

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)**

810 KAR 5:020 Eligibility and classification.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for the eligibility and classification of horses for races and medical tests required.

Section 1. Electronic Eligibility.

(1) A horse shall not be permitted to start in any betting or non-betting race, qualifying race, time trial, or official workout without first securing an electronic eligibility certificate.

(2) The race secretary shall check each electronic eligibility certificate to certify each horse's eligibility to a race.

Section 2. Racing Season and Recorded Winnings. For purposes of eligibility, a racing season or racing year shall be the calendar year.

Section 3. Sale or Lease during Eligibility Year. If a horse is sold or leased after an electronic eligibility certificate is issued for the current year, the seller or the authorized agent of the seller shall endorse the transfer of the eligibility certificate to the new owner or lessee. The transfer shall be effective upon electronic transfer of the electronic registration certificate by the clerk of the course. Any sale or lease of a horse shall be recorded with the United States Trotting Association.

Section 4. Leased Horses. A horse on lease shall race in the name of the lessee. An electronic eligibility certificate shall not be issued to a horse under lease unless a copy of the lease is filed with the association. For purposes of issuance of electronic eligibility certificates or transfers of ownership, or both, a lease for an indefinite term shall be considered terminable at the will of either party unless extended or reduced to a term certain by written documentation executed by both the lessor and lessee.

Section 5. Correction of Electronic Eligibility Certificate. A correction of an electronic eligibility certificate shall be made only by a representative of the United States Trotting Association or a licensed official.

Section 6. Tampering with Electronic Eligibility Certificates. A person who tampers with an electronic eligibility certificate shall be charged with a violation pursuant to 810 KAR 8:030.

Section 7. Denial of Electronic Eligibility Certificate. An eligibility certificate may be denied to any person who fails to comply with Title 810 KAR and the provisions of KRS Chapter 230 relating to harness racing.

Section 8. Time Bars. A time record or bar shall not be used as an element of eligibility.

Section 9. Conflicting Conditions. If there are conflicting published conditions and neither is withdrawn by the association, the conditions more favorable to the nominator shall govern.

Section 10. (1) Standards for Overnight Events. The racing secretary shall prescribe standards to determine whether a horse is qualified to race in overnight events at a meeting. The standards shall be posted where declarations are made and shall be printed on all condition and qualifying sheets.

(2) If time standards are established at a meeting for both trotters and pacers, trotters shall be given a minimum of two (2) seconds allowance in relation to pacers.

Section 11. Posting of Overnight Conditions.

(1) At meetings other than extended pari-mutuel meetings, conditions for overnight events shall be posted at least eighteen (18) hours before entries close.

(2) At extended pari-mutuel meetings where races are held five (5) or more days per week, condition sheets shall be prepared. A condition sheet containing at least three (3) days racing programs shall be publicly available at least (3) days prior to entries being taken on any race program contained in the condition sheet. Conditions shall be clearly stated in all condition sheets and shall not state that conditions are TBA (To Be Announced).

(3) The race secretary shall forward copies of each condition book and overnight sheet to the presiding judge as soon as they are available to the public.

Section 12. Types of Races to be Offered.

(1) A racing program shall offer exclusively the following types of races:

- (a) Stakes and futurities;
- (b) Early closing and late closing events;
- (c) Condition races;
- (d) Claiming races; and
- (e) Preferred races limited to the fastest horses at the meeting.

(2) Preferred races may be free-for-all races or invitationals.

(3) A two (2) year old or three (3) year old horse shall not be eligible to be placed on the preferred or invitational list to race against older horses until it has won at least seven (7) races, unless requested by the owner or authorized agent and approved by the race secretary. The owner or authorized agent may withdraw the request at his or her discretion.

Section 13. Limitation on Conditions. A condition shall not be written so as to deprive a horse of an opportunity to race in normal preference cycles. More than three (3) also eligible conditions shall not be used in writing the conditions of an overnight event.

Section 14. Dashes and Heats. A dash or heat shall be considered a separate race for the purposes of conditioned racing.

Section 15. Selection or Drawing of Horses. For any overnight event, each starter and also eligible shall be drawn by lot from those properly declared in, except that a race secretary shall establish a preference system for races as provided in 810 KAR 5:060, Section 24. However, if necessary to fill a card, a maximum of one (1) race per day shall be divided into a maximum of two (2) divisions after preference has been applied. The divisions shall be selected by the racing secretary. For all other overnight races that day that are divided, the division shall be by lot unless the conditions provide for a division based on performance, earnings, sex, or claiming price.

Section 16. Rejection of Declaration Based Upon Past Performance. The racing secretary may reject the declaration on any horse whose past performance information falls below the competitive level of other horses declared.

Section 17. Substitute and Divided Races.

(1) Substitute races may be provided for each day's program and shall be so designated. A substitute race or a race divided into two (2) divisions shall be used only if regularly scheduled races fail to fill.

(2) If a race fills, it may be carried over one (1) day with the permission of the presiding judge.

Section 18. Qualifying Races. A horse that qualifies in a qualifying race shall not be deprived of its right to start in any race.

Section 19. Equine Infectious Anemia.

(1) A horse that has been determined, by means of a "Coggins test" administered by an approved laboratory, to be infected with or a carrier of equine infectious anemia shall not be permitted to race or be stabled at a licensed track.

(2) A horse shall not be permitted to enter or remain upon the grounds of any association where race meetings are conducted at any time unless a certificate is presented to an association representative certifying that the horse has been given a "Coggins test" during the past twelve (12) months, and that the result of the test was negative. The certificate shall properly identify the horse by tattoo number, freeze brand, or other commission-approved means of identification.

(3) A horse shall not start in a race unless a negative "Coggins" test written certificate for that horse is furnished to the race secretary, as required by subsection (2) of this section.

(4) An electronic eligibility certificate shall not be issued for a horse for which a positive "Coggins Test" has been reported. If an electronic eligibility certificate is issued for a horse that is later determined to be infected with, or to be a carrier of, equine infectious anemia, the presiding judge shall immediately notify the United States Trotting Association.

FRANKLIN S. KLING, JR., Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 28, 2018 at 10:00 a.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by no later than five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m., December 31, 2018. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John L. Forgy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures concerning eligibility for races (including electronic eligibility), establishes rules concerning the classification of horses for races, specific rules concerning overnight events, and provisions concerning equine infectious anemia.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish requirements and procedures concerning eligibility for races and to set forth procedures concerning various types of races to be run in standardbred racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This rule prescribes conditions under which the horses will become eligible to race in particular standardbred races.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the Commission's statutory mandate to prescribe the conditions under which horse racing is conducted in the Commonwealth by establishing a comprehensive set of rules governing the eligibility of horses and the classification of races in standardbred racing.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statute: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's two licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Participants in horse racing, and especially owners and trainers, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to eligibility and classification in standardbred racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial administrative cost to implement this new administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this new administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the Commission.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation does not establish any new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? Tiering was not applied because this new administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215(2) and 230.260(8).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be cost will be required to administer this regulation for the first year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.