

## NOTICE OF PUBLIC HEARING

The Arkansas Racing Commission will meet on September 22, 2022, at 11:00 a.m. in the Commission office located at 1515 West Seventh Street, Suite 500, Little Rock, Arkansas, to consider the adoption of the following rule changes:

- (1) Thoroughbred Rule 1217.3. Proposed amendment to set additional guidelines for extracorporeal shock wave therapy.
- (2) Thoroughbred Rule 1218. Proposed amendment to repeal sections (b)(1) and (2) as those sections conflict with the proposed HISA rules.
- (3) Thoroughbred Rule 1219. Proposed new rule to list prohibited practices contained in the proposed HISA rules.
- (4) Thoroughbred Rule 2099.1 Commission Clocker. Proposed amendment to allow Stewards to grant extensions of up to seven (7) days for horse owners / trainers to record timed workouts.
- (5) Thoroughbred Rule 2128A. Proposed new rule to prohibit jockeys from using hand-held communication devices while on the race track.
- (6) Thoroughbred Rule 2260 Purse Distribution. Proposed amendment to change purse distributions to include more horses.
- (7) Thoroughbred Rule 2444 Claiming. Proposed amendment to improve and clarify the claiming process for multiple claims in the same race.

Any persons wishing to speak for or against any of the above-proposed rule changes should appear at the meeting on September 22, 2022, and they will be given the opportunity to express their views. Persons wishing to submit written comments on the above-proposed rule changes should send them to the Arkansas Racing Commission, P.O. Box 3076, Little Rock, Arkansas 72203, prior to the close of business on September 21, 2022. Copies of the complete text of the proposed rule changes can be obtained from the Racing Commission office during normal business hours and on its website and from the Secretary of State's office and on its website.

## Thoroughbred Rule 1217.3 Amendment Summary

This amendment to Rule 1217.3 sets additional guidelines for extracorporeal shock wave therapy.

### Thoroughbred Rule 1217.3 Mark Up

#### **Prohibited Practices—Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy**

(a) The use of Extracorporeal Shock Wave Therapy, Radial Pulse Wave Therapy or similar treatments shall not be permitted on horses on the grounds of Oaklawn.

(b) Equipment used ~~to~~ for Extracorporeal Shock Wave Therapy, Radial Pulse Wave Therapy or similar treatments shall not be allowed in the stable area at Oaklawn.

~~(c) — Any horse treated with Extracorporeal Shock Wave Therapy, Radial Pulse Wave Therapy or similar treatments shall not be permitted to race at Oaklawn for a minimum of thirty (30) days following such treatment. Any such treatments on horses racing at Oaklawn must be performed by licensed veterinarians, or otherwise in accordance with applicable laws, and regulations of the applicable governmental regulatory agency, of the State where such treatments take place.~~

~~(d) — All Extracorporeal Shock Wave Therapy, Radial Pulse Wave Therapy and similar treatments on horses racing at Oaklawn must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.~~

(c) The use of Shock Wave Therapy shall be disclosed to the Commission 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 Arkansas Racing Commission; and

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

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

(3) Any treated horse shall be placed on the Veterinarian's List and shall not be permitted to race or breeze for 30 days following treatment.

(d) The Commission Veterinarian and the trainer may be suspended from the race track 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 horse. For each subsequent omission of reporting, an additional 5 days suspension may be added. If there are 3 violations in a calendar year, the Commission Veterinarian and the trainer may be suspended for up to 6 months in the subsequent calendar year.

## Thoroughbred Rule 1218 Amendment Summary

This amendment repeals sections (b)(1) and (2) of Rule 1218 as those sections conflict with the new HISA Rules, and the ARC is attempting to make its Rules comply with HISA before it is mandatory to do so.

### Thoroughbred Rule 1218 Mark Up

**1218.** Any trainer, attendant, owner, veterinarian or other person who shall participate in the illegal administration of any drug, medication or chemical substance to any horse entered in a race, or otherwise tamper with an entered horse for the purpose of enhancing or retarding the performance of such a horse, shall be punished to such an extent as the Stewards rule.

(a) Upon receipt of a positive laboratory report, the Stewards shall direct that no undistributed money earned by the positive horse be awarded pending a final determination of the matter. Distributed purse money may be ordered returned by the Stewards. If it is determined that a violation has occurred, the purse money will be ordered forfeited and redistributed among the other horses in the race as determined by the Stewards. Pari-mutuel wagering shall not be affected by purse money redistribution.

(b) ~~(1) External non-invasive treatments such as icing, massage therapy, use of magnetic blanket or vibrator, or equine chiropractic treatments may be administered prior to the time the horse is required to be in the paddock for any race in which the horse is entered; provided, however, such permitted external treatments shall not include any activity involving (i) any incision or piercing of the skin, (ii) the application of extracorporeal shock wave therapy or radial pulse wave therapy otherwise prohibited by Rule 1217.3, or (iii) the use of any prohibited drug or other prohibited substance.~~

~~(2) No device designed to produce localized anesthesia at the site or underlying tissues may be used on a horse after 6:00 p.m. on the day immediately prior to any day the horse is an entry in a race. The application of extracorporeal shock wave therapy and radial pulse wave therapy must comply with Rule 1217.3.~~

~~(31)~~ Any person performing any equine chiropractic services on the grounds of the association shall consult with a veterinarian licensed by the Commission regarding the chiropractic services to be performed, and shall conduct such services in compliance with applicable Arkansas law governing such services. In addition, any person performing any equine chiropractic services on the grounds of the association must be licensed as a vendor by the Commission, and must have such further licenses if and to the extent required by applicable Arkansas law.

~~(42)~~ Any machine or other device to be used in connection with any chiropractic treatment on any horse on the grounds of the association must be registered with and approved by

the Commission or its designee before use. Any machine or other device producing localized anesthesia or electronic or other similar shock wave used in connection with any treatment on any horse on the grounds of the association, including, without limitation, any laser, ultrasound and nerve stimulator devices (e.g., "TENS" machine), must be registered with and approved by the Commission or its designee before use. Customarily used vibrators, magnetic blankets and magnetic boots are not required to be so registered. No machine or other device which produces localized anesthesia at the site or underlying issues lasting more than twelve (12) hours shall be approved unless use is limited to such lead times before racing as the official veterinarian shall determine is necessary for the anesthesia effect to properly dissipate.

|                   (53) Use of any machine or other device required to be registered with the Commission or its designee under subsection (4) of this rule on a horse on the grounds of the association must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

## **Thoroughbred Rule 1219 Summary**

This new rule lists prohibited practices outlined by the new HISA rules and is to adopt uniform rules consistent with HISA and other states before it is mandatory.

### **Thoroughbred Rule 1219 Mark Up**

1219. 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 a 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 a 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 at the start of the published post time for which a horse is scheduled to race.

## **Thoroughbred Rule 2099.1 Amendment Summary**

Amends Rule 2099.1 to allow Stewards to grant 30 and 60 day extensions for horse owners / trainers to record timed workouts.

### **Thoroughbred Rule 2099.1 Mark Up**

#### **COMMISSION CLOCKER**

**2099.** The Commission Clocker shall be appointed by the Racing Commission and paid by the franchise holder. The Commission Clocker and his assistants will be responsible for recording official workouts each day. Official workouts that are not reported in The Daily Racing Form shall be tabulated by the Commission Clocker and posted for public viewing in a conspicuous place.

**2099.1 (a) (1)** A horse shall not be taken on the track for training or a workout except during hours designated by the Association.

(2) The trainer or rider shall identify the horse and distance to be worked to the Official Clocker or his assistant.

(3) A horse which has not started for a period of sixty (60) days or more prior to race day must have at least two (2) official published timed workouts within the previous thirty (30) days prior to race day, at least one (1) of which must be at distance of four (4) furlongs or more. The workouts must have occurred at a pari-mutuel horse racing facility or recognized horse training facility, approved by the Stewards.

(4) A horse which has not started for a period of six (6) months or more prior to a race day must have at least three (3) officially published timed workouts, two (2) of which must be within thirty (30) days of the race and one (1) of which must be at a distance of four (4) furlongs or more. A horse which has not started for a period of six (6) months or more must also undergo a physical examination by the trainer's practicing veterinarian, and the trainer's practicing veterinarian must approve the horse for racing in writing to the official veterinarian prior to being entered in a race. The workouts must have occurred at a pari-mutuel horse racing facility or a recognized horse training facility approved by the Stewards.

(5) First time starters must have three (3) or more official published timed workouts within the previous sixty (60) days prior to race day, (i) two (2) of which must be within the previous thirty (30) days prior to race day, (ii) at least one (1) of which must be at a distance of four (4) furlongs or more, and (iii) at least one (1) of which must be a workout starting out of the gate within the previous ~~thirty (30)~~ forty-five (45) days prior to race day. The workouts must have occurred at a pari-mutuel horse racing facility or recognized horse training facility approved by the Stewards.

(6) The Stewards may extend the thirty (30) day period in Rule 2099.1(a)(3), (4) and (5) to thirty-seven (37) days, and the Stewards may extend the sixty (60) day period in Rule 2099.1(a)(5) to sixty-seven (67) days, if the horse was unable to complete the required workouts under said Rules due to the track being closed for workouts.

~~(6)~~(7) The Association may impose more stringent workout requirements.



## **Thoroughbred Rule 2128A Summary**

This new rule prohibits jockeys from using hand-held communication devices while on the race track.

## **Thoroughbred Rule 2128A Mark Up**

**2128A** The use of a hand-held communication device by a rider is prohibited while the rider is on the race track.

## **Thoroughbred Rule 2260 Amendment Summary**

Amends Rule 2260 to change purse distributions to include more horses.

### **Thoroughbred Rule 2260 Mark Up**

**2260.** Purse distribution ~~will~~ for each race shall be paid ~~back~~ on the following basis:

(a) Stakes races. In stakes races, 1.5% of the purse shall be paid with respect to each of the official starters 5<sup>th</sup> through last in the final race result; and the balance of the purse shall be paid: winner ~~60%~~65%; place 20%; show 10%; and fourth 5%. For example, in a stakes race with twelve (12) official starters and a \$200,000 purse: 5<sup>th</sup> through 12<sup>th</sup> would each receive \$3,000 (i.e., 1.5% ~~and fifth 3%~~, each, for a total of \$24,000); and the remaining \$176,000 would then be paid out 65% (\$114,400) to the winner; 20% (\$35,200) to second; 10% (\$17,600) to third; and 5% (\$8,800) to fourth. If there are only four (4) official starters in the stakes race, the purse shall be paid: winner 65%; place 20%; show 10%; and fourth 5%. If there are less than four (4) official starters in the stakes race, the purse shall be paid in accordance with the specified percentages in the immediately preceding sentence above, and the balance of the purse for the race shall revert to the purse fund.

(b) Non-Stakes races. In all other races (i.e., non-stakes races), purse distribution shall be paid: winner 60%; place 20%; show 10%; fourth 5%; and the remaining ~~25%~~ shall be divided and paid equally among the other official starters in the race (i.e., ~~sixth-fifth~~ through last). However, if there are only five (5) official starters in the non-stakes race, the purse shall be paid: winner 60%; place 20%; show 10%; fourth 6%; and fifth 4%. If there are less than five (5) official starters in the non-stakes race, the purse shall be paid in accordance with the specified percentages in the immediately preceding sentence above, and the balance of the purse for the race shall revert to the purse fund.

## Thoroughbred Rule 2444 Amendment Summary

Amends Rule 2444 to improve and clarify the claiming process for multiple claims in the same race.

### **Thoroughbred Rule 2444 Mark Up**

**2444.** ~~If~~ (a) Multiple Claims Determined by Draw; Invalid Claims. Except as otherwise provided in Rule 2444(b) below, if more than one claim is filed for the same horse, the title to the horse shall be determined by lot under the direction and supervision of one or more of the Stewards. After title to the claimed horse is determined by lot under this ~~rule~~ Rule 2444(a), or, if applicable, under Rule 2444(b) below, all other claims on that horse in a race shall be deemed null and void. Accordingly, if the winning claim determined by lot under this ~~rule~~ Rule 2444(a), or, if applicable, under Rule 2444(b) below, is subsequently ruled invalid for any reason, title to the horse shall be returned to the owner of the horse prior to the lot draw, or, if applicable, prior to the determination of the preferred claimant under Rule 2444(b) below. The successful claimant shall be responsible for all expenses for the care and maintenance of the horse from the time the horse is transferred to the claimant until the time the horse is returned to the prior owner following invalidation of the winning claim.

(b) Claiming Preference. An owner who has a horse claimed during the Oaklawn racing season will be awarded a claiming preference (a “**Claiming Preference**”) subject to the terms and conditions of this Rule 2444(b).

(1) An owner who has a horse claimed during the Oaklawn current racing season will be awarded one Claiming Preference.

(2) Claiming Preferences cannot be accrued or accumulated. A second Claiming Preference may not be awarded until the first is validly used and the owner using the Claiming Preference is awarded title to the claimed horse. If a Claiming Preference is validly used and the owner using the Claiming Preference is awarded title to the claimed horse, the owner will be issued another Claiming Preference if the owner subsequently has a horse claimed at Oaklawn.

(3) Claiming Preferences will become valid (and useable by the owner to whom the Claiming Preference was awarded) starting the first Tuesday of the week after the Claiming Preference is awarded. A Claiming Preference may only be used by the exact same owner to whom the Claiming Preference was awarded.

(4) An owner may use the owner’s Claiming Preference on any claiming race through the end of the racing season during which the Claiming Preference was awarded. Unused Claiming Preferences expire at the end of the racing season during which the Claiming Preference was awarded.

(5) An owner holding a Claiming Preference who desires to use the Claiming Preference must expressly so indicate by marking the proper space on the Claim Card denoting election to use the Claiming Preference for that claim. The use of the Claiming Preference is at the option of the owner with the Claiming Preference (i.e., the owner is not required to utilize the Claiming Preference and may defer use to a later claiming race during the then current racing season).

(6) If use of a Claiming Preference is noted on the Claim Card when no Claiming Preference is available, the Claim will be invalidated.

(7) If there are multiple claims for the same horse in a claiming race, claims with a Claiming Preference will be given preference in determining the successful claimant and title to the horse (e.g., if there are multiple valid claims for the same horse in a claiming race, and only one valid claim with a Claiming Preference, the claimant properly utilizing the claimant's Claiming Preference will be determined the successful claimant, and title to the horse shall transfer to that claimant without lot draw/shake).

(8) If there are multiple claims with Claiming Preferences for the same horse in a claiming race, only claims with Claiming Preferences will participate in the lot draw/shake, and the successful claimant and title to the horse shall be determined under Rule 2444(a) above among only those claimants validly using their Claiming Preference. The unsuccessful claimant(s) (i.e., those not winning the lot draw/shake) retain their Claiming Preference.

(9) If an owner validly exercises the owner's Claiming Preference and is awarded the claim and title to the claimed horse, that Claiming Preference will then expire.

(10) Once a Claiming Preference is validly used by the owner, and the owner is awarded the claim and title to the claimed horse, the owner will receive a subsequent Claiming Preference upon having another horse claimed.

(11) The Racing Office shall post a list of owners with Claiming Preferences every Tuesday before entries.

(12) A Claiming Preference may only be used in the exact same name of the owner to whom the Claiming Preference was awarded.

(13) Claiming preferences are not transferable.