

Out of Competition Testing

1. Prohibited Substances and Practices - the following shall be deemed a violation of this section:
 - a. The presence of any substance prohibited pursuant to the then current Prohibited Substance List at the time of sampling;
 - b. The possession or use of:
 - i. erythropoietin, darbopoetin, hemoglobin-based oxygen carriers;
 - ii. naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, synthetic analogues of derivatives of venoms; and
 - iii. growth hormones, or beta-2 agonists that are not subject to regulatory thresholds (*e.g.*, ractopamine/zilpaterol)on the grounds of a licensed facility under the regulatory authority's jurisdiction; and
 - c. The possession at any time of whole blood or packed red blood cells on the grounds of a licensed facility under the regulatory authority's jurisdiction by anyone other than a licensed veterinarian or a technician under the direct supervision of the veterinarian rendering emergency treatment to a horse on the licensed facility grounds. The attending veterinarian shall notify the commission veterinarian of the intent to administer whole blood or packed red blood cells prior to his or her collection or possession of the whole blood or packed red blood cells.
2. Horses Eligible for Out-of-Competition Testing: Any horse eligible to race in the jurisdiction shall be subject to testing without advance notice. A horse is presumed eligible to race in the jurisdiction if:
 - a. It is under care, custody, or control of a licensed trainer;
 - b. It is owned by a licensed owner;
 - c. It is nominated to race at a licensed premises;
 - d. It has raced at a licensed premises within the jurisdiction within the previous 12 months;
 - e. It is stabled on a licensed premises or training facility; or
 - f. It is nominated to the state thoroughbred development, breeder's award fund, or Standardbred state sires stakes.

Horses eligible for testing pursuant to the above qualifications may be selected by the stewards, the Executive Director, the Equine Medical Director/State Veterinarian, a designee of any of the foregoing, or as otherwise authorized by regulation within the jurisdiction.

3. Sampling Location and Procedures:

Upon request of a representative of the racing jurisdiction trainers, owners, or their specified designee shall provide the location of their horses eligible for Out-of-Competition testing.

The trainer, owner, or specified designee shall make the horse available for Out-of-Competition testing as follows:

- a. Licensed Facilities
 - i. Trainers, owners, or their specified designees must make the horse available as soon as practical upon request of a regulatory authority representative if the horse is located at a licensed facility.
- b. Off-Track Stabling Facilities or Other Locations
 - i. If the horse is not located at a licensed facility:
 - 1. the trainer, owner, or their specified designees shall make the horse available as soon as practical upon arrival of regulatory authority representatives at the off-track stabling facility or other location at which the horse is located; or
 - 2. The trainer, owner, or their specified designees shall bring the horse to a licensed facility within 24 hours of receiving notification of out of competition sampling, or
 - 3. The trainer, owner, or their specified designees may bring the horse to another location that is acceptable to the commission for such sampling to occur.
 - ii. If collecting at a site other than a licensed racetrack or training facility – sampling can only occur during standard business hours but not earlier than 6 a.m. nor later than 6 p.m. Under this subsection, the veterinarian collecting the samples or his/her designee must notify the owner/trainer/individual exercising care and control of horse a minimum of 1 hour prior to arrival.

4. Persons to Collect Samples

- a. Horses Located in the Requesting Jurisdiction
 - i. Samples shall be collected under the direction of the official veterinarian, the Equine Medical Director, a person designated by the official veterinarian, or a person designated by the racing authority. Any individual directing the collection of samples shall be licensed by the Racing Commission.
- b. Horses Located Outside of the Requesting Jurisdiction
 - i. If the horse is located outside the jurisdiction, the racing authority may request that the sampling be completed by a veterinarian who is:
 - 1. Licensed to practice by the veterinary medical board in the state in which the sampling is to occur; and
 - 2. Authorized by the requesting racing authority to perform sampling.
 - ii. Such authorization shall be provided by the executive director, equine medical director/state veterinarian, stewards, or their respective designees.

5. Samples and Sample Handling

- a. Samples to be collected: blood, urine, hair, or other biological official test samples may be collected.
- b. The trainer, owner, or their designee shall witness the sample collection including sealing sample collection containers. The chain of custody for the sample (including a split sample

where appropriate) must be maintained and available for inspection by the trainer, owner, or their designee. The chain of custody record will be available for inspection where a complaint or regulatory action occurs as a result of the out of competition test.

6. Penalties

- a. Willful failure to make a horse available for sampling or other willfully deceptive acts or interference in the sampling process shall carry a minimum penalty equivalent to a Class A penalty for the first violation. License revocation shall occur for second offense. A horse that is not produced for out of competition testing shall be placed on the Veterinarian's List for a minimum of 6 months.
- b. Penalties for a finding of a prohibited drug or substance:
 - i. The penalty for a finding for a drug or substance prohibited at all times on the Prohibited List in an Out-of-Competition Testing sample shall apply in the same manner as to a scheduled race.
 - ii. Penalties for a finding of a prohibited drug or substance are subject to inclusion in the Multiple Medication Violation Penalty Point System.
- c. Persons eligible to receive penalties:
 - i. The trainer of record of a licensed horse;
 - ii. The owner of record of a licensed horse if the horse is not under the care, custody, or control of a licensed trainer; and
 - iii. If a horse had not been in the care, custody, and control of a licensed trainer for the seven days prior to Out-of-Competition testing the owner and trainer shall be equally liable.