgesic effect within 48 hours of a training activity or of the start of the published post time for which a Horse is scheduled to race.

#### 2272. Shock Wave Therapy

(a) The use of Shock Wave Therapy shall be disclosed to the Regulatory Veterinarian no less than 48 hours prior to use and shall not be permitted unless the following conditions are met:

(1) Any Shock Wave Therapy may only be performed with machines that are:

(i) Registered and approved for use by the State Racing Commission; and

(ii) used at a previously disclosed location that is approved by the State Racing Commission.

(2) The use of Shock Wave Therapy shall be limited to licensed Veterinarians and must be reported to the Regulatory Veterinarian within 48 hours of treatment to the Authority.

(3) Any treated Horse shall be placed on the Veterinarians' List and shall not be permitted to Race or breeze for 30 days following treatment.

(b) The Veterinarian and Trainer shall be suspended from the Racetrack for a period of 5 days if Shock Wave Therapy

has not been reported within 48 hours of any treatment or procedure administered to a Covered Horse. For each subsequent omission of reporting, an additional 5 days suspension shall be added. If there are 3 violations in a calendar year, the Veterinarian and Trainer shall be suspended for 6 months in the subsequent calendar year.

### 2273. Other Devices

No electrical or mechanical device or other expedient designed to increase or retard the speed of Covered Horse, other than the riding crop permitted under these regulations, shall be possessed by anyone, or applied by anyone, to a Covered Horse at any time on Racetrack grounds or during a Workout.

### 2274. Other Device Penalties

Penalties for violations of Rule 2273 shall be as follows:

(a) The penalty for a first offense shall be loss of eligibility to obtain a racing license in all racing jurisdictions for 10 years.

(b) For any subsequent violation, the penalty shall be loss of eligibility to obtain a racing license in all racing jurisdictions for the life of the Covered Person.

### 2275. Communication Devices

The use of a hand-held communication device by a rider is prohibited while the rider is on the racing track.

### 2276. Horseshoes

(a) Except for full rims 2 millimeters or less from the ground surface of the Horseshoe, traction devices are prohibited on forelimb and hindlimb Horseshoes during racing and training on dirt or synthetic racing tracks.

(b) Traction devices are prohibited on forelimb and hindlimb Horseshoes during training and racing on the turf.

(c) Traction devices include but are not limited to rims, toe grabs, bends, jar calks and stickers.

### 2280. Use of Riding Crop

(a) A Jockey or exercise rider who uses a crop during a Race or Workout shall do so only in a professional manner consistent with maintaining focus and concentration of the Horse for safety of Horses and riders, or for encouragement to achieve optimal performance.

(b) A rider may:

(1) Use the crop on the hindquarters to activate and focus the Horse a maximum of 6 times during a race. The 6 permitted uses shall be in increments of 2 or fewer strikes. The rider must allow at least 2 strides for the Horse to respond before using the crop again.

(2) Tap the Horse on the shoulder with the crop while both hands are holding on to the reins and both hands are touching the neck of the Horse.

(3) Show or wave the crop to the Horse without physically contacting the Horse.

(4) Use the crop to preserve the safety of Horses and riders.

(c) A rider may not:

(1) Raise the crop with the rider's wrist above the rider's helmet when using the crop;

(2) Injure the Horse with the crop or leave any physical marks, such as welts, bruises, or lacerations;

(3) Use the crop on any part of the Horse's body other than the shoulders or hindquarters;

(4) Use the crop during the post parade or after the finish of the race other than to avoid a dangerous situation or preserve the safety of Horses and riders;

(5) Use the crop if the Horse has obtained its maximum placing;

(6) Use the crop persistently even though the Horse is showing no response;

(7) Use a crop on a 2-year-old Horse in races before April 1 of each year other than to avoid a dangerous situation or preserve the safety of Horses and riders; or

(8) Strike another Horse or person with the crop.

(d) In any Race in which a Jockey will ride without a crop, that fact shall be declared at entry, included in the official program, and an announcement of that fact shall be made over the public address system.

### 2281. Riding Crop Specifications

(a) Riding crops are subject to inspection by the Safety Officer, stewards, and the clerk of the scales.

(b) All riding crops must be soft-padded.

(c) Riding crops shall have a shaft and a smooth foam cylinder and must conform to the following dimensions and construction:

(1) The maximum allowable weight shall be 8 ounces;

(2) The maximum allowable length, including the smooth foam cylinder attachment, shall be 30 inches;

(3) The minimum diameter of the shaft shall be three-eighths of one inch; and

(4) The shaft, beyond the grip, must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one millimeter throughout its circumference.

(5) There shall be no binding within 7 inches of the end of the shaft.

(6) The smooth foam cylinder is the only allowable attachment to the shaft and must meet the following specifications:

(i) Shall have no reinforcements;

(ii) Shall have a maximum length beyond the shaft of one inch;

(iii) Shall have a minimum diameter of 0.8 inches and a maximum width of 1.6 inches;

(iv) There shall be no other reinforcements or additions beyond the end of the shaft;

(v) Shall be made of shock absorbing material with a compression factor of at least 5 millimeters throughout its circumference;

(vi) Shall be made of a waterproof, ultraviolet, and chemical resistant foam material that is durable and preserves its shock absorption in use under all conditions; and

(vii) Shall be replaced after reasonable wear and tear is visibly evident.

(7) Riding crops shall not be altered and shall have an appropriate label or marking designating that the riding crop meets the required standards as established by the Authority.

### 2282. Riding Crop Violations and Penalties

(a) Violations of Rule 2280 shall be categorized as follows, with the exception that use of the crop for the safety of Horse and rider shall not count toward the total crop uses:

(1) Class 3 Violation—1 to 3 strikes over the limit.

(2) Class 2 Violation—4 to 9 strikes over the limit.

(3) Class 1 Violation—10 or more strikes over the limit.

(b) Unless the stewards determine the merits of an individual case warrant consideration of an aggravating or mitigating factor, the penalties for violations are as follows:

(1) Class 3 Violation—

(i) \$250 or 10% of Jockey's portion of the purse, whichever is greater;

(ii) Minimum 1-day suspension for the Jockey; and

(iii) 3 points;

(2) Class 2 Violation—

(i) \$500 or 20% of Jockey's portion of the purse, whichever is greater;

(ii) Horse disqualified from purse earnings,

(iii) Minimum 3-day suspension for the Jockey; and

(iv) 5 points;

(3) Class 1 Violation—

(i) \$750 fine or 30% of Jockey's portion of the purse, whichever is greater,

(ii) Horse disqualified from purse earnings,

(iii) Minimum 5-day suspension for the Jockey;

(iv) 10 points.

### 2283. Multiple Violations

(a) Stewards shall submit violations of Rule 2282 to the Authority to identify when multiple violations warrant additional suspensions consistent with the following schedule:

- (1) 11–15 points: 7 days.
- (2) 16–20 points: 15 days.
- (3) 21 or more points: 30 days.

(b) Points assigned under Rule 2282 shall expire according to the following schedule:

- (1) Class 3 Violation: 6 months.
- (2) Class 2 Violation: 9 months.
- (3) Class 1 Violation: 1 year.

(c) For purposes of paragraph (b), points are expunged from the date of final adjudication of the violation and not from the date of the violation. Mandatory suspensions are based on points accumulated for multiple violations and do not apply to single violations.

### 2290. Requirements for Safety and Health of Jockeys

#### 2291. Jockey Eligibility

(a) A Jockey shall pass a physical examination given within the previous 12 months by a licensed physician affirming the Jockey's fitness to participate as a Jockey, as well as a baseline Concussion test using a current Concussion testing protocol. The results of the physical examination and the baseline Concussion test shall be submitted to the State Racing Commission and the Authority.

(b) The stewards may require that any Jockey be reexamined and may refuse to allow any Jockey to ride in a race or Workout pending completion of such examination.

#### 2292. Jockey and Exercise Rider Medical History Information

(a) At all times while mounted on a Horse at a Racetrack, a Jockey or exercise rider shall securely attach to his or her safety vest one or more medical information cards describing his or her medical history and any conditions pertinent to emergent care, including a listing of any previous injuries, drug allergies and current medications.

(b) The stewards shall confirm compliance during their safety vest inspections at the beginning of the season and with random inspections throughout the Race Meet.

(c) The stewards may, in their discretion, take disciplinary action against, suspend, make ineligible to race, or fine any Jockey or exercise rider found in violation of Rule 2292.

### 2293. Equipment

(a) Helmets.

(1) Any person mounted on a Horse or stable pony anywhere on racetrack grounds shall always wear a properly secured safety helmet.

(2) All starting gate personnel shall always wear a properly secured safety helmet while performing their duties or handling a Horse.

(3) The safety helmet may not be altered in any manner and the product marking shall not be removed or defaced.

(4) The stewards, or their designees, shall inspect safety helmets at the beginning of a Race Meet and randomly throughout the Race Meet.

(5) The Clerk of Scales shall report to the stewards any variances of safety helmets seen during the course of their work.

(6) The helmet must comply with one of the following minimum safety standards or later revisions:

(i) American Society for Testing and Materials (ASTM 1163);

(ii) European Standards (EN–1384 or PAS–015 or VG1);

(iii) Australian/New Zealand Standards (AS/NZ 3838 or ARB HS 2012); or

(iv) Snell Equestrian Standard 2001.

(b) Vests.

(1) Any person mounted on a Horse or stable pony on the racetrack grounds must wear a properly secured safety vest at all times.

(2) All starting gate personnel must wear a properly secured safety vest at all times while performing their duties or handling a Horse.

(3) The safety vest may not be altered in any manner and the product marking shall not be removed or defaced.

(4) The stewards shall inspect safety vests at the beginning of a Race Meet and randomly throughout the Race Meet.

(5) The clerk of scales shall report to the stewards any variances of safety vests seen during their course of work.

(6) The safety vest must comply with one of the following minimum standards, as the same may be from time to time amended or revised:

(i) British Equestrian Trade Association (BETA):2000 Level 1;

(ii) iEuro Norm (EN) 13158:2000 Level 1;

(iii) American Society for Testing and Materials (ASTM) F1781–08 or F1937;

(iv) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6–3; or

(v) Australian Racing Board (ARB) Standard 1.1998.

### Appendix—Supporting Documentation Submitted by HISA

The Authority submitted a variety of materials to reflect existing standards, scientific data, studies, and analysis utilized in the development of the proposed rules, which are available for public inspection at <https://www.regulations.gov> under docket number FTC–2021–0076. These materials are referred to in the Authority's filing as exhibits, a complete list of which appears below:

Exhibit 1—National Thoroughbred Racing Association Safety & Integrity Alliance Code of Standards (2021).

Exhibit 2—Association of Racing Commissioners International, Model Rules of Racing, Version 10.1 (2021), <https://www.arci.com/wp-content/uploads/2021/12/ModelRulesMASTERVERSION10.11129.pdf>.

Exhibit 3—A comparison of the substantive terms of the proposed rule with safety standards and provisions of the NTRA Code of Standards and the specific ARCI Rules.

Exhibit 4—International Federation of Horseracing Authority, International Agreement on Breeding, Racing and Wagering.

Exhibit 8—Mid-Atlantic Strategic Plan to Reduce Equine Fatalities Goal I: Develop regional safety best practices.

Exhibit 9—Mid-Atlantic Strategic Plan to Reduce Equine Fatalities—Best Practices Mortality Review Board.

Exhibit 10—California Code of Regulations Article 15; Veterinary Practices 1846.5; Postmortem Examination (a)–(h).

Exhibit 11—Jockeys' Guild, Inc. and the NTRA Safety & Integrity Alliance Medical Director Committee, Medical Care Recommendations.

Exhibit 12—AAEP Healthy Horse Protocol: Biosecurity Guidelines for Racetrack Entry and Stabling (2020).

Exhibit 13—AAEP General Biosecurity Guidelines.

Exhibit 14—AAEP Clinical Guidelines for Veterinarians Practicing in a Pari-Mutuel Environment—Infectious Disease Control.

Exhibit 15—Walsh KM, Cooper MA, Holle R, Rakov VA, Roeder WP, Ryan M. "Lightning Safety for Athletics and Recreation." *Journal of Athletic Training* (2013): 258–70.

Exhibit 16—American Association of Equine Practitioners, Thoroughbred Race Day Injury Management Guidelines.

Exhibit 17—Equine Disease Communication Center website.

Exhibit 18—National Thoroughbred Racing Association Safety & Integrity Alliance Code of Standards: Surfaces 2020.

Exhibit 19—Racing Surfaces Testing Laboratory website.

Exhibit 20—AAEP Guidelines, Necropsies of Racehorses, General Guidelines, Revised by AAEP Racing Committee 2020.

Exhibit 21—NYCRR Title 9, Executive Subtitle T New York State Gaming Commission Chapter 1 Division of Horse Racing and Pari-mutuel Wagering, Subchapter A Thoroughbred Racing, Article 1 Rules of Racing, Part 4007 Horses.



Exhibit 22—Thoroughbred Horseman's Association, Continuing Education for Trainers and Assistant Trainers.

Exhibit 23—Centers for Disease Control, Heads Up—Brain Injury Basics—Returning to Sports and Activities.

Exhibit 24—National Athletic Trainers' Association Position Statement: Management of Sports Concussion.

Exhibit 25—MedStar Sports Medicine Concussion Protocol for Jockeys and Horsemen.

Exhibit 26—MedStar Sports Medicine—Concussion Protocol video.

Exhibit 27—The Jockey Club Thoroughbred Safety Committee Recommendation, August 12, 2012 (revised August 5, 2021).

Exhibit 28—Kane AJ, Stover SM, Gardner IA, et al. Horseshoe characteristics as possible risk factor for fatal musculoskeletal injury of Thoroughbred racehorses. *American Journal of Veterinary Research*, 1996, Vol. 57, No. 8, Pages 1147–52.

Exhibit 29—Casner B. 2010 Jockey Club Welfare & Safety Committee Presentation—Welfare and Safety of the Racehorse Summit.

Exhibit 30—Harvey AM, Williams SB, Singer ER. The effect of lateral heel studs on the kinematics of the equine digit while cantering on grass. *Veterinary Journal* 2012 May;192(2):217–21. doi: 10.1016/j.tvjl.2011.06.003. Epub 2011 Jul 12. PMID: 21752677.

Exhibit 31—Hill AE, Gardner IA, Carpenter TE, Stover SM. Effects of injury to the suspensory apparatus, exercise, and horseshoe characteristics on the risk of lateral condylar fracture and suspensory apparatus failure in forelimbs of Thoroughbred racehorses. *American Journal of Veterinary Research*, 2004, 65 (11), 1508–17.

Exhibit 32—Hill AE, Stover SM, Gardner IA, et al. Risk factors for and outcomes of noncatastrophic suspensory injury in Thoroughbred racehorses. *Journal American Veterinary Medical Association*. 2001, Vol. 218, 1136–44.

Exhibit 33—Hernandez JA, Scollay MC, Hawkins DL, et al. Evaluation of horseshoe characteristics and high-speed exercise history as possible risk factors for catastrophic musculoskeletal injury in Thoroughbred racehorses. *American Journal of Veterinary Research* 2005; 66:1314–1320.

Exhibit 34—Anthenill LA, Stover SM, Garner IA, Hill AE. Risk Factors for proximal sesamoid bone fractures associated with exercise history and horseshoe characteristics in Thoroughbred racehorses. *American Journal of Veterinary Research*, 2007, 68 (7), 760–71.

Exhibit 35—Kentucky Horse Racing Commission Administrative Regulations—810 KAR 4:010. Horses—Section 11 Equipment.

Exhibit 36—IFHA Use of the Whip, “IFHA Principles of Good Practice for the use of the Whip in Horseracing.”

Exhibit 37—Schambourg nociceptive thresholds in endurance horses, *Vet Rec* 2019.

Exhibit 38—The Use of Whips in Thoroughbred Racing in Australia, RSPCA Information Paper—November 2020.

Exhibit 39—Thompson—Is Whip Use Important to Thoroughbred Racing Integrity?

What Stewards' Reports Reveal about Fairness to Punters, Jockeys and Horses—Animals, 1985.

Exhibit 40—Toma—Assessing Forces Exerted on Horses Using Varying Riding Crop—*Journal of Equine Veterinary Science*, 2021.

Exhibit 41—Tong—A Comparative Neuro-Histological Assessment of Gluteal Skin.

Exhibit 42—Ueda Y, Yoshia K, Oikawa M. Analysis of race accident conditions through use of patrol video. *J Equine Vet Sci* 1993;13:707–710.

Exhibit 43—Deuel—Effects of Urging by the Rider on Gallop Stride Characteristics of Quarter Horses—*Equine Nutrition and Physiology Society—1988 Issue*.

Exhibit 44—McGreevy—Whip Use by Jockeys in a Sample of Australian Thoroughbred Races—An Observational Study—*PLOS ONE* 2012.

Exhibit 45—Pinchbeck—Whip use and race progress are associated with horse falls in hurdle and steeplechase racing in the UK—*Equine Veterinary Journal*, 2004.

Exhibit 46—Mills and Higgins—Investigation of the Potential of Whips to Injure Horses—1996.

Exhibit 47—Jones—A Critical Analysis of the British Horseracing Authority's Review of the Use of the Whip in Horseracing—*Animals* 2015.

Exhibit 48—Luna—Validation of mechanical, electrical and thermal nociceptive stimulation methods in horses—*Equine Veterinary Journal* 2015.

Exhibit 49—McGreevy—A note on the force of whip impacts delivered by jockeys using forehand and backhand strikes—*Journal of Veterinary Behavior* 2013.

Exhibit 50—Evans—An Investigation of Racing Performance and Whip Use by Jockeys in Thoroughbred Races—*PLOS ONE* 2011.

Exhibit 51—Graham—Changing Human-Animal Relationships in Sport: An Analysis of the UK and Australian Horse Racing Whips Debates, *Animals*, 2016.

Exhibit 52—Hausler—Mechanical nociceptive thresholds in the axial skeleton of horses, *Equine Veterinary Journal*, 2006.

Exhibit 53—ARCI Crop Rule Penalties—ARCI-010-035 Running of the Race—(Proposed Rule Text).

Exhibit 54—The Jockey Club Thoroughbred Safety Committee Recommendation, August 14, 2016 (modified 8/11/19).

Exhibit 55—California Proposed Crop Equipment Rule—1685. Equipment Requirement.

Exhibit 56—New Jersey Rule 13:70–11.12.

Exhibit 57—Gulfstream Park Crop Rule.

Exhibit 58—British Horseracing Authority Rules of Racing 1 October 2021 Version 2021.4.1, 4—Whip Rule (F)45.

By direction of the Commission.

**April J. Tabor,**  
*Secretary.*

[FR Doc. 2021–28513 Filed 1–4–22; 8:45 am]

**BILLING CODE 6750-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 18–812, NIOSH Member Conflict Review.

*Date:* February 23, 2022.

*Time:* 1:00 p.m.–4:00 p.m., EST.

*Place:* Teleconference.

*Agenda:* To review and evaluate grant applications.

*For Further Information Contact:* Michael Goldcamp, Ph.D., Scientific Review Officer, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26506, Telephone: (304) 285–5951, Email: [MGoldcamp@cdc.gov](mailto:MGoldcamp@cdc.gov).

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–28521 Filed 1–4–22; 8:45 am]

**BILLING CODE P**