

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 1 GENERAL PROVISIONS

15.2.1.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.1.1 NMAC - Rp, 15 NMAC 2.1.1, 3/15/2001]

15.2.1.2 SCOPE: General Public and all persons, firms, or associations participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, 15.2.7 NMAC, and 16.47.1 NMAC.
[15.2.1.2 NMAC - Rp, 15 NMAC 2.1.2, 3/15/2001]

15.2.1.3 STATUTORY AUTHORITY: Sections 60-1A-1 through 60-1A-30 NMSA 1978 authorizes the New Mexico Racing Commission to promulgate rules and regulations and carry out the duties of the Act to regulate horse racing.
[15.2.1.3 NMAC - Rp, 15 NMAC 2.1.3, 3/15/2001; A, 9/15/2009]

15.2.1.4 DURATION: Permanent.
[15.2.1.4 NMAC - Rp, 15 NMAC 2.1.4, 3/15/2001]

15.2.1.5 EFFECTIVE DATE: March 15, 2001 unless a later date is cited at the end of a section.
[15.2.1.5 NMAC - Rp, 15 NMAC 2.1.5, 3/15/2001]

15.2.1.6 OBJECTIVE: To establish the authority of the racing commission for regulating the horse racing industry; establish procedures for issuance, renewal, suspension, or revocation of licenses for violations of the rules or act; and, achieve the objectives that participants and patrons be protected against all wrongful, unlawful, or unfair conduct and practices on the racetrack.
[15.2.1.6 NMAC - Rp, 15 NMAC 2.1.6, 3/15/2001; A, 12/17/2019]

15.2.1.7 DEFINITIONS:

A. Definitions beginning with the letter “a”:

(1) **“Act”** means the New Mexico Horseracing Act, New Mexico Statutes Annotated, 1978 Compilation, and Sections 60-1A-1 through 60-1A-30 including any amendments to that statute.

(2) **“Added money”** is the amount added into the purses for a stakes race by the association, or by sponsors, state-bred programs or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from owners of horses participating in the race.

(3) **“Age”** of a horse foaled in North America shall be reckoned from the first day of January of the year of foaling.

(4) **“Also eligible”** pertains to: a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; in a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

(5) **“Allowance race”** is an overnight race for which eligibility and weight to be carried are determined according to specified conditions which include age, sex, earnings and number of wins.

(6) **“Appeal”** is a request for the commission or its designee to investigate, consider and review any decisions or rulings of stewards of a meeting.

(7) **“Arrears”** are all monies owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules and are past due.

(8) **“Association”** is an individual or business entity holding a license from the commission to conduct racing with pari-mutuel wagering.

(9) **“Association grounds”** are all real property utilized by the association in the conduct of its race meeting, including the racetrack, grandstand, concession stands offices, barns, stable area, employee housing facilities and parking lots.

(10) **“Authorized agent”** is a person licensed by the commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.

B. Definitions beginning with the letter “b”:

(1) **“Beneficial interest”** is profit, benefit, or advantage resulting from a contract, or the ownership of an estate as distinct from the legal ownership or control. When considered as designation of character of an estate, is such an interest as a devisee, legatee, or donee takes solely for his own use or benefit, and not as holder of title for use and benefit of another.

(2) **“Betting interest”** refers to one or more contestants in a pari-mutuel contest, which are identified by a single program number for wagering purposes.

(3) **“Bleeder”** is any horse, which exhibits symptoms of epistaxis and/or respiratory tract hemorrhage.

(4) **“Bleeder list”** is a tabulation of all bleeders to be maintained by the commission.

(5) **“Board”** means the gaming control board.

(6) **“Breakage”** means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten.

(7) **“Breeder”** is the person or entity recorded by the national registry organization for the particular breed of the horse.

C. Definitions beginning with the letter “c”:

(1) **“Carryover”** refers to non-distributed monies, which are retained and added to a corresponding pool in accordance with these rules.

(2) **“Claiming race”** is a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules.

(3) **“Classified handicap”** is a free handicap race in which contestants are assigned weights to be carried by the handicapper for the purpose of equaling their respective chances of winning.

(4) **“Commission”** means the state racing commission.

(5) **“Conditions”** are qualifications, which determine a horse's eligibility to be entered in a race.

(6) **“Contest”** is a competitive event on which pari-mutuel wagering is conducted.

(7) **“Contestant”** is an individual participant in a contest.

(8) **“Controlled substance”** is any substance included in the five classification schedules of the (U.S.) Controlled Substance Act of 1970.

(9) **“Course”** is the track over which horses race.

D. Definitions beginning with the letter “d”:

(1) **“Day”** is a 24-hour period ending at midnight.

(a) **Dark day** - a day during a live or a simulcast race meeting when no pari-mutuel wagering is conducted.

(b) **Race day** - a day during a race meeting when pari-mutuel wagering is conducted on live racing.

(c) **Simulcast race day** - a day during a race meeting when pari-mutuel wagering is conducted on simulcast racing.

(2) **“Dead heat”** is the finish of a race in which the noses of two or more horses reach the finish line at the same time.

(3) **“Declaration”** is the act of withdrawing an entered horse from a race prior to the closing of entries.

(4) **“Designated race”** shall mean any stakes race or associated trial as designated by the stewards.

(5) **“Draw”** is the process of assigning postpositions and the process of selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

E. Definitions beginning with the letter “e”:

(1) **“Entry”** is: a horse eligible for and entered in a race; two or more horses entered in the same race, which have common ties of ownership, lease or training (see “coupled entry”).

(2) **“Equipment”** as applied to a horse, means riding crop, blinkers, tongue strap, muzzle, hood, nose band, bit, shadow roll, martingale, breast plate, bandage, boot, plates, flipping halter and all other paraphernalia common or otherwise which might be used on or attached to a horse while racing.

(3) **“Exhibition race”** is a race for which a purse is offered but no wagering is permitted.

(4) **“Exotic wagering”** means all wagering other than on win, place or show, through pari-mutuel wagering;

(5) **“Expired ticket”** is an outstanding ticket, which was not presented for redemption within the required time period for which it was issued.

(6) **“Export”** means to send a live audiovisual broadcast of a horse race in the process of being run at a horse racetrack from the originating horse racetrack to another location.

F. Definitions beginning with the letter “F”:

(1) **“Financial interest”** is an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity; or as a result of salary, gratuity, or other compensation or remuneration from any person. Being the lessee or lessor of a horse shall be construed as having a financial interest.

(2) **“Flat race”** is a race run over a course on which no jumps or other obstacles are placed.

(3) **“Forfeit”** is money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the stewards or the commission.

G. Definitions beginning with the letter “G”:

(1) **“Guarantee purse money”** is the same as a stake with a guarantee by the association that the gross purse shall not be less than the amount stated.

(2) **“Guest association”** is an association, which offers licensed pari-mutuel wagering on contests conducted, by another association (the host) in either the same state or another jurisdiction.

(3) **“Guest state”** means a jurisdiction, other than a jurisdiction in which a horse race is run, in which a horse racetrack, off-track wagering facility or other facility that is a member of and subject to an interstate common pool is located.

(4) **“Guest track”** means a horse racetrack, off-track wagering facility or other licensed facility in a location other than the state in which a horse race is run that is a member of and subject to an interstate common pool.

H. Definitions beginning with the letter “H”:

(1) **“Handicap”** is a race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(2) **“Handle”** is the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

(3) **“Horse”** is any horse or mule (including and designated as a mare, filly, stallion, colt, ridgling or gelding) registered for racing.

(4) **“Horse race”** means a competition among racehorses on a predetermined course in which the horse completing the course in the least amount of time generally wins.

(5) **“Host association”** is the association conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

(6) **“Host track”** means the horse racetrack from which a horse race subject to an interstate common pool is transmitted to members of that interstate common pool, also known as a “sending track.”

I. Definitions beginning with the letter “I”:

(1) **“Import”** means to receive a live audiovisual broadcast of a horse race.

(2) **“Inquiry”** is an investigation by the stewards of potential interference in a contest prior to declaring the result of said contest official.

(3) **“Interstate common pool”** means a pari-mutuel pool that combines comparable pari-mutuel pools from one or more locations that accept wagers on a horse race run at a sending track for purposes of establishing payoff prices at the pool members' locations, including pools in which pool members from more than one state simultaneously combine pari-mutuel pools to form an interstate common pool.

(4) **“Invitational handicap”** is a handicap for which the racing secretary or handicapper has selected the contestants and assigned the weights.

J. Definitions beginning with the letter “J”:

(1) **“Jockey”** is a person licensed to ride in races.

(2) **“Jockey club”** means an organization that administers thoroughbred registration records and registers thoroughbreds.

K. Definitions beginning with the letter “K”: [Reserved.]

L. Definitions beginning with the letter “L”: **“Licensee”** is any person or entity holding a license from the Commission to engage in racing or a regulated activity.

M. Definitions beginning with the letter “M”:

(1) **“Maiden”** is a horse, which shows in the *daily racing form* or the *American quarter horse chart book* as never having won a race at a recognized meeting. A maiden, which has been disqualified after finishing first in a race, is still a maiden.

(2) **“Maiden race”** is a race restricted to maidens.

(3) **“Match race”** is a race between two horses under conditions agreed to by their owners.
(4) **“Meeting”** is the specified period and dates each year during which an association is authorized to conduct racing by approval of the commission. For purposes of this rule, the meeting begins on the first date prior to actual racing that entries are accepted by the racing secretary. Entries shall be accepted no sooner than seven days before racing commences.

(5) **“Minus pool”** occurs when the payout is in excess of the net pool.
(6) **“Month”** is a calendar month.
(7) **“Mutuel field”** refers to two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

N. Definitions beginning with the letter “n”:

(1) **“Net pool”** is the amount of gross ticket sales less refundable wagers and statutory commissions.

(2) **“New Mexico bred”** is a horse registered by the New Mexico horse breeders’ association.

(3) **“New Mexico bred race”** is a race in which the contestants are registered as New Mexico bred horses.

(4) **“No contest”** is a race cancelled for any reason by the stewards.

(5) **“Nomination”** is the naming of a horse to a certain race or series of races.

(6) **“Nominator”** is the person or entity in whose name a horse is nominated for a race or series of races.

O. Definitions beginning with the letter “o”:

(1) **“Objection”** is a written complaint made to the stewards concerning a horse entered in a race and filed in a timely manner prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or a verbal claim of foul in a race lodged by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official.

(2) **“Official or racing official”** means assistant racing secretary, chief of security, director of racing or similar position, clerk of scales, clocker, general manager, handicapper, horse identifier, horsemen's bookkeeper, jockey room custodian, official veterinarian, paddock judge, pari-mutuel manager, patrol judge, placing judges, racing secretary, racing veterinarian, stable superintendent, starter, steward, timer, and track superintendent.

(3) **“Official samples”** is a portion of any bodily substance or fluid, including but not limited to, tissue, hair, blood or urine obtained from a horse at the direction of the commission for the purposes of determining the presence of a prohibited substance.

(4) **“Official order of finish”** is the order of finish of the contestants in a contest as declared official by the stewards.

(5) **“Official starter”** is the official responsible for dispatching the horses for a race.

(6) **“Official time”** is the elapsed time from the moment the first horse crosses the starting point until a horse crosses the finish line.

(7) **“Off time”** is the moment, at which, on the signal of the official starter, the doors of the starting gate are opened, officially dispatching the horses in each contest.

(8) **“Optional claiming race”** is a contest restricted to horses entered to be claimed for a stated claiming price and to those which have started previously for that claiming price or less.

(9) **“Out of competition”** is defined as not participating in a race.

(10) **“Out of competition testing”** test(s) that may be conducted on any horse that is on the grounds of a racetrack or training center under the jurisdiction of the commission; or under the care or control of a trainer or owner licensed by the commission; or whose papers are filed in the racing office; or has been nominated to a stakes race.

(11) **“Outstanding ticket”** is a winning or refundable pari-mutuel ticket, which was not cashed during the performance for which it was issued; also known as “outs”.

(12) **“Overnight race”** is a race for which entries close at a time set by the racing secretary and for which the owners of the horses do not contribute to the purse.

(13) **“Owner”** is defined as a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

P. Definitions beginning with the letter “p”:

(1) **“Paddock”** is an enclosure in which contestants scheduled to compete in a contest are confined prior to racing.

(2) **“Pari-mutuel system”** is the manual, electromechanical, or computerized system and all software (including the totalisator, account betting system and offsite betting equipment) that is used to record bets and transmit wagering data.

(3) **“Pari-mutuel wagering”** is a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning horses.

(4) **“Patron”** is a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

(5) **“Payout”** is the amount of money payable to winning wagers.

(6) **“Performance”** is a schedule of races run consecutively as one program.

(7) **“Person”** is one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustee, receiver, syndicate, or any other legal entity.

(8) **“Positive test”** means the result of a test, conducted as provided in these rules on an official sample, which indicates the presence of any prohibited substance.

(9) **“Post position”** is the pre-assigned position from which a horse will leave the starting gate.

(10) **“Post time”** is the scheduled starting time for a contest.

(11) **“Prima facie evidence”** is evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue.

(12) **“Private barn”** is a barn and real property owned or leased by a trainer in which stalls are provided for races at a licensed New Mexico racetrack and who have direct access to a New Mexico racetrack.

(13) **“Profit”** is the net pool after deduction of the amount bet on the winners.

(14) **“Profit split”** is a division of profit amongst separate winning betting interests or winning betting combinations resulting in two or more payout prices.

(15) **“Program Trainer”** is a licensed trainer who solely for the purpose of the official race program, is identified as the trainer of the horse that is actually under the control of, and trained by, another person who may or may not hold a current trainer’s license in any jurisdiction.

(16) **“Prohibited substance”** is any drug, chemical, or other substance which, when administered to a horse can create a change in the normal physiological performance of the horse's racing ability, including

(a) stimulants or depressants or other substances as defined by the association of racing commissioners international; or

(b) that may interfere with testing procedures; or

(c) that is a therapeutic medication present in excess of established acceptable levels; or

(d) that is present in the horse in excess of levels that could occur naturally; or

(e) that is a substance specified by rule that is not allowed to appear in an out of competition or hair sample.

(17) **“Program”** is the published listing of all contests and contestants for a specific performance.

(18) **“Protest”** is a written complaint alleging that a horse is or was ineligible to race.

(19) **“Purse”** is the total cash amount for which a race is contested whether paid at the time of the race or at a future date.

Q. Definitions beginning with the letter “q”: [Reserved]

R. Definitions beginning with the letter “r”:

(1) **“Race”** is a contest between contestants at a licensed meeting.

(2) **“Restricted area”** is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access.

(3) **“Result”** is that part of the official order of finish to determine the pari-mutuel payout of pools for each individual contest.

S. Definitions beginning with the letter “s”:

(1) **“Scratch”** is the act of withdrawing an entered horse from a contest after the closing of entries.

(2) **“Scratch time”** is the deadline set by the association for withdrawal of entries from a scheduled performance.

- (3) **“Simulcast”** refers to the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.
- (4) **“Single price pool”** is an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.
- (5) **“Sponsor added money”** is added to a race in return for name and/or advertising recognition and is not added money.
- (6) **“Stable name”** is a name used other than the actual legal name of an owner or lessee and registered with the commission.
- (7) **“Stakes race”** is a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stakes race.
- (8) **“Starter”** refers to a horse, which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.
- (9) **“Starter allowance”** is a race in which a horse establishes eligibility by starting for a claimed price pursuant to the conditions of the race.
- (10) **“Steeplechase race”** is a contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.
- (11) **“Steward”** is a duly appointed racing official with powers and duties specified by the act and these rules.

T. Definitions beginning with the letter “t”:

- (1) **“Takeout”** is the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by statute or rule.
- (2) **“Therapeutic medication”** is any drug, chemical, or chemical agent, that when administered to a horse is calculated to improve or protect the health and soundness of said horse. The promotion of formful racing performance is the intent of administering a therapeutic medication.
- (3) **“Totalisator”** is the system used for recording, calculating, and disseminating information about ticket sales, wagers, odds and payout prices to patrons at a pari-mutuel wagering facility.
- (4) **“Trainer”** is a person who holds a valid trainer’s license and who has a horse eligible to race under his care, custody, or control at the time entry is made.
- (5) **“Trial race”** is part of a series of races in which horses participate for the purpose of determining eligibility for a subsequent race.
- (6) **“Tubing”** is the administration of any substance via a naso-gastric tube.

U. Definitions beginning with the letter “u”: [Reserved.]

V. Definitions beginning with the letter “v”: [Reserved.]

W. Definitions beginning with the letter “w”:

- (1) **“Walkover”** is a race in which only one contestant starts or in which all the starters are owned by the same interest. To claim the purse the horse(s) must start and go the distance of the race.
- (2) **“Week”** is a period of seven consecutive 24-hour periods.
- (3) **“Weigh in”** is the presentation of a jockey to the clerk of scales for weighing after a race.
- (4) **“Weigh out”** is the presentation of a jockey to the clerk of scales for weighing prior to a race.
- (5) **“Weight for age”** is a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.
- (6) **“Winner”** is the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

X. Definitions beginning with the letter “x”: [Reserved.]

Y. Definitions beginning with the letter “y”: **“Year”** shall be a calendar year.

Z. Definitions beginning with the letter “z”: [Reserved.]

[15.2.1.7 NMAC - Rp, 15 NMAC 2.1.7, 3/15/2001; A, 2/14/2002; A, 8/30/2007; A, 12/01/2010; A, 1/1/2013; A, 5/1/2013; 8/15/2014; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 12/19/2019]

15.2.1.8 COMMISSION:

A. Purpose:

- (1) The New Mexico racing commission created by the act, Section 60-1A-4, New Mexico Statutes, 1978, Annotated, is charged with implementing, administering and enforcing the act. It is the intent of the commission that the rules of the commission be interpreted in the best interests of the public and the jurisdiction.

(2) Through these rules, the commission intends to encourage agriculture, the horse breeding industry, the horse training industry, tourism and employment opportunities in this jurisdiction related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing.

B. General authority:

(1) The commission shall regulate each race meeting and the persons who participate in each race meeting.

(2) To the extent permitted by the Act the commission may delegate to the agency director and the stewards all powers and duties necessary to fully implement the purposes of the Act.

C. Membership and meetings:

(1) The state racing commission shall consist of five members, no more than three of who shall be members of the same political party. They shall be appointed by the governor, and no less than three of them shall be practical breeders of racehorses within the state. Each member shall be an actual resident of New Mexico and of such character and reputation as to promote public confidence in the administration of racing affairs.

(2) The commission shall meet at the call of the chair, as requested by a majority of the members or as otherwise provided by statute. Notice of the meetings must be given and the meetings must be conducted in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA, 1978.

(3) If it is difficult or impossible for a racing commission member to attend a meeting of the racing commissioners, that member may participate in the meeting by telephone. The telephone shall be a speakerphone that allows all commission members and the public to hear all speakers at the meeting.

(4) A majority of the commission constitutes a quorum. When a quorum is present, a motion before the commission is carried by an affirmative vote of the majority of the commissioners present at the meeting.

(5) A commission member may not act in the name of the commission on any matter without a majority vote of a quorum of the commission.

D. Annual report: The commission shall submit an annual report as prescribed by statute.

E. Employees:

(1) The commission shall employ an agency director who shall employ other employees necessary to implement, administer and enforce the Act.

(2) The agency director shall maintain the records of the commission and shall perform other duties as required by the commission. Except as otherwise provided by a rule of the commission, if a rule of the commission places a duty on the agency director, the agency director may delegate that duty to another employee of the commission. The commission and the agency director may not employ or continue to employ a person:

- (a) who owns a financial interest in an association in this jurisdiction;
- (b) who accepts remuneration from an association in this jurisdiction;
- (c) who is an owner, lessor or lessee of a horse that is entered in a race in this

jurisdiction; or

(d) who accepts or is entitled to a part of the purse or purse supplement to be paid on a horse in a race held in this jurisdiction.

(3) Commission employees shall not wager in any pari-mutuel pool at any facility or through any pari-mutuel system subject to the jurisdiction of the commission.

(4) Commission employees shall not participate in any gaming activity conducted by an association during working hours on scheduled workdays.

F. Power of entry:

(1) A member or employee of the commission, a steward, a peace officer or a designee of such a person may enter any area on association grounds or other place of business of an association at any time to enforce or administer the Act or commission rules.

(2) No licensee may hinder a person who is conducting an investigation under, or attempting to enforce, or administer, the Act or commission rules.

G. Subpoenas:

(1) A member of the commission, the agency director, the stewards, the presiding officer of a commission proceeding or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence and other documents.

(2) Any aggrieved person or any licensee or license holder against whom allegations of violations of racing statutes or rules have been made shall have the right to have subpoenas and subpoenas duces tecum issued as of right prior to the hearing to compel discovery as provided in these rules and to compel the attendance of witnesses and the production of relevant physical evidence upon making written and timely request

therefor to the commission or hearing officer; the issuance of such subpoenas after the commencement of the hearing rests in the discretion of the commission or the hearing officer.

(3) A member of the commission, the agency director, a presiding officer of a commission proceeding or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(4) If a person fails to comply with a subpoena issued on behalf of the commission, the commission or agency director may invoke the aid of the appropriate court in requiring compliance with the subpoena. For a person compelled to appear before the commission under this section, the commission shall pay expenses in accordance with the statutory provisions for state employees. The commission reserves the right to bill the expenses to parties requiring the appearance of the subpoenaed person.

H. Organization's financial requirements:

(1) The New Mexico horse breeders' association shall establish interest-bearing accounts, designated as gaming funds for purses.

(2) The New Mexico horse breeders' association shall ensure all accounting of funds deposited with and paid out or distributed by the New Mexico horse breeders' association pursuant to the Horse Racing Act is in accordance with or exceeds generally accepted accounting principles.

(3) The New Mexico horse breeders' association shall provide at a minimum the following insurance policies:

(a) \$1,000,000 cyber liability

(b) \$1,000,000 directors, officers, and employment practices

(c) \$1,000,000 employee theft

(4) The New Mexico horse breeders' association will provide the New Mexico racing commission with a copy of their yearly independent audits, and proof of insurance.

(5) The New Mexico horsemen's association and the New Mexico horse breeders' association with regard to gaming monies shall keep accurate, complete, and legible records with reports to the commission to include:

(a) monthly reconciliation of amounts collected to account statements;

(b) copy of account authorizing signatures;

(c) any changes in authorizing signatures; and

(d) detail of disbursements from the accounts.

I. Records:

(1) Inspection and copying of commission records are governed by the provisions of the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978.

(2) Except as otherwise authorized by statute, or regulation, all original records of the commission shall be maintained in the offices of the commission. No person may remove an original record from the offices of the commission without the approval of the agency director.

(3) To inspect commission records, a person must make a written request to the appointed records official and to receive copies must pay all costs for copying within the limits set by the Public Records Act.

J. Issuance of license to conduct a race meeting and allocation of race dates:

(1) The commission shall allocate race dates to each association in accordance with the act and these rules. An association shall apply to the commission for a license and racing dates not later than June 1st for all proposed racing meets and dates to be run in the succeeding calendar year. Applications shall not be received or amended after this date except by approval of a majority of the commission. The application must contain the information required by statute and the commission. After the request is filed, the commission may require the association to submit additional information. The commission may limit, condition or otherwise restrict any license to conduct horse racing or a horse race meeting in the state of New Mexico.

(2) The burden of proof is on the association to demonstrate that its receipt of a license to conduct a race meet and the allocation of the race dates will be in the public interest and will achieve the purposes of the act.

(3) In issuing licenses for race meetings and allocating race dates under this section, the commission may consider the following factors: public interest, health of the industry, safety and welfare of participants, and the criteria for licensure to conduct a race meet set forth in the act and in these rules.

(4) Prior to approving an application for a new license for a horse racetrack, other than the licenses in existence as of January 1, 2007, or an application by a licensed horse racetrack to move its racing and gaming facilities to a new location, the commission shall solicit and consider the views on the application by the Indian tribes, nations and pueblos in the following manner:

(a) provide written notice to all federally recognized Indian tribes, nations or pueblos that are authorized by law to enter into a gaming compact with the state of New Mexico under the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 et seq., (“Indian Tribes”) that such an application has been filed with the commission within 15 days of such filing and provide a copy of all non-confidential documents submitted by an applicant to an Indian tribe upon request, at the Indian tribe’s expense;

(b) allow Indian tribes 45 days to respond to the application by submitting written comments to the commission prior to holding any public hearing at which final action on the application may be considered; such comments shall be immediately forwarded to the applicant by the commission, but no later than 15 days prior to holding any public hearing at which final action on the application may be considered; the views of the Indian tribes may include, but are not limited to, the following:

(i) potential economic impact of approval of said license on a specific Indian tribe’s government or gaming facility, including impact on revenue sharing with the state of New Mexico; the number of miles from the nearest tribal gaming facility; the potential impact on the nearest tribal gaming facility’s market share; and the potential impact on the Indian tribe’s income from gaming facilities;

(ii) identification of other significant impacts on the Indian tribe;

(c) any public hearing at which final action on the application may be considered must be at least 15 days after the 45 day comment period for Indian tribes set forth above;

(d) the commission shall consider and evaluate the Indian tribes’ views prior to taking any final action on the application; to “consider and evaluate” means to think about carefully and seriously;

(e) the above procedures for notification to Indian tribes shall not apply to the annual renewal of a horse racetrack license.

(5) The association shall be obligated to conduct pari-mutuel racing, except in the case of emergencies, on each race date allocated. Any change in race dates must be approved by the commission. In the case of emergencies the stewards may authorize cancellation of all or a portion of any race day.

(6) All applicants for an initial license to conduct horse racing or a horse race meeting in the state of New Mexico shall submit the following information to the commission in the form of a verified application, including an original and six copies.

(a) The name of the applicant and indicate whether it is an individual, firm, association, partnership, corporation or other legal entity.

(b) The names, residences, and nationalities of individual applicants or members of a partnership, association or firm.

(c) If the applicant is a corporation, the following information must be furnished, and if the applicant is a parent or subsidiary of another corporation, the following information must be furnished for each entity.

(i) The year in which the corporation was organized, its form of organization and the name of the state under the laws of which it was organized. Articles of incorporation and bylaws must also be submitted.

(ii) The classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than 15 days prior to the filing of the application.

(iii) The name and address of each person who owns of record or is known by the applicant to own beneficially, ten percent or more of any class of capital stock. This can be indicated as name and address; class of stock owned; type of ownership whether of record or beneficial; amount owned; percent of the class of stock.

(iv) Outline briefly the dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified other than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(v) If organized as a corporation within the past five years, furnish the names of the promoters, the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant and the nature and amount of any assets, services, or other consideration therefore received or to be received by the applicant.

(vi) List the names of all directors and executive officers and all persons chosen to become directors or executive officers. Indicate all other positions and offices held by each such person, and the principal occupation during the past five years of each person to become a director or executive officer. For the purposes of this subparagraph, “executive officer” means the president, vice-president, secretary and treasurer,

and any other person who performs policy-making, supervisory, administrative, or financial functions for the applicant.

(vii) Describe in detail the financial arrangements, which have been made for acquisition and operation of racing facilities, including the nature and source of any funds or other property, real or personal, which may be used in this connection.

(viii) Identify in detail the source(s) and terms of any loans, loan commitments, lines of credit, pledges, stock subscriptions, and any other source of funds which may be used in the acquisition or operation of racing facilities.

(ix) State in detail the terms of any proposed purchase of stock or assets in a current licensee.

(x) State whether a substantial portion of the assets or of the capital stock is encumbered by any short-term or long-term debt. Explain fully and state the names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of and submit the agreements creating the security interests.

(xi) Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year.

(xii) Applicant must submit with application a current financial statement for each director, executive officer, manager, and stockholders owning ten percent or more of the outstanding shares in any corporate applicant.

(xiii) All financial information shall be accompanied by an unqualified opinion of a duly licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated.

(xiv) For applicants other than corporation, list the names and addresses of all executive officers and managerial officers. Indicate positions and offices held by each person named and their principal occupation(s) during the past five years.

(xv) State whether any director, executive officer, manager, or stockholder has ever been convicted of a crime and describe the circumstances of the convictions.

(xvi) Describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporations is involved, or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto.

(xvii) State in complete detail whether the applicant, or any director, executive officer, stockholder or manager has owned an interest in or has been employed by any firm, partnership, association or corporation previously licensed to conduct a race meeting in any jurisdiction.

(xviii) State actual legal description of a proposed site for racing facilities, names and addresses of the titleholders to the real property and names and addresses of all personal holding mortgages or other security interests in the property.

(xix) State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population center.

(xx) State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.

(xxi) Describe the efforts to be made to insure the security safety and comfort of patrons and license holders.

(xxii) State the availability of fire protection and adequacy of law enforcement and police protection.

(xxiii) State the parking lot capacity and describe the construction and type of parking facilities.

(xxiv) State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.

(xxv) Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.

(xxvi) State the arrangements for food and drink concessions indicating the names and addresses of concessionaires and the terms of the concession contracts.

(xxvii) Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.

(xxviii) Indicate by actual dates the racing days requested by applicant.

(xxix) Indicate the kind of racing to be conducted.

(xxx) Describe the proposed pari mutuel operation in general and indicate in particular the terms of the pari mutuel ticket sales.

(xxxi) Describe climatic conditions prevalent during the proposed racing season.

(xxxii) Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.

(xxxiii) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.

(xxxiv) Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.

(xxxv) Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.

(xxxvi) Describe a strategic plan to be proactive in an effort to prevent contagious equine diseases, and biosecurity measures to be put in place in the event of an outbreak including permanent quarantine facilities.

(7) A new complete primary application as required in Paragraph (5) of Subsection I of 15.2.1.8 NMAC is also required if any of the following events occur:

(a) if the effective controlling interest of any licensee is transferred or conveyed;
(b) if any involuntary transfer of either tangible real or personal property or corporate stock gives the effective control of the licensee to the transferee;

(c) in the event that a transfer under Subparagraphs (a) and (b) occurs after the granting of racing dates, the transferee shall immediately apply to the commission for a hearing to show cause why the transferee should be permitted to continue racing under the current grant of racing dates;

(d) failure to make application within 90 days of the date of the proposed transfer shall be grounds for revocation of license.

(8) A race meet licensee that has been licensed for the previous year, must submit to the commission a renewal application, on a form provided by the commission, containing the following information:

(a) complete listing of officers, directors of corporation, and secondary lender affiliates;

(b) proposed race dates and simulcast race dates;

(c) at the time of annual request for racing dates, when the commission in its discretion determines that the licensee should supply current information;

(d) current financial statements;

(e) changes to articles of incorporation and bylaws;

(f) list of concessionaires and contract services;

(g) changes from original application, or last renewal application, in mortgagee of real property;

(h) insurance policies;

(i) any other changes from original primary application.

(9) The commission in addition to any other legally sufficient reason, may disapprove, deny, refuse to renew, suspend, or revoke a license to conduct horse racing or a horse race meeting in the state of New Mexico if any person having any direct or indirect interest in the applicant or in the licensee, or any nature whatsoever, whether financial, administrative, policy-making or supervisory:

(a) has been convicted of a felony under the laws of New Mexico, the laws of any other state or the laws of the United States, unless sufficient evidence of rehabilitation has been presented to the commission;

(b) has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, unless sufficient proof of rehabilitation has been presented to the commission;

(c) has violated or attempted to violate any law or regulation with respect to racing in any jurisdiction, unless sufficient proof of rehabilitation has been presented to the commission;

(d) has consorted or associated with bookmakers, touts or persons of similar pursuits, unless sufficient proof of rehabilitation has been presented to the commission;

(e) is consorting or associating with bookmakers, touts or persons of similar pursuits;

(f) is financially irresponsible as found or determined by the commission; or,

(g) is a past or present member of or participant in organized crime as such membership or participation may be found or determined by the commission.

[15.2.1.8 NMAC - Rp, 15 NMAC 2.1.8, 3/15/2001; A, 8/30/2001; A, 1/31/2008; A, 4/30/2012; A, 6/1/2016; A, 2/25/2020]

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

A. Purpose of chapter: This chapter contains the rules of procedure for stewards' hearings and commission proceedings.

B. Proceedings before the stewards:

(1) Rights of the licensee. A person who is the subject of the disciplinary hearing conducted by the stewards is entitled to: proper notice of all charges; confront the evidence presented including: the right to counsel at the person's expense; the right to examine all evidence to be presented against them; the right to present a defense; the right to call witnesses; the right to cross examine witnesses; and waive any of the above rights.

(2) Complaints.

(a) On their own motion or on receipt of a complaint from an official or other person regarding the actions of a licensee, the stewards may conduct an inquiry and disciplinary hearing regarding the licensee's actions.

(b) A complaint made by someone other than the stewards must be in writing and filed with the stewards not later than 72 hours after the action that is the subject of the complaint.

(c) In case of a notice from the state of New Mexico human services department that a licensee is in non-compliance with the Parental Responsibility Act, the licensee shall be notified by the board of stewards. Thereafter the licensee shall have 30 days to provide documentation of compliance to the board of stewards and failure to do so will result in the suspension of the licensee's license.

(3) Summary suspension.

(a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, the stewards may summarily suspend the license pending a hearing.

(b) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the 10th day after the license was summarily suspended. The licensee may waive their right to a hearing on the summary suspension within the 10-day limit.

(c) The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

(d) If a positive test arises in a trial race, the horse is eligible for entry into a race for which the trial was conducted unless that positive test requires the horse to be placed on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC. The purse for both the trial and the race for which the trial was conducted will be held until the case has been adjudicated.

(4) Notice.

(a) Except as provided by these rules regarding summary suspension, jockey riding infractions and trial races, the stewards or a racing commission designee shall provide written notice, at least 10 days before the hearing, to a person who is the subject of a disciplinary hearing. The person may waive their right to 10 days notice by executing a written waiver.

(b) Notice given under this section must include: a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes or rules involved; a short, plain description of the alleged conduct that has given rise to the disciplinary hearing; the possible penalties that may be imposed.

(c) If possible, the stewards or the racing commission designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the stewards or a racing commission designee shall forthwith mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the stewards or a racing commission designee shall provide notice of the hearing to the owner of the horse in the manner provided by this subsection.

(d) Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards. The stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

(5) Continuances.

(a) Upon receipt of a notice, a person may request a continuance of the hearing.

(b) The stewards may grant a continuance of any hearing for good cause shown.

(c) The stewards may at any time order a continuance on their own motion.

(6) Evidence.

(a) Each witness at a disciplinary hearing conducted by the stewards must be sworn by the presiding steward.

(b) The stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. The stewards may admit hearsay evidence if the stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards. Hearsay evidence alone is insufficient basis for a ruling.

(c) The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence that the licensee has violated or is responsible for a violation of the act or a commission rule.

(d) The stewards shall make a tape recording of a disciplinary hearing and make a copy of the recording available on request, at the expense of the requesting person.

(7) Ruling.

(a) The issues at a disciplinary hearing shall be decided by a majority vote of the stewards. If the vote is not unanimous, the dissenting steward shall include with the record of the hearing a written statement of the reasons for the dissent.

(b) A ruling by the stewards must be on a form prescribed by the commission and include: the full name, license type, license number, and applicant ID number of the person who is the subject of the hearing; a statement of the charges against the person, including a reference to the specific section of the Racing Act or rules of the commission that the licensee is found to have violated; the date of the hearing and the date the ruling was issued; the penalty imposed; any changes in the order of finish or purse distribution; other information required by the commission.

(c) A ruling must be signed by a majority of the stewards.

(d) If possible, the stewards or their designee shall hand deliver a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the stewards shall mail the ruling to the person's last known address, as found in the commission's licensing files, by regular mail. If the ruling includes the disqualification of a horse, the stewards shall provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, and the appropriate past performance service.

(e) At the time the stewards inform a person who is the subject of the proceeding of the ruling, the stewards shall inform the person of the person's right to appeal the ruling to the commission and apply for a stay.

(f) All fines imposed by the stewards shall be paid to the commission within 30 days after the ruling is issued, unless otherwise ordered.

(8) Effect of rulings.

(a) Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee.

(b) The transfer of a horse to avoid application of a commission rule or ruling is prohibited.

(c) The stewards shall honor the rulings issued by other pari-mutuel racing commissions.

(9) Appeals.

(a) A person who has been aggrieved by a ruling of the stewards may appeal to the commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) An appeal under this section must be filed not later than 10 days after the date of the ruling. If the deadline falls on a Saturday, Sunday or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday or legal holiday. The appeal must be received by noon, at the main commission

offices or with the stewards who issued the ruling and must be accompanied by a fee in the amount of \$500. The fee must be in the form of a money order, cashier's check or a corporate check.

(c) The commission may fine a license holder in the amount up to \$2,500 after considering an appeal if based on the evidence the appeal is frivolous, unreasonable or unnecessary or determined to be an abuse of process or malicious. Failure of an appealing party to appear at a noticed hearing or withdraw their appeal without providing five business days notice prior to the hearing date may result in the non appearing appealing party being fined up to \$1,000.

(d) An appeal must be in writing on a form prescribed by the commission. The appeal must include the name, address, telephone number and signature of the person making the appeal; and a statement of the basis for the appeal.

(e) On notification by the commission that an appeal has been filed, the stewards shall forward to the commission the record of the proceeding on which the appeal is based, and a statement of the reasons for their rulings.

(f) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the person shall pay the fine in accordance with these rules.

(10) Stay.

(a) A person who has been disciplined by a ruling of the stewards may apply to the agency director for a stay of the ruling not later than 10 days after the date of the ruling. If the deadline falls on a Saturday, Sunday or legal holiday, the period is extended to the next business day. A request for a stay must be received by noon at the main commission offices.

(b) An application for a stay must be filed with the agency director not later than the deadline for filing an appeal.

(c) An application for a stay must be in writing and include the name, address and telephone number and signature of the person requesting the stay; a statement of the justification for the stay.

(d) On a finding of good cause, the agency director may grant the stay. The agency director shall notify the person in writing of the agency director's decision on the stay application. On a finding of changed circumstances or upon appellant's request for a continuance, the agency director may rescind a stay granted under this subsection. No such stay shall be rescinded with less than a 72 hours notice.

(e) The fact that a stay is granted is not a presumption that the ruling by the stewards is invalid.

C. Proceedings by the commission:

(1) Party designations.

(a) A person who is the subject of a disciplinary hearing, who filed an appeal from a stewards' ruling or who otherwise seeks relief from the commission is a party to that proceeding.

(b) A party to a proceeding has the right to present a direct case, cross-examine each witness, submit legal arguments and otherwise participate fully in the proceeding.

(c) A party summoned to appear at a hearing must appear unless the party is excused by the commission presiding officer. Parties may appear with counsel or other representatives of their choice. Counsel must be an attorney licensed to practice law in this state or with the permission of the commission is associated with an attorney licensed to practice law in this state and must submit an entry of appearance no later than 10 days prior to the hearing date.

(d) A non-party to a proceeding who wishes to appear in a contested case pending before the commission must prove that they have an effected interest sufficient to create standing in the case. The burden of proof is on the party asserting standing in such a contested case.

(2) Notice.

(a) Not less than 20 days before the date set for a hearing, the agency director, or acting agency director, shall serve written notice on each party of record to the proceeding. The person may waive their right to said notice by executing a written waiver.

(b) The agency director shall mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail. If a party is being represented by an attorney or other representative, notice will be provided to the attorney or representative instead of on the party and is deemed properly served.

(c) A notice of the hearing must include: statement of time, place and nature of hearing; statement of the legal authority and jurisdiction under which the hearing is to be held; reference to the particular section of the statutes and rules involved; short, plain statement of the matters asserted; and any other statement required by law.

(d) If the commission determines that a material error has been made in a notice of hearing, or that a material change has been made in the nature of a proceeding after notice has been issued; the commission shall issue a revised notice. The party who has caused the change or error requiring revised notice shall bear the expense of giving revised notice.

(e) A party to a proceeding may move to postpone the proceeding. The motion must be in writing, set forth the specific grounds on which it is sought and be filed with the commission before the date set for hearing. If the person presiding over the proceeding grants the motion for postponement, the commission shall cause new notice to be issued.

(f) After a hearing has begun, the presiding officer may grant a continuance on oral or written motion, without issuing new notice, by announcing the date, time and place for reconvening the hearing before recessing the hearing.

(3) Subpoenas and depositions.

(a) A member of the commission, the agency director, the stewards, the presiding officer of a commission proceeding or other person authorized to perform duties under the act may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence and other documents.

(b) A member of the commission, the agency director, a presiding officer of a commission proceeding or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(c) Each party is responsible for proper service of any subpoenas it requests and for the payment of witness fees and expenses as provided by this jurisdiction's civil procedures statute.

(d) On written request by a party, the presiding officer may issue a subpoena addressed to a sheriff or any constable to require the attendance of witnesses and the production of books, records, papers or other objects as may be necessary to compel the production of books, records, papers or other objects shall be addressed to the appropriate person, shall be verified and shall specify the books, records, papers or other objects desired and the relevant and material facts to be proved by them.

(e) The Administrative Procedures Act, Civil Statutes, Article 8, Section 12-8-15 governs the taking and the use of depositions. Rule 1-036 of the New Mexico Rules of Civil Procedure governs admissions of fact and genuineness of documents.

(4) Pleadings.

(a) Pleadings filed with the commission include appeals, applications, answers, complaints, exceptions, replies and motions. Regardless of an error in designation, a pleading shall be accorded its true status in the proceeding in which it is filed.

(b) A request for discovery or a response to a request for discovery is not a pleading and is not a part of the administrative record of a contested case unless the request or response is offered into evidence.

(c) A pleading or brief filed with the commission must be typewritten or printed on 8 1/2 inch by 11 inch white paper with one-inch margins. Exhibits, unless prepared according to other commission rules pertaining to maps, plats, or similar documents, must be folded to the same size. Unless printed, the impression must be on one side of the paper only. The documentation must be double-spaced, except for footnotes and lengthy quotations, which may be single-spaced. Reproductions are acceptable, provided all copies are clear and permanently legible. The original copy of each pleading must be signed in ink by the pleader or the pleader's representative.

(d) If the commission staff prepares a form for a pleading, the commission staff shall furnish the form on request. A pleading for which an official form has been developed must conform substantially to the form. A pleading for which the commission staff has not prepared an official form must contain: the name of the pleader; the telephone number and street address of the pleader's residence or business and the telephone number and street address of the pleader's representative, if any; a concise statement of the facts relied on by the pleader; a request stating the type of commission action desired by the pleader; the name and address of each person who the pleader knows or believes will be affected if the request is granted; any other matter required by statute or commission rule; a certificate of service.

(e) A party filing a pleading shall mail or deliver a copy of the pleading to each party of record. If a party is being represented by an attorney or other representative, service must be made on the attorney or representative instead of on the party.

(f) An objection to a defect, omission, or fault in the form or content of a pleading must be specifically stated in a motion or an exception presented not later than the prehearing conference if one is

held and not later than 15 days before the date of the hearing if a prehearing conference is not held. A party who fails to timely file an objection under this subsection waives the objection.

(g) Except as otherwise provided by this subsection, a pleader may amend or supplement a pleading at any time before the 21st day after the date the pleading was filed, but not later than five days before the date of the hearing. A pleader may amend or supplement a pleading at any time: on written consent of each party of record; or, as permitted by the presiding officer for the proceeding, when justice requires the amendment or supplementation and when the amendment or supplementation will not unfairly surprise another party.

(h) A pleading may adopt or incorporate by specific reference any part of a document in the official files and records of the commission. This subsection does not relieve the pleader of the duty to allege in detail all facts necessary to sustain the pleader's burden of proof.

(5) Filing pleadings.

(a) Except as otherwise provided by this section, an original of each pleading must be filed with the commission. An original of each pleading relating to discovery must be filed with the commission. A pleading is considered filed only when actually received by the commission. Each pleading must include a certification that a copy has been mailed or delivered on each party of record, stating the name of each party served and the date and manner of service.

(b) If a pleading is sent to the commission by first-class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail one day or more before the last day for filing the pleading, the pleading is considered received and filed in time if the pleading is actually received not more than 10 days after the deadline. A legible postmark affixed by the United States postal service is prima facie evidence of the date of mailing. For purposes of responsive pleadings for which the deadline for filing is set by the filing of another pleading, the pleading to be filed first is considered filed when actually received by the commission.

(c) Unless otherwise provided by statute, the presiding officer for a proceeding may extend the time for filing a pleading on a motion made by a party before the filing deadline if the presiding officer determines that there is good cause for the extension and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion. A copy of a motion made under this section must be served on all parties of record contemporaneously with the filing of the motion.

(d) A pleading may be filed by facsimile, provided an original and the required number of copies are received in the commission's office not later than 5:00 p.m. of the third day after the date the document was filed by facsimile. The inability to transmit a document due to equipment malfunction or any other cause does not relieve the person attempting to file the document of the filing deadline.

(e) If the deadline for filing a pleading falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(f) The failure to file a pleading in accordance with this section may result in the pleading being struck.

(6) Place and nature of hearings.

(a) A hearing in a commission proceeding is open to the public.

(b) A hearing shall be held in Albuquerque unless, for good cause stated, the commission designates another place for the hearing; or, the act require otherwise.

(c) Unless precluded by law or objected to by a party, the commission may allow informal disposition of a proceeding without a hearing. Informal disposition includes, but is not limited to, disposition by stipulation, agreed settlement, consent order, dismissal, and default.

(7) Presiding officers.

(a) One or more members of the commission, an administrative law judge, or a duly designated hearing officer may serve as the presiding officer for a commission proceeding. Objections to the presiding officer must be made in writing to the agency director at least 20 calendar days prior to the hearing. If in any case a combination of objections to a presiding officer(s) would result in the matter not being heard, the removal of the hearing officer shall not be effective.

(b) The presiding officer may: authorize the taking of depositions; issue subpoenas to compel the attendance of witnesses and the production of papers and documents; administer oaths; receive evidence; rule on the admissibility of evidence and amendments to pleadings; examine witnesses; set reasonable times within which a party may present evidence and within which a witness may testify; permit and limit oral argument; issue interim orders; recess a hearing from day to day and place to place; request briefs before or after the

presiding officer files a report or proposal for decision; propose findings of fact and conclusions of law; propose orders and decisions; perform other duties necessary to a fair and proper hearing.

(c) An administrative law judge designated as the presiding officer must be an attorney licensed to practice in this state.

(d) A person may not serve as the presiding officer of a proceeding in which the person has an economic interest. A person is considered to have an economic interest in a proceeding if the person, a member of the person's immediate family, or a dependent, business partner, or client of the person has an economic interest in the proceeding.

(8) Conferences.

(a) On written notice, the presiding officer may, on the officer's own motion or on the motion of a party, direct each party to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following: simplifying issues; amending the pleadings; making admissions of fact or stipulations to avoid the unnecessary introduction of proof; designating setting the order of procedure at a hearing; identifying and limiting the number of witnesses; resolving other matters that may expedite or simplify the disposition of the controversy, including settling issues in dispute.

(b) The presiding officer shall record the action taken at the prehearing conference unless the parties enter into a written agreement as to the action. The presiding officer may enter appropriate order concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence and scope of inquiry.

(c) During a hearing, on written notice or notice stated into the record, the presiding officer may direct each party or the representative of each party to appear for a conference to consider any matter that may expedite the hearing and serve the interests of justice. The presiding officer shall prepare a written statement regarding the action taken at the conference and the statement must be signed by each party and made a part of the record.

(9) Discovery.

(a) On written request by a party, the presiding officer or the agency director may issue a subpoena to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of a proceeding.

(b) A motion for a subpoena to compel the production of books, records, papers, or other objects shall be addressed to the appropriate person, shall be sworn to and shall specify the books, records, papers, or other objects desired and the relevant and material facts to be proved by them.

(c) Discovery on behalf of commission shall only be provided to the licensee or to counsel who has submitted an entry of appearance.

(10) Order of hearing.

(a) The presiding officer shall open the hearing, make a concise statement of its scope and purposes and announce that a record of the hearing is being made.

(b) When a hearing has begun a party or a party's representative may make statements off the record only as permitted by the presiding officer. If a discussion off the record is pertinent, the presiding officer shall summarize the discussion for the record.

(c) Each appearance by a party, a party's representative, or a person who may testify must be entered on the record.

(d) The presiding officer shall receive motions and afford each party of record an opportunity to make an opening statement.

(e) Except as otherwise provided by this subsection, the party with the burden of proof is entitled to open and close. The presiding officer shall designate who may open and close in a hearing on a proceeding if the proceeding was initiated by the commission or if several proceedings are heard on a consolidated record.

(f) After opening statements, the party with the burden of proof may proceed with the party's direct case. Each party may cross-examine each witness.

(g) After the conclusion of the direct case of the party having the burden of proof, each other party may present their direct case and their witnesses will be subject to cross-examination.

(h) The presiding officer may allow nonparty participants to cross examine a witness if the presiding officer determines that the cross examination may lead to significantly fuller disclosure of the facts without unduly delaying the hearing or burdening the record.

(i) At the conclusion of all evidence and cross-examination, the presiding officer shall allow closing statements.

(j) Before writing a report or proposal for decision if required by law, the presiding officer may call on a party for further relevant and material evidence on an issue. The presiding officer may not consider the evidence or allow it into the record without giving each party an opportunity to inspect and rebut the evidence.

(11) Behavior.

(a) Each party, witness, attorney, or other representative shall behave in all commission proceedings with dignity, courtesy and respect for the commission, the presiding officer and all other parties and participants. Attorneys shall observe and practice the standards of ethical behavior prescribed for the profession by the code of professional responsibility.

(b) An individual who violates this section may be excluded from a hearing by the presiding officer for a period and on conditions that are just, or may be subject to other just, reasonable and lawful disciplinary action prescribed by the presiding officer.

(12) Evidence.

(a) All testimony must be given under oath administered by the presiding officer. The presiding officer may limit the number of witnesses and shall exclude all irrelevant, immaterial, or unduly repetitious evidence.

(b) The presiding officer may, unless precluded by statute, admit evidence of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by law in this jurisdiction apply in commission proceedings.

(c) A party may object to offered evidence and the objection shall be noted in the record. Formal exceptions to rulings by the presiding officer during a hearing are unnecessary. A party, at the time a ruling is made or sought, shall make known to the presiding officer the action the party desires.

(d) When the presiding officer rules to exclude evidence, the party offering the evidence may make an offer of proof by dictating or submitting in writing the substance of the proposed evidence, before the closing of the hearing. The offer of proof preserves the point for review. The presiding officer may ask a witness or offered witness questions necessary to indicate that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination is preserved without making an offer of proof.

(e) The presiding officer may take official notice of judicially cognizable facts and of facts generally recognized within the area of the commission's specialized knowledge. The commission shall notify each party of record before the final decision in a proceeding of each specific fact officially noticed, including any facts or other data in staff memoranda. A party must be given an opportunity to rebut the facts to be noticed.

(f) The special skills and knowledge of the commission and the commission staff may be used in evaluating the evidence.

(g) The presiding officer may receive documentary evidence in the form of copies or excerpts if the original is not readily available. On request, the presiding officer shall allow a party to compare the copy with the original. If many similar documents are offered in evidence, the presiding officer may limit the documents admitted to a number which are representative of the total number, or may require that the relevant data be abstracted from the documents and presented as an exhibit. If the presiding officer requires an abstract, the presiding officer shall allow each party or the party's representative to examine the documents from which the abstracts are made.

(h) The presiding officer may require prepared testimony in a hearing if the presiding officer determines that it will expedite the hearing without substantially prejudicing the interests of a party. Prepared testimony consists of any document that is intended to be offered as evidence and adopted as sworn testimony by a witness who prepared the document or supervised its preparation. A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the commission on the date set by the presiding officer and shall serve a copy of the prepared testimony on each party of record. The presiding officer may authorize the late filing of prepared testimony on a showing of extenuating circumstances. The prepared testimony of a witness may be incorporated into the record as if read or received as an exhibit, on the witness being sworn and identifying the writings as a true and accurate record of what the testimony would be if the witness were to testify orally. The witness is subject to clarifying questions and to cross examination and the prepared testimony is subject to a motion to strike either in whole or in part.

(i) Documentary exhibits must be of a size, which will not unduly encumber the record. Whenever practicable, exhibits must conform to the size requirements in these rules for pleadings. The first sheet of the exhibit must briefly state what the exhibit purports to show and the pages of the exhibit must be numbered consecutively. Exhibits may include only facts material and relevant to the issues of the proceedings.

Maps or drawings must be rolled or folded so as not to encumber the record. Exhibits not conforming to this subsection may be excluded.

(j) The party offering an exhibit shall tender the original of the exhibit to the presiding officer for identification. The party shall furnish one copy to the presiding officer and one copy to each party of record. A document received in evidence may not be withdrawn except with the permission of the presiding officer. If an exhibit has been offered, objected to and excluded, and the party offering the exhibit withdraws the offer, the presiding officer shall return the exhibit to the party. If the party does not withdraw the offered exhibit, the exhibit shall be numbered for identification, endorsed by the presiding officer with the ruling on the exhibit and included in the record to preserve the exception.

(k) The presiding officer may allow a party to offer an exhibit in evidence after the close of the hearing only on a showing of extenuating circumstances and a certificate of service on each party of record.

(13) Reporters and transcripts.

(a) If necessary, the commission shall engage a court reporter to make a stenographic record of a hearing. The commission may allocate the cost of the reporter and transcript among the parties.

(b) If a person requests a transcript of the stenographic record, the commission may assess the cost of preparing the transcript to the person.

(c) A party may challenge an error made in transcribing a hearing by noting the error in writing and suggesting a correction not later than 10 days after the date the transcript is filed with the commission. The party claiming errors shall serve a copy of the suggested corrections on each party of record, the court reporter and the presiding officer. If proposed corrections are not objected to before the 15th day after the date the corrections were filed with the commission, the presiding officer may direct that the suggested corrections be made and the manner of making them. If the parties disagree on the suggested corrections, the presiding officer shall determine whether to change the record.

(14) Findings of fact and conclusions of law.

(a) The presiding officer may direct a party to draft and submit proposed findings of fact and conclusions of law or a proposal for decision that includes proposed findings of fact and conclusions of law. The presiding officer may limit the request for proposed findings to a particular issue of fact.

(b) Proposed findings of fact submitted under this section must be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record the facts appear.

(15) Proposal for decision.

(a) Where a hearing officer conducts a hearing, the hearing officer shall complete a report containing his or her findings of fact, conclusions of law and recommendations for commission action.

(b) Any commissioner who did not hear the case may not participate in a decision in which the commission rejects, modifies, adds to, or makes substitutions for the findings of fact in a hearing officer's report unless the commission has reviewed all portions of the record that pertain to such findings of fact.

(c) Where the commission itself is the hearing body, the commission shall complete a report containing findings of fact and conclusions of law. No commissioner may participate who has not either heard the case or reviewed the entire record.

(d) The person preparing a proposal for decision under this section shall initiate service of a copy of the hearing officer's report or commission's report on each party of record no later than 31 calendar days after the close of the hearing.

(e) A party of record may, not later than 10 business days after the date of service of a hearing officer's report or commission's report, file exceptions to the report. A reply to an exception filed under this subsection must be filed no later than five business days after the last day for filing the exceptions. A copy of each exception and reply must be served on all parties of record.

(f) After the expiration of time for filing exceptions and replies, the commission shall consider the proposal for decision in open meeting. The commission may: adopt the proposal for decision, in whole or in part; decline to adopt the proposal for decision, in whole or in part; remand the proceeding for further examination by the same or a different presiding officer; or direct the presiding officer to give further consideration to the proceeding with or without reopening the hearing.

(g) If on remand additional evidence is received which results in a substantial revision of the proposal for decision, a new proposal for decision shall be prepared, unless a majority of the

commission, on remand, has heard the case or read the record. A new proposal for decision must be clearly labeled as such and all parties of record are entitled to file exceptions, replies and briefs.

(16) Dismissal. On its own motion or a motion by a party, the presiding officer may dismiss a proceeding, with or without prejudice, under conditions and for reasons that are just and reasonable, including: failure to timely pay all required fees to the commission; unnecessary duplication of proceedings; withdrawal; moot questions or obsolete petitions; and lack of jurisdiction.

(17) Orders.

(a) Except as otherwise provided by these rules, the commission shall issue its final order not later than 30 days after the date the commission votes on the ultimate issues in the proceeding. A final order of the commission must be in writing and be signed by at least one member of the members of the commission who voted in favor of the action taken by the commission. A final order must include findings of facts and conclusions of law, separately stated.

(b) The commission staff shall mail or deliver a copy of the order to each party or the party's representative.

(c) A final order of the commission takes effect on the date the order is issued, unless otherwise stated in the order.

(d) If the commission finds that an imminent peril to the public health, safety, or welfare requires an immediate final order in a proceeding, the commission shall recite that finding in the order in addition to reciting that the order is final from the date issued. An order issued under this subsection is final and appealable from the date issued and a motion for rehearing is not a prerequisite to appeal.

(18) Rehearing.

(a) Within 10 days following issuance of a final commission order, a party adversely affected by the order may file a petition for a rehearing stating the reasons for requesting a rehearing. The commission shall grant a rehearing only in cases of newly discovered material evidence, which the party could not reasonably have discovered at an earlier time, or other good cause.

(b) An order granting a motion for rehearing vacates the preceding final order. The order granting a motion for rehearing may direct that the hearing be reopened or may incorporate a new final decision. Except as otherwise provided by these rules, if the commission renders a new decision, a motion for rehearing directed to the new decision is a prerequisite to appeal.

(19) Ex parte communications. No party to a proceeding before the commission shall, at any time prior to the issuance of a final commission decision, discuss or otherwise communicate with a hearing officer assigned to hear the case or with any commission member who will or may participate in the commission's decision in the case, regarding any issue in the case, without at the same time making the same communication to all other parties, including the commission's administrative prosecutor. This rule shall not apply to communications limited to such items as ascertaining the time or place of a hearing or the procedures to be followed at a hearing.

(20) Administrative penalties.

(a) If the commission determines that a person regulated under the act has violated the act or a rule or order adopted under the act in a manner that constitutes a ground for disciplinary action under the act, the commission may assess an administrative penalty against that person as provided by this section.

(b) The commission delegates to the agency director the authority to prepare and issue preliminary reports pursuant to the act. If, after examination of a possible violation and the facts relating to that possible violation, the agency director determines that a violation has occurred, the agency director shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed and the amount to be assessed. The amount of the penalty may not exceed \$1,000 for each violation. Each day/occurrence that a violation continues may be considered a separate violation. In determining the amount of the penalty, the agency director shall consider the seriousness of the violation.

(c) If the commission finds based on the evidence that an appeal is frivolous, unreasonable or unnecessary or determined to be an abuse of process or malicious, the license holder may be fined in the amount up to \$2,500.

(d) Not later than the 10th day after the date on which the agency director issues the preliminary report, the agency director shall provide a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty. If possible, the agency director shall hand deliver the preliminary report. If hand delivery is not possible, the agency director shall mail the preliminary report to the person's last known address, as found in the commission's files, by regular mail and by certified mail, return receipt requested.

(e) Not later than the 20th day after the date on which the agency director delivers or sends the preliminary report, the person charged may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure to request a hearing or to remit the amount of the administrative penalty within the period prescribed by this subsection results in a waiver of a right to a hearing on the administrative penalty. If the person charged requests a hearing, the hearing shall be conducted in the same manner as other hearings conducted by the commission.

(f) If it is determined after the hearing that the person has committed the alleged violation, the commission shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

(g) Not later than the 30th day after the date on which the above notice is received, the person charged shall pay the administrative penalty in full or exercise the right to appeal to the appropriate court either the amount of the penalty or the fact of the violation. If a person exercises a right of appeal either as to the amount of the penalty or the fact of the violation, the amount of the penalty is not required to be paid until the 30th day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

(21) Exclusion.

(a) The steward, agency director, or commission may order an individual ejected or excluded from all or part of any premises under the regulatory jurisdiction of the commission if the stewards, agency director, or commission determine that the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(b) An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the stewards or commission. If exclusion is ordered separately, the excluded individual is entitled to a hearing before the stewards or commission. A hearing on exclusion shall be conducted in the same manner as other hearings conducted by the stewards or commission.

(c) If an individual is excluded under this section, a race animal owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction.

(22) Rulings in other jurisdictions.

(a) Reciprocity. The stewards shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of horses.

(b) Appeals of reciprocal rulings. Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the commission to show cause why such ruling should not be enforced in this jurisdiction. Any request for such hearing must clearly set forth in writing the reasons for the appeal.

[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 3/15/2001; A, 3/31/2003; A, 5/30/2003; A, 6/15/2004; A, 6/30/2009; A, 9/15/2009; A, 12/1/2010; A, 5/1/2013; A, 1/1/2014; A, 3/16/2015; A, 5/1/2015; A, 9/16/2015; A, 3/15/2016; A/E, 6/28/2016; A, 9/16/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 4/9/2019]

15.2.1.10 RULEMAKING PROCEDURES:

A. The provisions of this section shall be applicable to proceedings of the commission to adopt, amend or repeal rules and regulations of general applicability, which implement or interpret a law administered or enforced by the commission. These procedures shall not apply to: statements, policies, procedures or regulations concerning only internal management of the commission and not affecting the rights of or procedure available to licensees, applicants or the public generally; declaratory rulings and directives issued pursuant to provisions of this section; decisions, statements or interpretations issued or actions taken in the course of disciplinary proceedings against a licensee; formal or informal opinions of the attorney general pursuant to requests of the commission or the commission staff.

B. Proceedings by Commission:

(1) No rule or regulation, or amendment or repeal thereof, shall be adopted by the commission until after a public hearing by the commission, except as provided herein for emergency regulations. The commission shall allow all interested persons reasonable opportunity to present written materials and to speak in favor of their positions as they pertain to proposed rules. The commission may designate a hearing officer to take evidence. The commission may hold more than one hearing on proposed rules and may hold hearings at any location in the state. A record, consisting of at least written minutes or a tape recording, shall be made of all proceedings at the hearing.

(2) Notice of rulemaking hearings shall be provided to the public not later than 30 days prior to the hearing date. The notice shall include:

(a) a summary of the full text of the proposed rule;

(b) a short explanation of the purpose of the proposed rule;
(c) a citation to the specific legal authority authorizing the proposed rule and the adoption of the proposed rule;
(d) information on how a copy of the full text of the proposed rule may be obtained;
(e) information on how a person may comment on the proposed rule, where comments will be received and when comments are due;
(f) information on where and when a public rule hearing will be held and how a person may participate in the hearing; and,
(g) a citation to technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained. The notice shall be published in a newspaper of general circulation in the state and the commission shall send by electronic mail copies of the notice to all persons who have made a written request to the commission for advance notice of such rulemaking hearings. The notice must also be published in the New Mexico register.

(3) Rules are effective the date they are published in the New Mexico register unless a later date is otherwise provided by law or in the rule. The agency shall file the adopted rule with the state records administrator or the administrator's designee within 15 days from the date of the adoption. This provision does not apply to emergency rules.

(4) If the commission finds that the time required to complete the rulemaking procedure would cause an imminent peril to the public health, safety or general welfare; cause the unanticipated loss of funding for an agency program; or place the agency in violation of federal law, then the agency shall provide to the public a record of any such finding and detailed justification for that finding before issuing an emergency rule. The record shall include a statement that the emergency rule is temporary. After such record has been provided to the public, the agency may issue the emergency rule immediately without a public rule hearing or with any abbreviated notice and hearing that it finds practicable. Emergency rules may take effect immediately upon filing with the state records administrator or the administrator's designee or at a later date specified in the emergency rule. Emergency rules shall be published in the New Mexico register. No emergency rule shall permanently amend or repeal an existing rule. An emergency rule shall remain in effect until a permanent rule takes effect under the normal rulemaking process. If no permanent rule is adopted within 180 days from the effective date of the emergency rule, the emergency rule shall expire and may not be readopted as an emergency rule. If an expired emergency rule temporarily amended or repealed an existing rule, the rule shall revert to what it would have been had the emergency rule not been issued.

(5) Any interested person may request in writing that the commission adopt, amend or repeal a rule. The commission shall either initiate formal proceedings to consider the proposed rule or issue a written statement of its reason for denial of the request to consider it.

C. Declaratory rulings:

(1) Any licensee of the commission whose rights may be affected by the application of any statute administered or enforced by the commission or by any rule of the commission may request in writing a declaratory ruling from the commission concerning the applicability of the statute or rule to a particular set of facts. The facts stated must be stated with such specificity as to allow a ruling to be made and the situation stated must be sufficiently concrete to justify issuance of a declaratory ruling.

(2) The purpose of declaratory rulings is to allow a licensee to conform his future actions or behavior to the parameters of the law. Declaratory rulings shall not be used for any other purpose. The commission may refuse to consider a request if it determines that its purpose or effect would be contrary to the purposes stated herein for declaratory rulings. In no case shall the commission consider a request, which directly or indirectly affects a pending action or disciplinary proceeding, or appeal thereof, before the stewards or the commission.

(3) The commission may issue directives to its employees, stewards, licensees or racing officials. Directives may be utilized to direct the performance of an act, to provide an interpretation of a statute or rule or for other purposes.

(4) The commission may on its own motion issue declaratory rulings and directives.

(5) The effect of a declaratory ruling shall be limited to the commission and the licensee, if any, requesting it.

[15.2.1.10 NMAC - Rp, 15 NMAC 2.1.10, 03/15/2001; A, 03/14/2018]

History of 15.2.1 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1, Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 04-26-67;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 06-09-69;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12-04-81;

History of Repealed Material: 15 NMAC 2.1, Horse Racing - General Provisions, filed 09-29-95 repealed in its entirety; renumbered, reformatted and replaced by 15.2.1 NMAC, Horse Racing - General Provisions, to conform to the new NMAC requirements effective 03/15/2001.

Other History:

NMSRC 81-1, Rules Governing Horse Racing in new Mexico, filed 12-04-81 - that applicable portion renumbered, reformatted and amended to 15 NMAC 2.1, Horse Racing - General Provisions, filed 09-29-95.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 2 ASSOCIATIONS

15.2.2.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.2.1 NMAC - Rp, 15 NMAC 2.2.1, 03/15/2001]

15.2.2.2 SCOPE: General Public and any person, firm, association, or corporation, desiring to hold a horse race, or to engage in horse race meetings. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, 15.2.7 NMAC, and 16.47.1 NMAC.
[15.2.2.2 NMAC - Rp, 15 NMAC 2.2.2, 03/15/2001]

15.2.2.3 STATUTORY AUTHORITY: Section 60-1A-4 NMSA 1978 empowers the state racing commission to make rules and regulations for the holding, conducting and operating of all race meets and races. Section 60-1A-20 NMSA 1978 empowers the racing commission to establish such qualifications for licenses to conduct horse race meets as it deems to be in the public interest.
[15.2.2.3 NMAC - Rp, 15 NMAC 2.2.3, 03/15/2001; A, 09/15/2009; A, 12/01/2010]

15.2.2.4 DURATION: Permanent.
[15.2.2.4 NMAC - Rp, 15 NMAC 2.2.4, 03/15/2001]

15.2.2.5 EFFECTIVE DATE: March 15, 2001 unless a later date is cited at the end of a section.
[15.2.2.5 NMAC - Rp, 15 NMAC 2.2.5, 03/15/2001]

15.2.2.6 OBJECTIVE: The objective of Part 2 of Chapter 2 is to establish such regulations for qualifications for licensees to conduct horse race meets.
[15.2.2.6 NMAC - Rp, 15 NMAC 2.2.6, 03/15/2001]

15.2.2.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.2.7 NMAC - Rp, 15 NMAC 2.2.7, 03/15/2001]

15.2.2.8 ASSOCIATIONS:

A. General duty:

(1) An association, its officers, directors, officials and employees shall abide by and enforce the Horse Racing Act and the rules and orders of the commission and stewards.

(2) An association may request an exemption from a requirement in this chapter to utilize new technology or innovative construction or design of the racetrack facilities. The commission may grant an exemption if the commission determines that: the association's proposal substantially satisfies the purpose of the requirement; the exemption is in the best interests of the race horses, the racing industry and the citizens of this jurisdiction.

B. Financial requirements: insurer of the race meeting:

(1) Approval of a race meeting by the commission does not establish the commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

(2) An association shall agree to indemnify, save and hold harmless the commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.

(3) An association shall provide the commission with a certificate of liability insurance as required by the commission.

(4) An association shall maintain one or more trust accounts in financial institutions insured by the FDIC or other federal government agency for the deposit of nominations and futurity monies and those amounts deducted from the pari mutuel handle for distribution to persons other than the association according to the Horse Racing Act and commission rules. An association may invest nominations and futurities monies paid by owners in a U.S. treasury bill or other appropriate U.S. Government financial instrument instead of an account in a financial institution, in which case the provisions of this rule shall apply to such instrument.

(5) An association shall keep its operating funds and other funds that belong exclusively to the association separate and apart from the funds in its trust accounts and from other funds or accounts it maintains for persons other than itself, such as a horsemen's book account.

(6) An association shall employ proper accounting procedures to insure accurate allocation of funds to the respective purses, parties and organizations and detailed records of such accounts shall be made available to the commission or its staff on demand in connection with any commission audit or investigation.

(7) An association shall insure that sufficient funds for the payment of all purses on any race day are on deposit in a trust account at least two business days before the race day and shall provide the commission with documentation of such deposits prior to the race day. Exceptions to this subsection may be made by the commission or the agency director for good cause shown.

(8) An association shall add all interest accrued on funds in a trust account to the balance in the account and distribute the interest proportionally to those for whom the funds are held.

(9) An association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari mutuel handle are distributed according to the Horse Racing Act and commission rules and not otherwise.

(10) An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Horse Racing Act, commission rules, association rules and race conditions.

(11) An association is authorized to offset a portion of the jockey and exercise rider insurance premium from gaming monies subject to the approval of the commission.

C. Bond requirements:

(1) An association shall file with the commission a bond or other security payable to the New Mexico racing commission in an amount determined by the commission for pari mutuel racing and in either case not more than the financial liability of the association license throughout the race meeting for which the association license is requested.

(2) The bond shall be executed by the applicant and a surety company or companies authorized to do business in this jurisdiction, and conditioned upon the payment by the association licensee of all taxes and other monies due and payable pursuant to statutory provisions and all monies due from horsemen's accounts and payable, presentation of winning tickets, the licensee will distribute all sums due to the patrons of pari mutuel pools.

(3) The financial liabilities incurred by the association licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

D. Financial reports:

(1) The commission may require periodic audits to determine that the association has funds available to meet those distributions for the purposes required by the Horse Racing Act, commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.

(2) An association shall file a copy of all tax returns, a balance sheet and a profit and loss statement.

(3) An association shall file with the commission an unaudited balance sheet and profit and loss statement as required by the commission. Those submissions must be in a format, which conforms to the requirements set out in the association license application.

(4) An association shall file an annual audit with the commission within 90 days after the association's fiscal year-end. The commission, upon good cause shown, may extend the time for filing.

E. Facilities and equipment: facilities for patrons and licensees:

(1) An association shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.

(2) An association shall provide and maintain adequate restroom facilities for the patrons and licensees.

(3) An association shall provide an adequate supply of free drinking water.

(4) An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.

(5) During a race performance, the association shall provide a first aid room equipped with at least two beds and other appropriate equipment; the services of at least one physician or certified emergency medical technician.

(6) An association shall provide two properly equipped ambulances, ready for immediate duty at any time the racetrack is open for racing or exercising. The ambulance shall be staffed with one certified paramedic or an intermediate emergency medical technician (as long as physician is on the grounds). The other staff

will be certified EMTs. If the ambulance is being used to transport an individual, the association may not conduct a race until a properly equipped and staffed ambulance is in place, or a physician is on duty.

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

(8) 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.

(9) An association shall provide adequate office space for the use of the stewards and other commission personnel as required by the commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the commission. An association shall provide a designated steward read only access to the incompass rto system as prescribed by the racing office as well as e-mail notification for all entry clerk overrides for horses on stewards', veterinarian's and starter's lists.

(10) An association shall promptly post commission notices in places that can be easily viewed by patrons and licensees.

(11) An association shall ensure that all concessions provide prompt and efficient service to the public at all race meets or simulcast performances. The associations shall specifically ensure that concessions have adequate staff and inventory to provide prompt and efficient service to the public.

F. Officials' Stands: An association shall provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the commission.

G. Audio and visual equipment:

(1) An association shall provide and maintain in good working order a communication system between the: stewards' stand; racing office; tote room; jockeys' room; paddock; test barn; starting gate; weigh in scale; video camera locations; clocker's stand; racing veterinarian; track announcer; location of the ambulances (equine and human); other locations and persons designated by the commission.

(2) An association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

(3) An association shall provide two electronic photofinish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. The location and operation of the photofinish devices must be approved by the commission before its first use in a race. The association shall promptly post a photograph of each photofinish for win, place or show in an area accessible to the public. The association shall ensure that the photofinish devices are calibrated before the first day of each race meeting and at other times as required by the commission. On request by the commission, the association shall provide, without cost, a print from a negative of a photofinish to the commission. Photofinish negatives of each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(4) An association shall provide a videotaping system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the stewards' stand. The location and construction of video towers must be approved by the commission.

(5) A camera and a timer, designated by the commission, shall be at the starting gate and shall videotape and show to the public the pre-race loading of all horses into the starting gate and shall continue to videotape them until the field is dispatched by the starter.

(6) One camera, designated by the commission, shall videotape the apparent winner of each race from the finish line until the horse has returned, the jockey has dismounted and the equipment has been removed from the horse.

(7) The stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race.

(8) Races run on an oval track must be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

(9) An association shall, upon request, provide to the commission, without cost, a copy of a videotape of a race.

(10) Videotapes recorded prior to, during and following each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(11) An association shall provide a viewing room in which, on approval by the stewards, an owner, trainer, jockey or other interested individual may view a videotape recording of a race.

(12) Following any race in which there is an inquiry or objection, the association shall display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the stewards in making their decision.

H. Racetrack:

(1) The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses.

(2) Prior to the first race meeting at an association racetrack, a licensed surveyor shall provide to the commission a certified report of the grade and measurement of the distances to be run.

(3) Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.

(4) The surveyor's report must be approved by the commission prior to the first race day of the meeting.

(5) An association shall provide an adequate drainage system for the racetrack.

(6) An association shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The association shall provide back-up equipment for maintaining the track surface.

(7) An association that conducts races on a turf track shall maintain an adequate stockpile of growing medium; provide a system capable of adequately watering the entire turf course evenly.

I. Rails:

(1) Racetracks, including turf tracks, shall provide inside and outside rails, including gap rails, designed constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

(2) The top of the rail must be at least 38 inches but not more than 42 inches above the top of the cushion. The inside rail shall be no less than a 24-inch overhang with a continuous smooth cover.

(3) All rails must be constructed of materials designed to withstand the impact of a horse running at a gallop.

J. Starting gates:

(1) During racing hours, an association shall provide at least two operable padded starting gates, which have been approved by the commission.

(2) An association shall make at least one starting gate and qualified starting gate personnel available for schooling during designated training hours.

(3) If a race is started at a place other than in a chute, the association shall provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure.

K. Distance markers:

(1) An association shall provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand.

(2) The starting point markers and distance poles must be marked as follows:

1/4 poles	Red and white horizontal stripes
1/8 poles	Green and white horizontal stripes
1/16 poles	Black and white horizontal stripes
220 yards	Green and white
250 yards	Blue
300 yards	Yellow
330 yards	Black and white
350 yards	Red
400 yards	Black
440 yards	Red and white
550 yards	Black and white horizontal stripes
660 yards	Green and white horizontal stripes
770 yards	Black and white horizontal stripes
870 yards	Blue and white horizontal stripes

L. Lighting:

(1) An association shall provide lighting for the racetrack and the patron facilities that are adequate to ensure the safety and security of the patrons, licensees and horses. Lighting to ensure the proper operation of the videotape and photofinish equipment must be approved by the commission.

(2) An association shall provide adequate additional lighting in the stable area as required by the commission.

(3) If an association conducts racing at night, the association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

M. Equine ambulance:

(1) An association shall provide a minimum of two properly equipped ambulances staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

(2) The ambulances must be properly ventilated and kept at an entrance to the racing strip when not in use.

(3) The ambulances must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulances must be able to navigate on the racetrack during all weather conditions; transport a horse off the association grounds.

(4) The ambulances must be equipped with large, portable screens to shield a horse from public view; ramps to facilitate loading a horse; adequate means of loading a horse that is down; a rear door and a door on each side; a padded interior; a movable partition to initially provide more room to load a horse and to later restrict a horse's movement; a shielded area for the person who is attending to the horse; an adequate area for the storage of water and veterinary drugs and equipment.

(5) An association may not conduct a race unless a minimum of one equine ambulance or an official veterinarian-approved substitute is readily available.

(6) The properly equipped equine ambulances, its supplies and attendants and the operating procedures for the properly equipped ambulances must be approved by the official veterinarian.

N. Barns:

(1) An association shall provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The association's stable area configuration and facilities must be approved by the commission.

(2) An association shall ensure that the barns are kept clean and in good repair. Each barn, including the receiving barn, must have a water supply available, be well-ventilated, have proper drainage and be constructed to be comfortable in all seasons.

(3) An association shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 10 feet by 10 feet.

(4) An association shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area daily. The association shall ensure that refuse from the stalls and other refuse is kept separate.

(5) For new barn construction, an association shall comply with the commission's minimum barn requirements:

(a) Two wash racks per 24 stalls with drains a minimum of 8 feet by 10 feet.

(b) One cold water faucet within 48 inches of all stalls.

(c) Dimensions of stalls are 12 feet by 12 feet, with a slanted to minimum of 10 foot roof at all points and 8 foot walls.

(d) One room 10 feet by 12 feet per eight stalls.

(e) Twelve shed rows.

(f) Twelve foot ends.

(g) Building material must be one hundred percent fire retardant and 26 gauge metal covered composite.

(h) Two 110 electrical outlets per four stalls placed a minimum six foot height centered at four foot.

(i) Overhead lighting down shedrow so as to illuminate the stalls and shedrow.

O. Test barn:

(1) An association shall provide a test barn for taking specimens of urine, blood or other bodily substances or tissues for testing.

(2) The test barn must be equipped with a walk ring that is large enough to accommodate 10 horses; at least three enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel; facilities and equipment for the collection, identification and storage of samples; a wash

rack that is large enough to accommodate three horses at the same time; hot and cold running water; clean water buckets supplied by the trainer for each horse.

(3) An association shall limit access to the test barn to persons, authorized by the official veterinarian, for the conduct of commission authorized tasks such as practicing veterinarians in the performance of their obligations, employees of the official veterinarian, commissioners and their designees. In addition, no more than two persons representing the stable of a horse required to be tested may accompany that horse into the test barn. All persons entering the test barn must wear a valid license in plain view. All entrances shall be locked or guarded at all times.

P. Isolation area:

(1) By January 1, 2017, an association shall provide a minimum eight stall, perimeter fenced isolation facility for the care and treatment of a horse that is ordered isolated by the racing veterinarian or the official veterinarian.

(2) The isolation facility must be approved by the official veterinarian.

Q. Operations: security:

(1) An association conducting a race meeting shall maintain security controls over its premises. Security controls are subject to the approval of the commission.

(2) An association shall establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.

(3) An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.

(4) Unless otherwise authorized by the commission, an association shall provide continuous security in the stable area during all times that horses are stabled on the grounds. An association shall require any person entering the stable area to display valid credentials issued by the commission or a visitor's pass issued by the association (See Paragraph (1) of Subsection R of 16.47.1 NMAC). An association shall provide security fencing around the stable area in a manner that is approved by the commission.

(5) On request by the commission, an association shall provide a list of the security personnel, including the name, qualifications, training, duties, duty station and area supervised by each employee.

(6) Each day, the chief of security for an association shall deliver a written report to the stewards regarding occurrences on association grounds on the previous day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved.

R. Fire prevention:

(1) An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.

(2) Not later than three days before the first day of a race meeting, an association shall deliver to the commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plan of corrections. The certification or plan must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.

(3) No person shall:

(a) smoke in stalls, feed rooms or under shed row;

(b) burn open fires or oil and gas lamps in the stable area;

(c) use or leave unattended, any electrical appliance that is plugged-in to an electrical outlet, that is not in safe working order and does not meet the manufacturer's recommendations;

(d) use extension cords that are not approved to meet OSHA standards, nor should extension cords be fastened with staples, hung from nails or suspended by wire;

(e) use worn, cracked, frayed or otherwise damaged electric cords or cables;

(f) permit horses to come within reach of electrical outlets or cords;

(g) store flammable materials such as cleaning fluids or solvents in the stable area;

or

(h) lock a stall which is occupied by a horse.

(4) An association shall post a notice in the stable area which lists the prohibitions outlined in Paragraph (3) of Subsection R of 15.2.2 NMAC above.

S. Insect and rodent control: An association and the licensees occupying the association's barn area shall cooperate in procedures to control insects, rodents or other hazards to horses or licensees.

T. Performances:

(1) The hours of racing, the number of races per race day and the post time for the first race of each race day are subject to the approval of the commission.

(2) An association shall deliver to the commission for approval a copy of the proposed stakes schedule, proposed purse schedule and first condition book for a race meeting at least 60 days before the first day of the race meeting. Following commission approval, any changes to the purse or stakes schedules, or condition book must be approved by the commission. The association shall deliver to the commission, upon publication, a copy of each subsequent condition book.

U. Complaints:

(1) An association shall designate a location and provide personnel who shall be readily available to the public to provide information or receive complaints.

(2) An association shall promptly notify the commission of a complaint regarding an alleged violation of the Horse Racing Act or a rule of the commission; an alleged violation of ordinances or statutes; accidents or injuries; unsafe or unsanitary conditions for patrons, licensees or horses.

V. Ejection and exclusion:

(1) An association shall immediately eject from the association grounds a person who is subject to such an exclusion order of the commission or stewards and notify the commission of the ejection.

(2) An association may eject or exclude a person for any lawful reason. An association shall immediately notify the stewards and the commission in writing of any person ejected or excluded by the association and the reasons for the ejection or exclusion.

W. Stakes and escrow requirements:

(1) The association shall provide the commission with a copy of written race conditions for stakes races prior to distribution and a copy of the job description of the nomination secretary assigned to the stakes races program. [The job description shall be acknowledged and signed by the nomination secretary and filed with the commission.]

(2) The original race conditions nomination blank for stakes races shall be considered a binding contract between the association or sponsor and the nominator. [The approved nomination blank must be signed by the nominator and filed with the association.] The nomination blank must contain all conditions under which fees are due and payable; the race will be conducted, providing for trials or divisions, if any; supplemental purses are added; monies will be retained by the association for advertisement, administration and commissions; terms or conditions which refunds, if any, will be made; and all other conditions pertaining thereto.

(3) Unless otherwise approved by the commission, prior to the closing of nominations, the association shall file with the commission a copy of escrow provisions made by the association or sponsor with the horsemen's bookkeeper or other person(s) authorized to receive payments on behalf of the nominators utilizing a federally insured financial institution to maintain the escrow account for all payments made to the stakes race. Any added or supplemental purse monies advertised or otherwise stated in the written race conditions shall be deposited in the escrow account no later than the deadline date for the first eligibility payment for that stakes race, unless otherwise approved by the commission.

(4) If the deadline for a nomination payment falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(5) Within 30 days after each eligibility or payment date, and the date horses pass the entry box, the association shall provide a copy of the escrow report to the commission. The escrow report shall include the financial institution representative; the names and nominators; the total number of entries; the names of horses remaining eligible; an itemization of the amount of payments and added money received including totals; the amount of interest accrued to date; the name(s) of the person(s) currently authorized to make withdrawals; the amount and date of each withdrawal, if any; each deduction from monies received (e.g. uncollected checks, advertising, administrative and commissions costs); and the stated reason for each withdrawal or deduction. Notice of not less than two persons, whose signatures are required for a withdrawal, shall be filed with the commission.

(6) In all cases the association shall be responsible for the payment of purse monies for any stakes race conducted at its licensed facility.

X. Emergency track warning system: All tracks, including training tracks, under the jurisdiction of the commission shall install an emergency track warning system approved by the commission with the controls located in the stewards' and clockers' stands on all racing and training tracks.
[15.2.2.8 NMAC - Rp, 15 NMAC 2.2.8, 03/15/2001; A, 08/30/2001; A, 11/14/2002; A, 08/30/2007; A, 01/01/2013; A, 06/01/2016; A, 12/16/2016; A, 09/26/2018]

15.2.2.9 GAMING:

A. Associations' financial requirements:

- (1) An association who is a gaming operator shall pay twenty percent of the net take to purses.
- (2) An association shall provide a weekly report of the previous week's daily net take payment to purses every Monday to the commission, the New Mexico horsemen's association and the New Mexico horsebreeders' association.
- (3) All monies remitted by the association to the New Mexico horsemen's association shall be reconciled and settled within 30 days of the generation of monthly reports from the gaming control board.
- (4) An association will be liable for all portions of the gaming funds for purses from such time as the funds are received into the gaming machines until the funds are deposited into the designated interest bearing accounts. The commission may take whatever action is available under the existing rules regarding fines, suspension or revocation of license should the association fail to deposit the funds in accordance with Paragraph (1) of Subsection B of Section 15.2.2.9 NMAC.
- (5) The twenty-percent of the net take to purses shall be distributed as follows:
Nineteen and three tenths percent of the net daily take deposited by the association will be distributed weekly by the New Mexico horsemen's association to the New Mexico horsebreeders' association to the purse fund; eighty and seven tenths percent of the net daily take deposited by the association will be distributed to the existing purse structures determined and approved by that race meet's local horsemen's committee, the horsemen's state board, and approved by the commission.

B. Organizations' financial requirements:

- (1) The New Mexico horsemen's association shall establish interest-bearing accounts, designated as gaming funds for purses. An association shall deposit, by 1:00 o'clock p.m. Monday of each week except for legal holidays which will be deposited on the next business day, twenty percent of the daily net take as defined in the gaming control act.
- (2) The New Mexico horsemen's association and the New Mexico horsebreeders' association shall keep accurate, complete, and legible records with reports to the commission to include:
 - (a) monthly reconciliation of amounts collected to account statements;
 - (b) copy of account authorizing signatures;
 - (c) any changes in authorizing signatures; and
 - (d) detail of disbursements from the accounts.

[15.2.2.9 NMAC - Rp, 15 NMAC 2.2.9, 03/15/2001; A, 12/30/2003]

15.2.2.10 CAPITAL IMPROVEMENTS:

A. General authority:

- (1) Capital improvements made on licensed racing premises with state funds offset from the amount of taxes due pursuant to Section 60-1A-20 NMSA 1978, shall be utilized only for the improvement of horse racing facilities for the benefit of the public, breeders and horse owners and shall be intended to increase the revenue to the state from the increases in pari mutuel wagering and tourism which result from the improvements.
- (2) No capital improvement for which an offset from state taxes is requested shall be made unless it is a capital investment subject to depreciation under the United States Internal Revenue Code and is approved in advance by the commission.
- (3) It is the responsibility of the licensee requesting the offset of state taxes to establish that the proposed capital improvement qualifies as a capital investment subject to depreciation under the United States Internal Revenue Code.

B. Commission requirements:

- (1) Each commission member and the agency director shall inspect all facilities, grounds and areas of each licensed racetrack in New Mexico annually for the purpose of identifying the need for capital improvements for those areas.

(2) The commission shall annually adopt or revise a schedule of priorities of areas in need of immediate capital improvements for each licensed racetrack. Licensees and any other individuals or organizations may submit to the commission recommendations for the schedule of priorities. The commission chairman may appoint committees as are necessary to prepare the schedule of priorities. All committee meetings shall be open meetings.

(3) In adoption of the schedule of priorities, the commission shall give due consideration to the needs of the public, breeders and horse owners and shall balance those needs in the allocation of priorities.

(4) The commission shall adhere to the schedule of priorities in the approval of capital improvement projects applied for by the licensees.

C. Procedures:

(1) A licensee shall submit to the commission, on application forms provided by the commission, proposals for capital improvement projects for which an offset of state taxes will be requested. Applications shall contain, but are not limited to, the following information:

- (a) licensed racetrack at which project is proposed;
- (b) person(s) supervising the proposal and project;
- (c) total cost of project;
- (d) amount of total cost to be offset by state tax revenues;
- (e) amount of total cost to be paid by other funds and sources of those funds;
- (f) complete description of project and timetable for construction;
- (g) estimated timetable of requests for offsets by state tax revenues; and
- (h) proof of compliance with Section 60-1A-20 NMSA 1978 that the project

qualifies under the Internal Revenue Code as a capital investment subject to depreciation.

(2) For any capital improvement project in which the requested offset from state taxes equals or exceeds fifty percent of the total purchase or construction price, the licensee shall obtain and submit to the commission at least three written bids from suppliers or licensed contractors, where applicable.

(3) At the next regularly scheduled commission meeting, the commission shall review, reject, modify or condition each proposal, or return the application for additional information. Then, at the subsequent scheduled commission meeting, the commission shall approve each capital improvement proposal reviewed.

(4) The commission shall approve only the bid of the lowest bidder, unless the licensee requests in writing that a particular bid be accepted, in which case the commission may approve the licensee's recommended bidder if it finds extraordinary circumstances which call for the acceptance of that bidder and additionally finds that acceptance of that bidder would be in the best interests of racing in New Mexico. The commission shall give preference to New Mexico contractors and suppliers, as defined in Section 13-4-2 NMSA 1978, in selecting bids, provided that the bid for a project of the New Mexico contractor or supplier does not exceed ten percent over the amount of the lowest bid.

(5) When special circumstances warrant, or when unexpected cost overruns are incurred, the commission may consider a capital improvement retroactively.

(6) When the licensee's in-house maintenance work force is accepted as the low bidder in a capital improvement project, any cost overrun beyond the highest bid price may not be allowed as an offset and must be paid by the licensee. A cost overrun performed by in-house maintenance above the original bid price and below the highest bidder price must be approved by the commission before the work is accomplished.

(7) Following the completion of any capital improvement project for which an offset of state taxes was requested and approved, the commission, or designee, shall inspect the project and any recommended future projects.

D. Tax liabilities: All taxes assessed pursuant to the provisions of Section 60-1A-20 NMSA 1978, shall be paid to the racing commission at the time set by law, unless a capital expenditure project or the financing of term investment in capital improvements has been previously approved by the commission and the licensee is entitled by such previous approval to offset the amount of the taxes then due. If no previous approval for a project or financing has been made, the full amount of taxes due shall be paid. If previous approval for a project or financing has been made and the licensee is entitled to offset the amount of the taxes then due, the licensee may offset such taxes due and shall account to the commission for such offset from taxes due.

[15.2.2.10 NMAC; N, 08/30/2001; A, 12/01/2010]

History of 15.2.2 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1., Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 04-26-67;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 06-09-69;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12-04-81;

History of Repealed Material: 15 NMAC 2.2, Horse Racing - Associations, filed 09-15-95 repealed in its entirety; renumbered, reformatted and replaced with the new part 15.2.2 NMAC, Horse Racing - Associations, to conform to the new NMAC requirements effective 03/15/2001.

Other History:

NMSRC 81-1, Rules Governing Horse Racing in new Mexico, filed 12-04-81 - that applicable portion renumbered, reformatted and amended to 15 NMAC 2.2, Horse Racing - Associations, filed 09-15-95.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 3 FLAT RACING OFFICIALS

15.2.3.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.3.1 NMAC - Rp, 15 NMAC 2.3.1, 04/13/2001]

15.2.3.2 SCOPE: All persons engaged in racing, or employed on a licensee's racetrack premises. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.2 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, 15.2.7 NMAC and 16.47.1 NMAC.
[15.2.3.2 NMAC - Rp, 15 NMAC 2.3.2, 04/13/2001]

15.2.3.3 STATUTORY AUTHORITY: Sections 60-1A-1 through 60-1A-30 NMSA 1978 provide that the New Mexico racing commission has the authority to promulgate rules and regulations deemed necessary to enforce Chapter 60 NMSA 1978 pertaining to horse racing.
[15.2.3.3 NMAC - Rp, 15 NMAC 2.3.3, 04/13/2001; A, 09/15/2009]

15.2.3.4 DURATION: Permanent.
[15.2.3.4 NMAC - Rp, 15 NMAC 2.3.4, 04/13/2001]

15.2.3.5 EFFECTIVE DATE: April 13, 2001 unless a later date is cited at the end of a section.
[15.2.3.5 NMAC - Rp, 15 NMAC 2.3.5, 04/13/2001]

15.2.3.6 OBJECTIVE: To establish the qualifications of persons to receive licenses for engaging in horse racing in New Mexico as deemed in the public interest.
[15.2.3.6 NMAC - Rp, 15 NMAC 2.3.6, 04/13/2001; A, 12/19/2019]

15.2.3.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.3.7 NMAC - Rp, 15 NMAC 2.3.7, 04/13/2001]

15.2.3.8 FLAT RACING OFFICIALS GENERAL PROVISIONS:

A. Racing Officials: Officials at a race meeting include the following: assistant racing secretary; chief of security; director of racing, or similar position; clerk of scales; clocker; general manager; handicapper; horse identifier; horsemen's bookkeeper; jockey room custodian; official veterinarian; paddock judge; pari mutuel manager; patrol judge, absent video replay equipment; placing judge, if duty not performed by stewards; racing secretary; racing veterinarian; stable superintendent; starter; stewards; timer; track superintendent; any other person designated by the commission.

(1) Eligibility: To qualify as a racing official, the applicant shall: be of good character and reputation; demonstrate experience in flat racing; be familiar with the duties of the position and with the commission's rules of flat racing and show an ability to fulfill the requirements of the position. Stewards must be accredited by the racing officials accreditation program and be current with continuing education requirements.

(2) Approval and licensing: The commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing. An association shall submit to the commission its request for approval of racing officials 60 days prior to the first day of the race meet.

(3) Prohibited practices: While serving in an official capacity, racing officials and their assistants shall not: participate in the sale or purchase, or ownership of any horse racing at the meeting; sell or solicit horse insurance on any horse racing at the meeting; be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards; wager on the outcome of any race under the jurisdiction of the commission; consume or be under the influence of alcohol or any prohibited substances while performing official duties.

(4) Report of violations: Racing officials and their assistants shall report immediately to the stewards every observed violation of these rules and of the laws of this state governing racing.

(5) Complaints against officials: Complaints against any steward shall be made in writing to the commission and signed by the complainant.

(a) Any complaint against a racing official other than a steward shall be made to the

stewards in writing and signed by the complainant. All such complaints shall be reported to the commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

(b) A racing official may be held responsible by the stewards or the commission for their actions, and the actions of their assistants and employees.

(6) Appointment:

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the commission.

(b) The commission shall appoint or approve the stewards at each race meeting.

(7) Appointment of substitute officials: Where an emergency vacancy exists among racing officials (except for stewards), the stewards or the association, with the stewards' approval, shall fill the vacancy immediately. Such appointment shall be reported to the commission and shall be effective until the vacancy is filled in accordance with these rules.

(8) Appointment of substitute steward: Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards shall appoint a substitute for the absent steward. If a substitute steward is appointed, the commission and the association shall be notified by the stewards. The following are prohibited from serving as a substitute steward: director, deputy director, or racing commissioner.

B. Stewards:

(1) General authority: The stewards for each meeting shall be responsible to the commission for the conduct of the race meeting in accordance with the laws of this state and these rules.

(a) The stewards shall enforce these rules and the racing laws of this state.

(b) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with the act and these rules.

(c) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

(d) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. Whenever the stewards find any person culpable for any act or omission in violation of these regulations or any violation of the Horse Racing Act, the person shall be subject to disciplinary action, which could include a fine, suspension, or revocation/denial of license or any combination of these penalties.

(e) The stewards shall have the authority to amend, revoke, rescind or modify any ruling that they issued in error in accordance with the laws of this state and these rules.

(2) Period of authority: The stewards' period of authority shall commence up to ten days prior to the beginning of each meeting and shall terminate with the completion of their business pertaining to the meeting. Following the completion of the stewards' business, the agency director shall carry out the duties of the stewards as described in this chapter.

(3) Disciplinary action: The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

(a) The stewards shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(b) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

(c) The stewards may at any time inspect license documents, registration papers, and other documents related to racing.

(d) The stewards have the power to administer oaths and examine witnesses.

(e) The stewards may impose any of the following penalties on a licensee for a violation of the act or these rules: issue a reprimand; assess a fine; require forfeiture or redistribution of purse or award, when specified by applicable rules and at their discretion; place a licensee on probation; suspend a license or racing privileges; revoke a license; exclude from grounds under the jurisdiction of the commission.

(f) The stewards may order that a person be ineligible for licensing; or they may deny a license to an applicant on grounds set forth in the act or these rules.

(g) The stewards shall submit a written report to the commission of every inquiry and hearing.

(h) A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(i) The stewards may refer any matter to the commission and may include

recommendations for disposition. The absence of a steward's referral shall not preclude commission action in any matter.

(j) Purses, prizes, awards, and trophies shall be redistributed if the stewards or commission order a change in the official order of finish.

(k) All fines imposed by the stewards shall be paid to the commission within 30 days after the ruling is issued, unless otherwise ordered.

(4) **Protests, objections, and complaints:** The stewards shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling.

(5) **Stewards' presence:** Three stewards shall be present in the stewards' stand during the running of each race.

(6) **Order of finish for pari-mutuel wagering:**

(a) The stewards shall determine the official order of finish for each race in accordance with 15.2.5 NMAC.

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

(7) **Cancel wagering:** The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering.

(8) **Records and reports:**

(a) The stewards shall prepare a daily report, on a form approved by the commission, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission not later than 24 hours after the end of each race day.

(b) The stewards shall maintain a detailed log of the stewards' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations and rulings made by the stewards. The log shall be available at all times for inspection by the commission or its designee.

(c) Not later than seven days after the last day of a race meeting, the stewards shall submit to the commission a written report regarding the race meeting. The report shall contain: the stewards' observations and comments regarding the conduct of the race meeting and the overall conditions of the association grounds during the race meeting; any recommendations for improvement by the association or action by the commission.

(9) **Stewards' list:**

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance behavior on the racetrack that endangers the health or safety of other participants in racing or for positive tests pursuant to Subsection C of 15.2.6.9 NMAC.

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse.

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification or ownership has been established.

(e) A horse that has been placed on the steward's list for a positive test pursuant to Subsection C of 15.2.6.9 NMAC may only be removed if the criteria set forth in that subsection are met or in the event of a split sample result which does not confirm the official laboratory's original finding of a positive test.

C. **Racing secretary:**

(1) **General authority:** The racing secretary shall be responsible for the programming of races during the race meeting, compiling and publishing condition books, assigning weights for handicap races, and shall receive all entries, subscriptions, declarations and scratches.

(2) **Foal, health and other eligibility certificates:**

(a) The racing secretary or their designee shall be responsible for receiving, inspecting and safeguarding the digital or paper foal and health certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds.

(b) The racing secretary shall ensure that the foal certificates for all thoroughbred horses entered to race that were foaled in 2018, or thereafter, have a digital tattoo. This digital tattoo shall indicate that the thoroughbred racing protective bureau has confirmed the identity of the horse and uploaded updated digital photographs to the breed registry database.

(3) Allocation of stalls:

(a) The racing secretary shall assign stall applicants such stabling as is deemed proper and maintain a record of arrivals and departures of all horses stabled on association grounds.

(b) Stall approvals shall be determined by: each track's screening rule as approved by the New Mexico racing commission; consideration given to stables with a balanced application; and, New Mexico bred horses on each application shall have preference over horses of comparable quality.

(4) Conditions:

(a) The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the commission and be posted in the racing secretary's office.

(b) Any conditions that are based on a participating horse's use or non-use of a drug substance or medication, or the presence or lack of presence of a drug substance or medication in a biological test sample taken from a participating horse, shall be agreed to in advance in writing by the acknowledged horsemen's organization, and approved by the commission before entries are taken for the race. If such conditions are based on the results of a biological test sample other than an official test sample collected by the commission, a description of the testing methods and procedures the racing association will use to collect and analyze the biological test samples shall be submitted to the commission for approval. For purposes of this section, "biological test sample" refers to any biological sample, including, but not limited to, blood, urine, hair, tissue, or saliva that is taken from a horse.

(c) For the purpose of establishing conditions, winnings shall be considered to include all monies won up to the time of the start of a race.

(d) Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

(e) A minimum of three races restricted to registered New Mexico bred horses shall be offered daily in the condition book excluding trials.

(5) Listing of horses: The racing secretary shall: examine all entry blanks and declarations to verify information as set forth therein; select the horses to start and the also eligible horses from the declarations in accordance with these rules.

(6) Posting of entries: Upon completion of the draw each day, the racing secretary shall post a list of entries in a conspicuous location in their office and make the list available to the media. If the racing secretary declares a race off, the names of entrants in that race shall be posted on the official bulletin board that day, identifying the race by number as it appears in the condition book.

(7) Daily program: The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(a) sequence of races to be run and post time for the first race;

(b) purse, conditions and distance for each race, and current track record for such distance;

(c) the name of the licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

(d) the name of the trainer and the name of the jockey named for each horse together with the weight to be carried;

(e) the post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

(f) identification of each horse by name, color, sex, age, sire and dam;

(g) a notice shall be included in the daily program stating that all jockeys may carry approximately three pounds more than the published and announced weights to account for inclement weather clothing and equipment when weighing in; and

(h) such other information as may be requested by the association or the commission.

(8) Nominations and declarations: The racing secretary shall examine nominations and

declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.

(9) Stakes and entrance money records: The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all entrance monies due are paid prior to entry for races conducted at the meeting.

D. Horsemen's bookkeeper:

(1) General authority: The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the association and commission may prescribe.

(2) Records:

(a) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

(b) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents.

(c) All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the association.

(d) All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the commission at any time.

(e) The association licensee is subject to disciplinary action by the commission for any violations of or non-compliance with the provisions of this rule.

(3) Monies and funds on account:

(a) All monies and funds on account with the horsemen's bookkeeper shall be maintained: separate and apart from monies and funds of the association; in a trust account designated as "horsemen's trust account"; in an account insured by the federal deposit and insurance corporation or the federal savings and loan insurance corporation.

(b) The horsemen's bookkeeper shall be bonded in accordance with commission stipulations.

(c) The amount of purse money earned is credited in the currency of the jurisdiction in which the race was run. There shall be no appeal for any exchange rate loss at the time of transfer of funds from another jurisdiction.

(4) Payment of purses:

(a) The horsemen's bookkeeper shall receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into their possession in accordance with the provision of commission rules.

(b) The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.

(c) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning such purse money.

(d) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within 48 hours of the completion of the race with respect to all horses not tested and when no timely appeal has been filed, and where a horse has been tested within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards or the commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies).

(e) Absent a prior request, the horsemen's bookkeeper shall disburse monies to the persons entitled to receive same within 15 days after the last race day of the race meeting, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards, and provided further that no protest or appeal has been filed with the stewards or the commission.

(f) In the event a protest or appeal has been filed with the stewards or the commission, the horsemen's bookkeeper shall disburse the purse within 48 hours of receipt of dismissal or a final

non-appealable order disposing of such protest or appeal.

E. Paddock judge:

(1) **General authority:** The paddock judge shall:

- (a) supervise the assembly of horses in the paddock before the scheduled post time for each race;
- (b) maintain a written record of all equipment;
- (c) insure all horses running are properly equipped with a nylon rein or a safety rein (a safety rein is a rein with a nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp);
- (d) inspect all equipment of each saddled and report any change thereof to the stewards;
- (e) prohibit any change of equipment without the approval of the stewards;
- (f) ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;
- (g) supervise paddock schooling of all horses approved for such by the stewards;
- (h) report to the stewards any observed cruelty to a horse; ensure that only properly authorized persons are permitted in the paddock; report to the stewards any unusual or illegal activities.

(2) **Paddock judge's list:**

- (a) The paddock judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.
- (b) At the end of each race day, the paddock judge shall provide a copy of the list to the stewards.
- (c) To be removed from the paddock judge's list, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock.

F. Horse identifier:

(1) **General authority:** The horse identifier shall: when required, ensure the safekeeping of digital or paper registration certificates and racing permits for horses stabled or racing on association grounds; inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting; examine every starter in the paddock for sex, color, markings lip tattoo or microchip (ISO11784), freeze brand or other approved method of positive identification, for comparison with its registration certificate to verify the horse's identity; supervise the tattooing, micro chipping, freeze branding or other approved method of positive identification, for identification of any horse located on association grounds. Positive identification may include verification that the breed registration certificate has been submitted for correction or verification that the tattooing process has been initiated.

(2) **Report violations:** The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

G. Clerk of scales: The clerk of scales shall: verify the presence of all jockeys in the jockeys' room at the appointed time; verify that all such jockeys have a current jockey's license issued by the commission; verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately; oversee the security of the jockeys' room including the conduct of the jockeys and their attendants; promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct; record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day; maintain the record of applicable winning races on all apprentice certificates at the meeting; release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; assume the duties of the jockey room custodian in the absence of such employee.

H. Jockey room custodian: The jockey room custodian shall: supervise the conduct of the jockeys and their attendants while they are in the jockey room; keep the jockey room clean and safe for all jockeys; ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses; keep a daily film list as displayed in plain view for all jockeys; keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available; allow only authorized or licensed persons access to the jockey room; for the purposes of this subsection, authorized persons are jockeys, jockey attendants, jockey room employees, starting gate personnel, track physician, stewards, commissioners and their duly authorized

representatives, and such other persons who in the determination of the stewards have a legitimate purpose or need related to the conduct of racing that requires that they have access to the jockey room; report to the stewards any unusual occurrences in the jockey room; and, ensure all jockey's whips are in compliance with Paragraph (1) of Subsection A of 15.2.5.13 NMAC.

I. Starter:

(1) **General authority:** The starter shall: have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start; appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate; in emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters; assign the starting gate stall positions to assistant starters by lot and notify the assistant starters prior to post time for the first race of their respective stall positions which will remain that assistant starter's position throughout the day; there shall be no changes except with permission of the stewards; assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; load horses into the gate in any order deemed necessary to ensure a safe and fair start.

(2) **Assistant starters:** With respect to an official race, the assistant starters shall not: handle or take charge of any horse in the starting gate without the expressed permission of the starter; impede the start of a race; apply any device, without the approval of the stewards to assist in loading a horse into the starting gate; slap, boot or otherwise dispatch a horse from the starting gate; strike or use abusive language to a jockey; accept or solicit any gratuity or payment other than their regular salary, directly or indirectly, for services in starting a race.

(3) **Starter's list:** No horse shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the supervision of the starter.

(4) **Report violations:** The starter and assistant starter shall report all unauthorized activities to the stewards.

J. Timer/clocker:

(1) **General authority (timer):**

(a) The timer shall accurately record the time elapsed between the start and finish of each race.

(b) The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.

(c) At the end of a race, the timer shall post the official running time on the infield totalisator board on instruction by the stewards.

(d) At a racetrack equipped with an appropriate infield totalisator board, the timer shall post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

(e) For back-up purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that three stopwatches are used by the stewards or their designees.

(f) The timer shall maintain a written record of fractional and finish times of each race and have same available for inspection by the stewards or the commission on request.

(2) **General authority (clocker):**

(a) The clocker shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

(b) Each day, the clocker shall prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout.

(c) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

K. Patrol judge: The patrol judge, when utilized, is responsible for observing the race and reporting information concerning the race to the stewards. If the track's video replay system is deemed adequate, use of patrol judges is optional.

L. Gate judge: The commission may require each track to employ a gate judge whose duties shall include being present at the starting gate just prior to the running of each race to observe and report any violations of

the rules to the stewards, and to otherwise assist the stewards as they may so order.

M. Placing judge:

(1) **General authority:** The placing judges shall determine the order of finish in a race as the horses pass the finish line, and with the approval of the stewards, may display the results of the totalisator board.

(2) **Photo finish:**

(a) In the event the placing judges or the stewards request a photo of the finish, the photo finish shall be posted on the totalisator board.

(b) Following their review of the photo finish film strip, the placing judges shall, with the approval of the stewards, determine the exact order of finish for all horses participating in the race, and shall immediately post the numbers of the first four finishers on the totalisator board.

(c) In the event a photo was requested, the placing judges shall cause a photographic print of said finish to be produced. The finish photograph shall, when needed, be used by the placing judges as an aid in determining the correct order of finish.

(d) Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four finishers, the stewards shall cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack.

(3) **Dead heats:**

(a) In the event the placing judges determine that two or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat shall, with the approval of the stewards, be declared.

(b) In the event one or more of the first four finishers of a race are involved in a dead heat, the placing judges shall post the dead heat sign on the totalisator board and cause the numbers of the horse or horses involved to blink on the totalisator board.

N. Official veterinarian: The official veterinarian shall:

- (1) be employed by the commission;
- (2) be a graduate veterinarian and be licensed to practice in the state;
- (3) recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;
- (4) supervise the taking of all specimens for testing according to procedures approved by the commission;
- (5) provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;
- (6) have the authority and jurisdiction to supervise the practicing licensed veterinarians within the enclosure;
- (7) report to the commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;
- (8) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;
- (9) place horses on the bleeder list and remove horses from the bleeder list;
- (10) place horses on the veterinarian's list that have been treated for a therapeutic purpose for any medication pursuant to Paragraph (9) of Subsection C of 15.2.6.9 NMAC and remove horses from the veterinarian's list when the criteria for removal pursuant to that subsection have been met; and
- (11) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing the horse to so act.

O. Racing veterinarian:

(1) **General authority:** At the discretion of the commission, the racing veterinarian may be an employee of the commission. At the discretion of the commission, the duties of the racing veterinarian may be assumed by the official veterinarian.

(2) The association may employ an additional racing veterinarian in order to further ensure the safety of racing.

(3) The racing veterinarian shall:

- (a) be directly responsible to the official veterinarian;
- (b) be a graduate veterinarian and be licensed to practice in the state;
- (c) be available to the racing secretary and the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be

requested by the stewards;

(d) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;

(e) inspect any horse when there is a question as to the physical condition of such horse;

(f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;

(g) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with their opinion as to the cause of the distress to the stewards and to the official veterinarian;

(h) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(i) refrain from directly treating or prescribing for any horse scheduled to participate during their term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(j) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing to so act;

(k) conduct soundness inspections on horses participating in races at the meeting; and

(l) with approval of the official veterinarian, place horses on the bleeders list.

(4) The official veterinarian or racing veterinarian shall maintain the veterinarian's list of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official or racing veterinarian that the horse is unfit to race.

(a) Horses so listed are ineligible to enter in a race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(b) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse may be released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(c) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(i) A minimum of seven calendar days has elapsed;

(ii) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(iii) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 for thoroughbreds or better; or 220 yards at 13.3 seconds for quarter horses or better while being observed by the official veterinarian or racing veterinarian, and;

(iv) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(d) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.9 NMAC.

(e) A horse placed on the veterinarian's list for the administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.8 NMAC.

(5) The racing veterinarian shall be present at the office of the racing secretary or stewards prior to scratch time each racing day at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards.

(6) The restrictions of Paragraph (3) of Subsection O of 15.2.3.8 NMAC may be waived for a temporary appointment to replace an absent racing veterinarian or in the event of an emergency situation with prior approval from the director of the commission.

(7) **Veterinarian's list:**

(a) The racing veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or medical condition.

(b) A horse may be removed from the veterinarian's list when, in the opinion of the racing veterinarian, the horse has satisfactorily recovered the capability of performing in a race.

P. Any other person designated by the commission: The commission may create additional racing official positions, as needed. Persons selected for these positions shall be considered racing officials and shall be subject to the general eligibility requirements outlined in Subsection A of 15.2.3 NMAC.

[15.2.3.8 NMAC - Rp, 15 NMAC 2.3.8, 4/13/2001; A, 11/15/2001; A, 8/30/2007; A, 6/15/2009; A, 6/30/2009; A, 12/1/2010; A, 5/1/2015; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019]

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 4 TYPES OF RACES

15.2.4.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.4.1 NMAC - Rp, 15 NMAC 2.4.1, 3/15/2001]

15.2.4.2 SCOPE: All persons participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, 15.2.7 NMAC and 16.47.1 NMAC.
[15.2.4.2 NMAC - Rp, 15 NMAC 2.4.2, 3/15/2001]

15.2.4.3 STATUTORY AUTHORITY: Sections 60-1A-1 through 60-1A-30 NMSA 1978 provides the authority of the New Mexico Racing Commission to establish rules and regulations deemed necessary to carry out the purposes of Chapter 60 NMSA 1978 pertaining to horse racing.
[15.2.4.3 NMAC - Rp, 15 NMAC 2.4.3, 3/15/2001; A, 9/15/2009]

15.2.4.4 DURATION: Permanent.
[15.2.4.4 NMAC - Rp, 15 NMAC 2.4.4, 3/15/2001]

15.2.4.5 EFFECTIVE DATE: March 15, 2001 unless a later date is cited at the end of a section.
[15.2.4.5 NMAC - Rp, 15 NMAC 2.4.5, 3/15/2001]

15.2.4.6 OBJECTIVE: The objective of Part 4 of Chapter 2 is to achieve the objective that all horse races be conducted fairly and honestly.
[15.2.4.6 NMAC - Rp, 15 NMAC 2.4.6, 3/15/2001]

15.2.4.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.4.7 NMAC - Rp, 15 NMAC 2.4.7, 3/15/2001]

15.2.4.8 CLAIMING RACES:

A. General Provisions:

(1) A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

(2) A filly or mare that has been bred is ineligible to enter into a claiming race unless a licensed veterinarian's certificate dated at least 25 days after the last breeding of that mare is on file with the racing secretary's office stating that the mare or filly is not in foal. However, an in-foal filly or mare shall be eligible to enter into a claiming race if the following conditions are fulfilled:

(a) full disclosure of such fact is on file with the racing secretary and such information is posted in the racing secretary's office;

(b) the stallion service certificate has been deposited with the racing secretary's office (although all information obtained on such certificate shall remain confidential);

(c) all payments due for the service in question and for any live progeny resulting from that service are paid in full;

(d) the release of the stallion service certificate to the successful claimant at the time of claim is guaranteed.

(3) The stewards may set aside and order recession of a claim for any horse from a claiming race run in this jurisdiction upon a showing that any party to the claim committed a prohibited action, as specified in Subsection E of 15.2.4 NMAC with respect to the making of the claim, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of these rules regarding claiming races. Should the stewards order a recession of a claim, they may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate.

(4) The successful claimant of a horse that tests positive for a substance that requires the

horse to be placed on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC shall be notified at the time the horse is placed on the steward's list. Once notified, the successful claimant has 72 hours in which to request the stewards to void the claim. If the claim is voided the stewards may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate. If the claim is not voided, all applicable time requirements and procedures pursuant to Subsection C of 15.2.6.9 NMAC shall follow the horse.

(5) A claim shall be voided if a horse is a starter as determined by the New Mexico racing commission, and the horse:

(a) dies on the track; or

(b) suffers an injury which requires euthanasia of the horse as determined by the official or racing veterinarian while the horse is on the track.

B. Claiming Option Entry:

(1) At the time of entry into a claiming race, the owner may opt to declare a horse ineligible to be claimed provided:

(a) the horse has been laid off and has not started for a minimum of 120 days since its last race; and

(b) the horse is entered for a claiming price equal to or greater than the claiming price of the horse's last start; and

(c) the horse's last race as an official starter was one in which the horse was eligible to be claimed.

(2) Failure to declare the horse ineligible at the time of entry may not be remedied.

(3) Ineligibility shall apply only to the first start following each such layoff.

C. Claiming of Horses:

(1) Any horse entered in a claiming race that is not present in the paddock at least 10 minutes to post will be scratched.

(2) Any horse in a race for claiming may not wear into the paddock anything it will not race in except for a blanket, rain sheet or halter and lead shank for control.

(3) Any horse starting in a claiming race is subject to be claimed for its entered price by any: licensed owner; holder of a valid claim certificate; licensed authorized agent acting on behalf of an eligible claimant.

(4) Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse enters the track to the post. The successful claimant shall become the owner of the horse regardless of whether it is alive or dead, sound or unsound, or injured during the race or after it.

D. Claim Certificate:

(1) An applicant for a claim certificate shall submit to the commission: an application for an owner's license and the required fee; the name of a licensed trainer, or person eligible to be a licensed trainer, who will assume the care and responsibility for any horse claimed.

(2) The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license.

(3) The claim certificate shall expire 30 days after the date of issuance, or upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first.

(4) A claim certificate may be renewed by the stewards during the same year.

E. Prohibitions:

(1) A person shall not claim a horse in which the person has a financial or beneficial interest as an owner or trainer.

(2) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(3) A person shall not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race.

(4) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

(5) A person shall not claim more than one horse in a race. No authorized agent shall submit more than one claim for the same horse in a race, even if the authorized agent represents several owners.

F. Procedure for Claiming:

(1) To make a valid claim for a horse, an eligible person shall:

(a) have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; and for all quarter horse claims shall also have on deposit in

their horsemen's account all fees for a rush transfer, not to exceed \$100.00, prior to entering;

(b) complete a written claim including information that the claimant holds a current valid license on a form furnished by the association and approved by the commission;

(c) identify the horse to be claimed by the spelling of its name on the certificate of registration or as spelled on the official program;

(d) place the completed claim form inside a sealed envelope furnished by the association and approved by the commission;

(e) have the time of day that the claim is entered recorded on the envelope;

(f) have the envelope deposited in the claim box no later than 10 minutes prior to post time of the race for which the claim is entered.

(2) After a claim has been deposited in the claim box, it is irrevocable and shall not be withdrawn from the claim box.

(3) Officials and employees of the association shall not provide any information as to the filing of claims until after the horses have entered the track to post.

(4) If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their representatives.

(5) Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

G. Transfer of Claimed Horses:

(1) Upon successful claim, the stewards shall issue, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

(2) A person shall not refuse to deliver a properly claimed horse to the successful claimant.

(3) Transfer of possession of a claimed horse shall take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the testbarn for post-race testing, the original trainer or their representative shall maintain physical custody of the claimed horse and shall observe the testing procedure and sign the test sample tag. The successful claimant or their representative shall also accompany the horse to the testbarn.

(4) When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

(5) Ownership interest in any horse claimed from a race shall not be resold or transferred for 30 days after such horse was claimed, except by claim from a subsequent race.

(6) A claimed horse shall not race elsewhere, except within state, or out of state stake races for a period of 30 days or the end of the meet, whichever occurs first.

(7) A claimed horse shall not remain in the same stable or under the control or management of its former owner.

[15.2.4.8 NMAC - Rp, 15 NMAC 2.4.8, 3/15/2001; A, 10/31/2006; A, 6/15/2009; A, 6/30/2009; A, 1/1/2013; A, 6/1/2016; A/E, 6/28/2016; A, 12/16/2016; A, 5/1/2019]

15.2.4.9 OTHER TYPES OF RACES:

A. Classified handicap is a free handicap race which contestants are assigned weights to be carried by the handicapper for the purpose of equalling their respective chances of winning. Assigned weights must be posted by 4:00 p.m. on the day prior to entry. In addition, all contestants must qualify for the race by starting for a specified claiming price or less within a specified time period (as stated in the conditions of the race). (For eligibility this race will be considered as a starter race for said claiming price.)

B. Optional claiming race is a contest restricted to horses entered to be claimed for a stated claiming price and to those, which have started previously for that claiming price or less. In the case of horses entered to be claimed in such a race, the race shall be considered, for the purpose of these rules, a claiming race. In the case of horses not entered to be claimed the race shall be considered an allowance race.

[15.2.4.9 NMAC - Rp, 15 NMAC 2.4.9, 3/15/2001; A, 3/30/2007]

HISTORY of 15.2.4 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1, Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981.

History of Repealed Material:

15 NMAC 2.4, Horse Racing - Types of Races (filed 9/29/1995) repealed 3/15/2001.

Other History:

That applicable portion of NMSRC 81-1, Rules Governing Horse Racing in New Mexico (filed 12/4/1981) was renumbered, reformatted and amended to 15 NMAC 2.4, Horse Racing - Types of Races, effective 10/14/1995.

15 NMAC 2.4, Horse Racing - Types of Races (filed 9/29/1995) was renumbered, reformatted and replaced by 15.2.4 NMAC, Horse Racing - Types of Races, effective 3/15/2001.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 5 HORSE RACE - RULES OF THE RACE

15.2.5.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.5.1 NMAC - Rp, 15 NMAC 2.5.1, 3/15/2001]

15.2.5.2 SCOPE: All persons, firms, or associations participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.6 NMAC, 15.2.7 NMAC, and 16.47.1 NMAC.
[15.2.5.2 NMAC - Rp, 15 NMAC 2.5.2, 3/15/2001]

15.2.5.3 STATUTORY AUTHORITY: Sections 60-1A-1 through 60-1A-30 NMSA 1978 provides the authority of the New Mexico Racing Commission to establish rules and regulations deemed necessary to carry out the purposes of Chapter 60 NMSA 1978 pertaining to horse racing.
[15.2.5.3 NMAC - Rp, 15 NMAC 2.5.3, 3/15/2001; A, 9/15/2009]

15.2.5.4 DURATION: Permanent.
[15.2.5.4 NMAC - Rp, 15 NMAC 2.5.4, 3/15/2001]

15.2.5.5 EFFECTIVE DATE: March 15, 2001, unless a later date is cited at the end of a section.
[15.2.5.5 NMAC - Rp, 15 NMAC 2.5.5, 3/15/2001]

15.2.5.6 OBJECTIVE: The objective of Part 5 of Chapter 2 is to achieve the objective that all horse races be conducted fairly and honestly.
[15.2.5.6 NMAC - Rp, 15 NMAC 2.5.6, 3/15/2001; A, 3/14/2018]

15.2.5.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.5.7 NMAC - Rp, 15 NMAC 2.5.7, 3/15/2001]

15.2.5.8 ENTRIES AND NOMINATIONS:

A. Entering: No horse shall be qualified to start unless it has been and continues to be entered.

B. Procedure:

(1) Entries and nominations shall be made with the racing secretary and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of one year.

(2) An entry shall be in the name of the horse's owner and made by the trainer or an assistant trainer. Any horse which is in a race or on the also-eligible list may not be sold or transferred until that obligation is completed, except with permission of the stewards.

(3) Numbered races printed in the condition book shall have preference over extra races. Should any race fail to draw seven separate wagering interests, it may be called off.

(4) An entry must be in writing, by telephone, electronically or facsimile machine to the racing secretary. The entry must be confirmed in writing should the stewards or the racing secretary so request.

(5) The person making an entry shall clearly designate the horse so entered.

(6) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

(7) No horse may be entered in more than one race (with the exception of stakes races) to be run on the same day at the same track on which pari-mutuel wagering is conducted. If a horse is entered in more than one stakes race to be run on the same day, at the time of draw, the trainer must declare which race the horse will run in.

(8) No horse may be entered to run at two different tracks on the same day on which pari-mutuel wagering is conducted.

(9) Any permitted medication must be declared on the original entry at each race meet. No further declaration will be required at that meet unless there is a change.

(10) Any approved change of equipment must be declared at time of entry. Any changes after that time must be approved by the stewards.

C. Nominations:

- (1) Any nominator to a stakes race may transfer or declare such nomination prior to closing.
- (2) Joint nominations and entries may be made by any one of joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due.
- (3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the nominator or transferee from liability for all stakes fees due. No fees paid in connection with a nomination to a stakes race that is run shall be refunded except as otherwise stated in the conditions of a stakes race.
- (4) Death of a nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges and obligations shall be attached to the legal heirs of the decedent or the successor owner of the horse.
- (5) When a horse is sold privately or at public auction or claimed, stakes engagements shall be transferred automatically to its new owner; except when the horse is transferred to a person whose license is suspended or who is otherwise unqualified to race or enter the horse, then such nomination shall be void as of the date of such transfer.
- (6) All stakes fees paid toward a stakes race shall be allocated as provided by the conditions for the race. If a stakes race is not run for any reason, all such nomination fees paid shall be refunded.

D. Closings:

- (1) Entries for purse races and nominations to stakes races shall close at the time designated by the association in previously published conditions for such races. No entry, nomination or declaration shall be accepted after such closing time; except in the event of an emergency or if an overnight race fails to fill, the racing secretary may, with the approval of a steward, extend such closing time.
- (2) Except as otherwise provided in the conditions for a stakes race, the deadline for accepting nominations and declarations is midnight of the day of closing, provided they are received in time for compliance with every other condition of the race.

E. Number of starters in a race: The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of starters may be further limited by the number of horses, which, in the opinion of the stewards, can be afforded a safe, fair and equal start.

F. Split or divided races:

- (1) In the event a race is cancelled or declared off, the association may split any overnight race for which postpositions have not been drawn.
- (2) Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split races.

G. Post positions: Post positions for all races shall be determined by lot and shall be publicly drawn in the presence of a steward or steward designee.

H. Also-eligible list:

- (1) If the number of entries for a race exceeds the number of horses permitted to start, the racing secretary may create and post an also-eligible list.
- (2) If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference. If none is preferred, a horse shall be drawn into the race from the also-eligible list by public lot. Horses which gain a position in a race from the also-eligible list take the outside post position in the order drawn from the also-eligible list.
- (3) Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled in that race.
- (4) If a scratch card is deposited for a horse listed as also-eligible, and if that horse is offered an opportunity to run by being drawn at scratch time, the horse shall lose its position on the preferred list.

I. Preferred list: The racing secretary shall maintain a list of each horse's registration date, entry date, and racing date. Preference will be given to the best date. A registration date can only be established when the foal certificate is on file with a racing secretary. An entry date is any time a horse passes the entry box, whether or not the race is in the condition book, or an extra, is used or eliminated. Entry dates have preference over race or registration dates of the same date. Any horse, which is scratched, will lose its date and must re-establish a date. All horses placed on the steward's, veterinarian's, starter's or identifier's list will be posted on the bulletin board, they will not lose their date, but they must meet the necessary requirements to be removed from a list.

[15.2.5.8 NMAC - Rp, 15 NMAC 2.5.8, 3/15/2001; A, 5/15/2001; A, 11/15/2001; A, 12/14/2001; A, 3/31/2003; A, 5/30/2003; A, 6/13/2003; A, 9/29/2006; A, 10/31/2006; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/18]

15.2.5.9 DECLARATIONS AND SCRATCHES: Declarations and scratches are irrevocable except with permission of the stewards.

A. Declarations:

(1) A "declaration" is the act of withdrawing an entered horse from a race prior to the closing of entries.

(2) The declaration of a horse before closing shall be made by the owner, trainer or their licensed designee in the form and manner prescribed in these rules.

B. Scratches:

(1) A "scratch" is the act of withdrawing an entered horse from a contest after the closing of entries.

(2) The scratch of a horse after closing shall be made by the owner, trainer or their licensed designee, with permission from the stewards.

(3) A horse may be scratched from a stakes race for any reason at any time up until 45 minutes prior to post time for that race.

(4) No horse may be scratched from an overnight race without approval of the stewards.

(5) In overnight races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than eight betting interests in the daily double or exotic wagering races, or horses representing more than eight betting interests in any other overnight race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(6) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness may not be accepted until the expiration of seven calendar days after such horse was scratched or excused and the horse has been removed from the veterinarian's list.

[15.2.5.9 NMAC - Rp, 15 NMAC 2.5.9, 3/15/2001; A, 10/31/2006; A, 3/14/2018]

15.2.5.10 WEIGHTS:

A. Allowances:

(1) Weight allowance including apprentice allowances must be claimed at time of entry and shall not be waived after the posting of entries, except by consent of the stewards.

(2) A horse shall start with only the allowance of weight to which it is entitled at time of starting, regardless of its allowance at time of entry.

(3) Horses not entitled to the first weight allowance in a race shall not be entitled to any subsequent allowance specified in the conditions.

(4) Claim of weight allowance to which a horse is not entitled shall not disqualify it unless protest is made in writing and lodged with the stewards at least one hour before post time for that race.

(5) A horse shall not be given a weight allowance for failure to finish second or back in any race.

(6) No horse shall receive allowance of weight nor be relieved extra weight for having been beaten in one or more races, but this rule shall not prohibit maiden allowances or allowances to horses that have not won a race within a specified period or a race of a specified value.

(7) Except in handicap, quarter horse races and races which expressly provide otherwise, two-year-old fillies shall be allowed three pounds, and fillies and mares, three-years-old and upward, shall be allowed five pounds before September 1 and three pounds thereafter in races where competing against male horses.

(8) A three pound weight allowance shall be allowed a registered New Mexico bred horse in all open races and in stakes races when included in the condition of the race. This allowance must be claimed at time of entry.

B. Penalties:

(1) Weight penalties are obligatory.

(2) Horses incurring weight penalties for a race shall not be entitled to any weight allowance for that race.

(3) No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race.

(4) Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.

(5) The reports, records and statistics as published by Daily Racing Form, Equibase or other recognized publications shall be considered official in determining eligibility, allowances and penalties, but may be corrected.

(6) When a race in dispute involves the winner of the race, both the horse that finished first and any horse claiming the win shall be liable to all penalties attaching to the winner of that race, until the matter is decided. In case of a positive test of the winner of a race, no horse other than the winner shall be liable to penalty of weight or condition until the case has been adjudicated; the ruling disqualifying the horse with the positive test issued; and all appeals exhausted.

C. Weight conversions: For the purpose of determining weight assignments and allowances for imported horses, the following weight conversions shall be used:

- (1) one kilogram equals two and one-fourth pounds, and
- (2) one stone equals 14 pounds.

D. Scale of Weights:

(1) With the exception of apprentice allowances, handicaps, three years old horses entered to run in races against horses four year olds and upwards, and the allowance provided in paragraph (2) of this subsection, no jockey shall be assigned a weight of less than 118 pounds. For three years old horses entered to run in races against horses four year olds and upwards from January 1 through August 31, no jockey shall be assigned a weight of less than 116 pounds.

(2) Except in handicaps, fillies two years old shall be allowed three pounds, and fillies and mares three years old and upward shall be allowed five pounds before September 1, and three pounds thereafter in races where competing against horses of the opposite sex.

(3) Quarter horses, minimum scale weights shall be 124 pounds for two years old, 126 pounds for three years old and 128 pounds for four year olds and older with the exception of handicap races.

(4) A notice shall be included in the daily program that all jockeys will carry approximately three pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures. Additionally, upon stewards' approval, jockeys may weigh in with an additional three pounds for inclement weather gear.

E. Distance conversions: For the purpose of determining eligibility, weight assignments and allowances for imported horses, the racing secretary shall convert metric distances to English measures by reference to the following scale:

Comparative table of distances

200 Meters	Equals	1 Furlong
1,000 Meters	Equals	5 Furlongs
1,200 Meters	Equals	6 Furlongs
1,400 Meters	Equals	7 Furlongs
1,600 meters	Equals	1 Mile
1,700 Meters	Equals	1 1/16 Miles
1,800 Meters	Equals	1 1/8 Miles
2,000 Meters	Equals	1 1/4 Miles
2,200 Meters	Equals	1 3/8 Miles
2,400 Meters	Equals	1 1/2 Miles
2,600 Meters	Equals	1 5/8 Miles
3,000 Meters	Equals	1 7/8 Miles
3,200 Meters	Equals	2 Miles
3,600 Meters	Equals	2 1/4 Miles
4,800 Meters	Equals	3 Miles

[15.2.5.10 NMAC - Rp, 15 NMAC 2.5.10, 3/15/2001; A, 1/1/2013; A, 6/1/2016; A, 5/1/2019; A, 5/1/2019; A, 02/25/2020]

15.2.5.11 WORKOUTS:

A. Requirements:

(1) A non-starter must have had within 60 days prior to time of entry at least two workouts recorded at a pari mutuel or commission recognized facility and posted with the racing secretary prior to time of

entry, one of the two workouts shall be from the starting gate, and be gate approved. It shall be the trainer's responsibility to establish validity as to workouts and gate approvals.

(2) Any horse which has started, but not within 60 days, must have at least one workout within 60 days prior to time of entry. Horses that have not started within six months of entry must have at least two approved workouts within the 60 days prior to time of entry. Any horse which has started, but not within 60 days, must have at least one workout within 60 days prior to time of entry. Horses that have not started within six months of entry must have at least two approved workouts within the 60 days.

(3) Horses that have never raced around the turn will be required to have within 30 days prior to time of entry, at least one workout at 660 yards or farther.

(4) Gate approvals at a licensed facility must be made by a licensed starter on a commission approved form.

B. Identification:

(1) Each horse must be properly identified prior to its participation in an official timed workout.

(2) The trainer or exercise rider shall bring each horse scheduled for an official workout to be identified by the clocker or clocker's assistant immediately prior to the workout.

(3) A horse may be properly identified by its lip tattoo or its digital tattoo immediately prior to participating in an official timed workout. A horse may also be properly identified by other approved methods of positive identification as described in Subsection F of 15.2.3.8 NMAC.

(4) The owner, trainer or rider shall be required to identify the distance the horse is to be worked and the point on the track where the workout will start.

C. Information dissemination: Information regarding a horse's approved timed workout(s) shall be furnished to the public prior to the start of the race for which the horse has been entered.

D. Restrictions: A horse shall not be taken onto the track for training or a workout except during hours designated by the association.

[15.2.5.11 NMAC - Rp, 15 NMAC 2.5.11, 3/15/2001; A, 3/30/2007; A, 6/15/2009; A, 7/5/2010; A, 1/1/2013; A, 3/15/2016; A, 12/16/16; A, 8/26/2017; A, 3/14/2018; A, 12/19/2019; A, 02/25/2020]

15.2.5.12 HORSES INELIGIBLE:

A. A horse shall be ineligible to start in a race when:

(1) it is not stabled on the grounds of the association or present by the time established by the commission;

(2) its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018 or thereafter, the horse doesn't have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the stewards' satisfaction;

(3) if a quarter horse or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter, is not micro chipped with a unique microchip (ISO11784), freeze brand or identified by any other method approved by the breed registry and commission.

(4) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, altered lip tattoo, altered or manipulated microchip (ISO11784), or freeze brand;

(5) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;

(6) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;

(7) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;

(8) the losing jockey mount fee is not on deposit with the horsemen's bookkeeper;

(9) its name appears on the starter's list, stewards' list or veterinarian's list;

- (10) it is a first time starter and has not been approved to start by the starter;
- (11) it is owned in whole or in part by an undisclosed person or interest;
- (12) it lacks sufficient official published workouts or race past performance(s);
- (13) it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;
- (14) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (15) it is subject to a lease not filed with the stewards;
- (16) it is not in sound racing condition;
- (17) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;
- (18) it has been trachea tubed to artificially assist breathing;
- (19) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (20) it has impaired eyesight in both eyes;
- (21) it is barred or suspended in any recognized jurisdiction;
- (22) it does not meet the eligibility conditions of the race;
- (23) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (24) its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the commission;
- (25) it is by an unknown sire or out of an unknown mare; or
- (26) there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission.

B. A horse shall be ineligible to be entered when:

- (1) it is the subject of a positive test for a prohibited substance in an official sample based on a final certificate of analysis received from the official laboratory during the period in which the adjudication process involving the violation is ongoing.
 - (a) In the event the horse is claimed in the race in which the horse allegedly ran with the prohibited substance, the new owner may enter the horse, unless the horse is ordered to go on the stewards' list pursuant to Subsection C of 15.2.6.9 (8)(a-e) NMAC.
 - (b) Should the horse be claimed thereafter by the owner of the horse in the race in which there was a positive test for a prohibited substance, the horse shall not be allowed to enter unless the adjudication process involving the prior violation is complete.
[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 3/15/2001; A, 7/15/2002; A, 8/30/2007; A, 6/15/2009; A, 1/1/2014; A, 9/15/2016; A, 12/19/2019]

15.2.5.13 RUNNING OF THE RACE:

A. Equipment:

- (1) All riding crops are subject to inspection and approval by the stewards and the clerk of scales. This rule will become effective December 10, 2010.
 - (a) All riding crops shall have a shaft and a flap and will be allowed in flat racing including training. No riding crop shall weigh more than eight ounces nor exceed 30 inches in length, including the flap. No riding crop shall be used unless the shaft is a minimum of three-eighths inch in diameter; and the shaft contact area 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.
 - (b) The flap is the only allowable attachment to the shaft and must meet the following specifications. The length beyond the end of the shaft shall be a maximum of one inch with a minimum width of eight-one hundredths inch and a maximum of one and six-tenths inches. There shall be no reinforcements or additions beyond the end of the shaft. There shall be no binding within seven inches of the end of the shaft and the flap must include shock absorbing characteristics similar to those of the contact area of the shaft.
- (2) No bridle shall exceed two pounds.
- (3) Reins. No jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout a horse on the grounds of a facility under the jurisdiction of the commission unless the horse is equipped with a nylon rein or a safety rein. A safety rein is a rein with a wire or

nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp.

(4) Toe grabs with a height greater than two millimeters worn on the front shoes of thoroughbred horses while racing are prohibited. The horse shall be scratched and the trainer may be subject to fine.

(5) A horse's tongue may be tied down with clean bandages, gauze or tongue strap.

(6) No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter, the paddock judge, and the stewards.

(7) No licensee may change any equipment used on a horse in its last race without approval of the paddock judge or stewards.

(8) Any licensed assistant starter and any licensee mounted on a horse or stable pony on the association grounds must wear a properly fastened New Mexico racing commission approved protective helmet and safety vest.

(a) The approved protective helmet and safety vest shall be worn when:

(i) racing, parading or warming up a horse prior to racing; or

(ii) jogging, training or exercising a horse at any time.

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

(i) American society for testing materials (ASTM 1163); or

(ii) UK standards (EN-1384 and PAS-015); or

(iii) Australian/New Zealand standard (AS/NZ 3838).

(c) The safety vest worn by a jockey shall weigh no more than two pounds and must comply with one of the following minimum standards or later revisions:

(i) British equestrian trade association (BETA):2000 level 1; or

(ii) euro norm (EN) 13158:2000 1; or

(iii) American society for testing and materials (ASTM) F2681-08 or F1937; or

(iv) shoe and allied trade research association (SATRA) jockey vests document M6 Issue 3; or

(v) Australian racing board (ARB) standard 1.1998.

(d) A safety helmet or safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

B. Racing numbers:

(1) Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

(2) In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

(3) Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

C. Jockey requirements:

(1) Jockeys shall report to the jockeys' quarters at the time designated by the association. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled except as approved by the stewards.

(2) A jockey who has not fulfilled all riding engagements, who desires to leave the jockeys' quarters, must first receive the permission of the stewards and must be accompanied by an association security guard.

(3) Except as otherwise provided by this subsection, a jockey engaged for a certain race or for a specified time may not fail or refuse to abide by the engagement agreement, unless excused by the stewards. Failure to fulfill riding engagements may result in disciplinary action.

(4) A jockey may be excused by the stewards from fulfilling the jockey's riding engagement if the jockey believes the horse he or she is to ride is unsafe, or the racecourse he or she is to ride on is unsafe, or the jockey is ill or injured, or other extenuating circumstances. No jockey may take off a mount for reasons of safety without first mounting and taking that horse to the track and/or commission veterinarian unless that horse is unruly in the paddock. In that event a jockey's fee is not earned.

(5) Any jockey unseated or thrown from their mount in the saddling paddock, during the parade to post, while being loaded in the starting gate, during the race, or after the race, may be required by the stewards to be examined by the paramedic, doctor or registered nurse before being allowed to ride. Refusal to be examined or receive medical treatment may be grounds for the stewards to take the rider off their mount for that race and any other races on that day. In the event the jockey is injured or unable to ride they shall be required to provide a doctor's medical release before they are allowed to resume participation in racing or training.

(6) The stewards may require a jockey who is excused from fulfilling a riding engagement, because of illness or injury, to pass a physical examination conducted by a licensed physician not employed by the association before resuming race riding.

(7) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' quarters other than commission personnel and officials, an owner or trainer for whom the jockey is riding or a representative of the regular news media, except with the permission of the stewards. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other person designated by the stewards.

(8) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than 30 minutes before post time for each race.

(9) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. In the event an owner or trainer elects to remove a jockey from his or her mount after naming a rider at the time of draw, the stewards may require a double jockey fee to be paid. The fee to be paid is equal to that earned by the jockey who rode the horse. The fee shall not be considered earned when a jockey(s), of their own free will, take themselves off their mounts, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above rule shall be at the discretion of the stewards. All jockey protests must be filed prior to the race.

(10) Only valets employed by the association shall assist jockeys in weighing out.

(11) A jockey's weight shall include their clothing, boots, saddle and its attachments and any other equipment except the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles and number cloth. Upon the stewards' approval, jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

(12) Five pounds is the limit of overweight any horse is permitted to carry.

(13) Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be re-admitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the stewards.

D. Paddock to post:

(1) Each horse shall carry the full weight assigned for that race from the paddock to the starting post, and shall parade past the stewards' stand, unless excused by the stewards. The post parade shall not exceed 12 minutes, unless otherwise ordered by the stewards. It shall be the duty of the stewards to ensure that the horses arrive at the starting gate as near to post time as possible.

(2) In the post parade, all pony persons, or trainers who pony horses, must wear upper body apparel in accordance with the policy of the commission.

(3) After the horses enter the track, no jockey may dismount nor entrust his horse to the care of an attendant unless, because of accident occurring to the jockey, the horse or the equipment, and with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the jockey, an assistant starter, the official veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

(4) If a jockey is seriously injured on the way to the post, the horse may be returned to the paddock and a replacement jockey obtained.

(5) After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner unless otherwise directed by the stewards. Once at the post, the horses shall be started without unnecessary delay.

(6) In case of accident to a jockey or their mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay, and may permit all jockeys to dismount and all horses to be attended to during the delay.

(7) If a jockey is thrown on the way from the paddock to the post, the horse must be remounted, returned to the point where the jockey was thrown and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

(8) If a horse leaves the course while moving from paddock to post, the horse shall be returned to the course at the nearest practical point to that at which it left the course, and shall complete its parade to the post from the point at which it left the course unless ordered scratched by the stewards.

(9) No person shall willfully delay the arrival of a horse at the post.

(10) The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start. An appointed representative may tail the horse with the starter's consent. In case of an emergency, the starter may grant approval for a horse to be tailed. In any case, the steward's shall be notified of who is tailing horses.

E. Post to finish:

(1) The start.

(a) The starter is responsible for assuring that each participant receives a fair start.

(b) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the stewards may declare such a horse a non-starter.

(c) Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse shall be declared a non-starter by the stewards.

(d) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may declare individual horses to be non-starters, excluding individual horses from all pari-mutuel pools or declare a "no contest" and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(2) Interference, jostling or striking.

(a) A jockey shall not ride carelessly or willfully so as to permit their mount to interfere with, impede or intimidate any other horse in the race.

(b) No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.

(c) No jockey shall unnecessarily cause their horse to shorten its stride so as to give the appearance of having suffered a foul.

(3) Maintaining a straight course.

(a) When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

(b) The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

(c) If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey.

(d) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

(4) Disqualification.

(a) When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horse as in their judgment it interfered with, or they may place it last.

(b) If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(c) When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(d) The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and trial qualification.

(e) In determining the extent of disqualification, the stewards in their discretion may: declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry; affirm the placing judges' order of finish and suspend or fine a jockey if, in the stewards' opinion, the foul riding did not affect the order of finish; disqualify the offending horse and not penalize a jockey if in the stewards'

opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

(5) Horses shall be ridden out: All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without adequate cause, even if the horse has no apparent chance to win prize money.

(6) Use of riding crops.

(a) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

(b) In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.

(c) No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.

(d) Riding crops shall not be used on two-year-old horses before March 1 of each year.

(e) Indiscriminate use of the whip is prohibited including whipping a horse: on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse; during the post parade or after the finish of the race except when necessary to control the horse; excessively or brutally causing welts or breaks in the skin; when the horse is clearly out of the race or has obtained its maximum placing; persistently even though the horse is showing no response under the riding crop; or striking another rider or horse.

(f) The riding crop shall only be used for safety, correction and encouragement.

(g) After the race, the horses will be subject to inspection by a racing or official veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the stewards.

(h) The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

(7) Horse leaving the racecourse. If a horse leaves the racecourse during a race, it must turn back and resume the race from the point at which it originally left the course.

(8) Returning after the finish.

(a) After a race has been run, the jockey shall ride promptly to the finish line, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(b) If a jockey is prevented from riding to the finish line because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

(9) Unsaddling. No person shall assist a jockey with unsaddling except with permission of the stewards and no one shall place a covering over a horse before it is unsaddled.

(10) Weighing in.

(a) A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight by more than two pounds and after consideration of mitigating circumstances by the board of stewards, his or her mount may be disqualified from any portion of the purse money.

(b) In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

(c) If any jockey weighs in at more than three pounds over the proper or declared weight, the jockey may be fined, suspended or ruled off by the stewards, having due regard for any excess weight caused by rain or mud. The case shall be reported to the commission for such action, as it may deem proper.

(d) Upon approval of the stewards, the jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

(e) The post-race weight of jockeys includes any sweat, dirt and mud that have accumulated on the jockey, jockey's clothing and jockey's safety equipment. This accounts for additional weight, depending on specific equipment, as well as weather, track and racing conditions.

(11) Dead heats.

(a) When a race results in a dead heat, the dead heat shall not be run off, owners shall divide except where division would conflict with the conditions of the races.

(b) When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

(c) In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

(d) When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses, which ran a dead heat, shall be deemed to have run a dead heat for first place.

(e) If the dividing owners cannot agree as to which of them is to have a cup or other prize, which cannot be divided, the question shall be determined by lot by the stewards.

(f) On a dead heat for a match, the match is off for pari-mutuel payoffs and mutuels are refunded.

[15.2.5.13 NMAC - Rp, 15 NMAC 2.5.13, 3/15/2001; A, 8/30/2007; A, 12/1/2008; A, 6/30/2009; A, 9/15/2009; A, 8/16/2010; A, 9/01/2010; A, 10/15/2014; A, 6/1/2016; A, 12/16/2016; A, 12/19/2019]

15.2.5.14 PROTESTS, OBJECTIONS AND INQUIRIES:

A. Stewards to inquire: The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by this chapter to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.

B. Race objections:

(1) An objection to an incident alleged to have occurred during the running of a race shall be received only when lodged with the clerk of scales, the stewards or their designees, by the owner, the authorized agent of the owner, the trainer or the jockey of a horse engaged in the same race.

(2) An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a "fast official" procedure is permitted.

(3) The stewards shall make all findings of fact as to all matters occurring during an incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determination shall be final for pari mutuel payout purposes.

C. Prior objections:

(1) Objections to the participation of a horse entered in any race shall be made to the stewards in writing, signed by the objector, and filed not later than one hour prior to post time for the first race on the day which the questioned horse is entered. Any such objections shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

(2) An objection to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

(a) a misstatement, error or omission in the entry under which a horse is to run;

(b) the horse, which is entered to run, is not the horse it is represented to be at the time of entry, or the age was erroneously given;

(c) the horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled the horse, or the weight to be carried is incorrect under the conditions of the race;

(d) the horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a race horse as provided in these rules;

(e) the horse was entered without regard to a lien filed previously with the racing secretary.

(3) The stewards may scratch from the race any horse, which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

D. Protests:

(1) A protest against any horse, which has started in a race, shall be made to the stewards in writing, signed by the protestor, and must be accompanied by a fee in the amount of \$500 in the form of a cashier's check, money order or personal check within 48 hours of the race. If the incident upon which the protest is based occurs within the last two days of the meeting, such protest may be filed with the commission within 48 hours

exclusive of Saturdays, Sunday or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

- (2) A protest may be made on any of the following grounds:
 - (a) any grounds for objection as set forth in this chapter;
 - (b) the order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers of the horses, which started the race;
 - (c) a jockey, trainer, owner or lessor was ineligible to participate in racing as provided in this chapter;
 - (d) the weight carried by a horse was improper, by reason of fraud or willful misconduct;
 - (e) an unfair advantage was gained in violation of the rules;
 - (f) the disqualification of a horse(s).
- (3) Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the stewards are satisfied that the allegations are bona fide and verifiable.
- (4) No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful or frivolous.
- (5) The commission may fine any license holder an amount of up to \$2,500 after considering protest, if based on the evidence they determine that the protest is frivolous, unreasonable or unnecessary.
- (6) If a license holder who appealed fails to appear for any scheduled hearing without providing five days prior notice, the stewards or the commission may impose costs.
- (7) The stewards may order any purse, award or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award or prize, the stewards or the commission may order such purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be subject to fines and suspension.

E. Race review committee:

- (1) If a timely objection concerning a race is filed in accordance with the rules, the agency director may refer the objection to the race review committee who shall consist of three members appointed by the commission. The agency director shall issue and send, or deliver, to the objecting party a notice of hearing stating the date, time and place at which the race review committee will hear the appeal. The notice of hearing shall also be sent, or delivered, to any trainer or owner the placement of whose horse may be affected by the outcome of the appeal. The race review committee shall review the official tape or tapes of the race. Affected parties shall be given the opportunity to state their positions to the committee.
- (2) The committee shall state its conclusions as to the merits of the objection and shall make a recommendation to the commission as to whether to uphold the stewards' determination, or to revise the order of finish. The commission shall then make the final determination as to the order of finish. The race review committee and the commission may only address the issues raised in the appeal filed.

[15.2.5.14 NMAC - Rp, 15 NMAC 2.5.14, 3/15/2001; A, 8/30/2001; A, 6/15/2004; A, 9/15/2009]

History of 15.2.5 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1, Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981.

History of Repealed Material:

15 NMAC 2.5, Horse Racing - Horse Race - Rules of the Race (filed 9/29/1995) repealed 3/15/2001.

Other History:

That applicable portion of NMSRC 81-1, Rules Governing Horse Racing in New Mexico (filed 12/4/1981) was renumbered, reformatted and amended to 15 NMAC 2.5, Horse Racing - Horse Race - Rules of the Race, effective 10/14/1995.

15 NMAC 2.5, Horse Racing - Horse Race - Rules of the Race (filed 9/29/1995) renumbered, reformatted and replaced by 15.2.5 NMAC, Horse Race - Rules of the Race, effective 3/15/2001.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 6 VETERINARY PRACTICES, EQUINE HEALTH, MEDICATION, AND TRAINER
RESPONSIBILITY

15.2.6.1 ISSUING AGENCY: New Mexico Racing Commission
[15.2.6.1 NMAC - Rp, 15 NMAC 2.6.1, 4/13/2001]

15.2.6.2 SCOPE: All persons participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15 NMAC 2.1, 15 NMAC 2.2, 15 NMAC 2.3, 15 NMAC 2.4, 15 NMAC 2.5, 15 NMAC 2.7 and 16.47.1 NMAC.
[15.2.6.2 NMAC - Rp, 15 NMAC 2.6.2, 4/13/2001]

15.2.6.3 STATUTORY AUTHORITY: Sections 60-1A-1 through 60-1A-30 NMSA 1978 provides the authority for the state racing commission to promulgate rules and regulations for enforcing Chapter 60 pertaining to horse race meetings in the state of New Mexico.
[15.2.6.3 NMAC - Rp, 15 NMAC 2.6.3, 4/13/2001; A, 9/15/2009]

15.2.6.4 DURATION: Permanent.
[15.2.6.4 NMAC - Rp, 15 NMAC 2.6.4, 4/13/2001]

15.2.6.5 EFFECTIVE DATE: April 13, 2001 unless a later date is cited at the end of a section.
[15.2.6.5 NMAC - Rp, 15 NMAC 2.6.5, 4/13/2001]

15.2.6.6 OBJECTIVE: To describe requirements and procedures used to protect the integrity of horse racing, to ensure the health and welfare of race horses and to safeguard the interests of the public and the participants in racing.
[15.2.6.6 NMAC - Rp, 15 NMAC 2.6.6, 4/13/2001; A, 7/31/2012; A, 12/19/2019]

15.2.6.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.6.7 NMAC - Rp, 15 NMAC 2.6.7, 4/13/2001]

15.2.6.8 VETERINARY PRACTICES:

A. Veterinarians under authority of official veterinarian: Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the official veterinarian and the stewards.

B. Treatment restrictions:

(1) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission.

(2) This subsection does not apply to the administration of the following substances pursuant to the restrictions set forth in 15.2.6.9 NMAC or as they may interfere with post-race testing:

(a) a recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(b) a non-injectable substance on the direction or by prescription of a licensed veterinarian;

(c) a non-injectable non-prescription medication or substance.

(3) No person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission, or a veterinary assistant licensed by the commission acting under the direct supervision of a licensed veterinarian, shall possess on any location under the jurisdiction of the commission any of the following unless approved by the commission:

(a) any drug which is a narcotic, stimulant, or depressant, or any other substance or medication that has been prepared or packaged for injection by a hypodermic syringe, or hypodermic needle;

(b) any hypodermic syringe, hypodermic needle or any equipment associated with the aid of intravenous administration.

(c) No veterinary assistant licensed by the commission shall be allowed to administer a prohibited item pursuant to Paragraph (3) of Subsection B of 15.2.6.8 NMAC.

(4) At any location under the jurisdiction of the commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the commission.

(5) If a person has a medical condition which makes it necessary to possess a prohibited item pursuant to Paragraph (3) of Subsection B of 15.2.6.8 NMAC, that person may:

(a) request permission of the stewards or the commission in writing;

(b) furnish a letter from a licensed physician explaining why it is necessary for the person to possess a prohibited item; and

(c) must comply with any conditions and restrictions set by the stewards or the commission.

(6) The recommended penalty (in absence of mitigating circumstances) for a violation of Paragraph (3) of Subsection B of 15.2.6.8 NMAC is a \$1,500 fine and a six month suspension. Additionally, the commission may order all horses under the trainer's care that are entered to race to be tested with the cost of testing borne by the trainer.

(7) Veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide under the guidelines set forth in Subsection D of 15.2.6.9 NMAC unless approved by the official veterinarian or in an emergency situation. Should an emergency occur during evening hours, the veterinarian shall notify the official veterinarian as soon as possible the following morning.

(8) Veterinarians may employ persons licensed by the commission as veterinary assistants to work under their direct supervision. Veterinary assistants shall not inject, directly treat, or diagnose any animal. The practicing veterinarian must be present on the grounds if a veterinary assistant has access to injection devices or injectable substances. The practicing veterinarian shall assume all financial and regulatory responsibility for the actions of their licensed veterinary assistant.

(9) Veterinarians who possess any pre-drawn injectable syringes containing any substance must also possess the partially filled or empty labeled source container from which the injectable substance was drawn. Pre-drawn syringes and the labeled source container from which it was drawn are subject to confiscation by the commission and are subject to testing by the official laboratory. The injectable substance must be clearly identified on each pre-drawn syringe.

(10) Veterinarians may possess and dispense compounded medications on association grounds under the following conditions:

(a) The medication is prepared and prescribed in a manner that meets the criteria for compounding established by the federal "Animal Medicinal Drug Use Clarification Act of 1994" (21 CFR 530) and any current food and drug administration compliance policy guides.

(b) The medication is prepared and prescribed in a manner that meets the criteria established in 16.19.30 NMAC by the New Mexico board of pharmacy.

(c) The medication is labeled in accordance with Subsection H of 15.2.6.9 NMAC.

C. Extracorporeal shock wave therapy or radial pulse wave therapy: The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

(1) Any extracorporeal shock wave therapy or radial pulse wave therapy machine, whether in operating condition or not, must be registered with and approved by the commission or its designee before such machine is brought to or possessed on any racetrack or training center within the jurisdiction of the commission.

(2) The use of extracorporeal shock wave therapy or radial pulse wave therapy within the jurisdiction shall be limited to veterinarians licensed to practice by the commission. Extracorporeal shock wave therapy or radial pulse wave therapy may only be performed with machines that are registered and approved for use by the commission; used at a previously-disclosed location that is approved by the commission; and must be reported within 24 hours prior to treatment on a prescribed form to the official veterinarian.

(3) Any treated horse shall not be permitted to race or breeze for a minimum of 10 days following treatment.

(4) Any horse treated with extracorporeal shock wave therapy or radial pulse wave therapy shall be added to a list of ineligible horses. This list shall be kept in the race office and accessible to the jockeys and their agents during normal business hours and be made available to other regulatory jurisdictions.

(5) A horse that receives any such treatment without full compliance with this section and similar rules in any other jurisdiction in which the horse was treated shall be placed on the stewards' list.

(6) Any person participating in the use of extracorporeal shock wave therapy or the possession of extracorporeal shock wave therapy machines in violation of this rule shall be considered to have committed a prohibited practice and is subject to a class A penalty.

D. Veterinarian's reports:

(1) Every veterinarian who treats a race horse at any location under the jurisdiction of the commission shall, in writing on a form approved by the commission, report to the official veterinarian the name of the horse treated, any medication, drug or substance administered or prescribed or administered, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian.

(2) The report shall be signed by the practicing veterinarian.

(3) The report will be made available to racing officials on request within a 48-hour period.

Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the commission, or to the trainer or owner of record at the time of treatment.

E. Veterinary compliance: The official veterinarian, racing veterinarian, and each practicing veterinarian shall comply with all federal and state statutes and applicable rules regulating veterinary practices as may be promulgated by the New Mexico board of veterinary medicine and the New Mexico board of pharmacy. [15.2.6.8 NMAC - Rp, 15 NMAC 2.6.8, 4/13/2001; A, 7/15/2002; A, 2/15/2012; A, 7/31/2012, A, 5/16/2014; A, 12/16/16; A, 9/26/2018; A, 5/1/2019]

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The classification guidelines contained within the "uniform classification guidelines for foreign substances and recommended penalties and model rule", January 2019 version 14.0 and "association of racing commissioners international inc. controlled therapeutic medication schedule for horses", version 4.0, revised April 20, 2017 by the association of racing commissioners international, are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

A. Penalties:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner's international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the association of racing commissioners international uniform classification guidelines for foreign substances.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(6) The recommended penalty for a violation involving a drug that carries a category “D” penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

(7) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

(8) Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(9) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.

(10) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

(11) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

(12) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean the licensee’s spouse or spouse’s mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean the licensee’s mother, father, brother, sister, son or daughter.

(c) No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

(13) Aggravating and Mitigating Factors:

(a) In reaching a decision on a penalty for a violation for the New Mexico horse racing act or New Mexico racing commission rules and regulations, the commission, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in paragraph (2) of this subsection and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors for which a greater penalty is appropriate.

(b) Mitigating circumstances and aggravating factors, which must be considered, include but are not limited to:

(1) The past record of the licensee regarding violations of the New Mexico horse racing act or New Mexico racing commission rules;

(2) the potential of the drug(s) to influence a horse's racing performance and the amount of the drug present;

(3) the legal availability of the drug and whether the drug was prescribed to the horse by a New Mexico racing commission licensed veterinarian;

(4) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) the steps taken by the trainer to safeguard the horse;

(6) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer.

An "unaffiliated trainer" means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed to the trainer from whose case such horse(s) were transferred.;

(7) the probability of environmental contamination or inadvertent exposure due to human drug use or other facts;

(8) the purse of the race;

(9) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented by an New Mexico racing commission licensed veterinarian;

(10) whether there was any suspicious wagering pattern on the race; or

(11) whether the licensed trainer was acting under the advice of an New Mexico racing commission veterinarian.

(c) The stewards shall consider the classification of a drug substance and the "uniform classification guidelines for foreign substances" if a determination is made that an official test sample from a horse contained;

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this section, or

(2) any drug substance, medication or chemical authorized by this section in excess of the authorized level or other restrictions as set forth in this section.

(d) Penalties for violation of each classification level are listed in Subsection B of 15.2.6.9 NMAC.

B. Penalty recommendations:

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
Licensed trainer:
1st offense:
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd lifetime offense in any jurisdiction:
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of the total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd lifetime offense in any jurisdiction:
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the total purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
2nd lifetime offense in owner's stable in any jurisdiction:
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
3rd lifetime offense in owner's stable in any jurisdiction:
Disqualification, loss of purse, \$50,000 fine. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered and referral to the commission with a recommendation of a suspension for a minimum of 90 days.

(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraphs (3) and (4) of Subsection N of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:

Licensed trainer:
1st offense:
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd offense (365-day period) in any jurisdiction:
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd offense (365-day period) in any jurisdiction:
A minimum 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse must pass a commission-approved examination before becoming eligible to be entered.

(3) Category C (**minor**) penalties will be assessed for violations due to the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (6) of Subsection N of 15.2.6.9 NMAC and overages for NSAIDs or for furosemide violations utilizing the following concentrations in serum or plasma:

- (a) phenylbutazone >2.0 mcg/ml and up to 5.0 mcg/ml; or
- (b) flunixin > 20 ng/ml and up to 100 ng/ml; or
- (c) ketoprofen > 2 ng/ml and up to 50 ng/ml; or
- (d) furosemide >100 ng/ml; or
- (e) no detectable furosemide concentration when identified as administered.

Recommended penalties for category C (**minor**) violations are as follows:

Licensed trainer:
1 st offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$500.
2 nd offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$750.
3 rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000.
Licensed owner:
1 st offense (365-day period) in any jurisdiction, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run.
2 nd offense (365-day period) in any jurisdiction, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run.
3 rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse and horse must pass a commission-approved examination before being eligible to run.

(4) Category C (**major**) penalties will be assessed for violations due to the presence of a drug carrying a category C penalty.

- (a) phenylbutazone >5.0 mcg/ml or

<p>(b) flunixin > 100 ng/ml or (c) ketoprofen > 50 ng/ml or (d) the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (5) of Subsection N of 15.2.6.9 NMAC; or (e) penalty class C drugs.</p>
<p>Recommended penalties for category C (major) violations are as follows:</p>
<p>Licensed trainer:</p>
<p>1st offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,000 absent mitigating circumstances.</p>
<p>2nd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,500 and 15 day suspension absent mitigating circumstances.</p>
<p>3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$2,500 and a 30 day suspension absent mitigating circumstances.</p>
<p>Licensed owner:</p>
<p>1st offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse in the absence of mitigating circumstances and the horse must pass a commission-approved examination before being eligible to run.</p>
<p>2nd offense (365-day period) in any jurisdiction, the penalty is disqualification, and loss of purse in the absence of mitigating circumstances. If same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run.</p>
<p>3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible to run.</p>

(5) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

(6) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter absent of aggravating factors.

(7) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee's record for penalty purposes.

C. Medication restrictions:

(1) A finding by the commission approved laboratory of a prohibited substance in an official sample of a horse is prima facie evidence that the prohibited substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race.

(2) Nothing in this part shall prevent a racing association from setting eligibility conditions, as agreed to with the acknowledged horsemen's organization, for individual races, or for its entire race meet, that prohibit the use or the presence of drug substances or medications in biological test samples collected from participating horses are detection levels lower than what is authorized by the commission. Such conditions if established in accordance with 1.2.3.5 NMAC shall not be deemed in conflict with the rules and regulations of the commission.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) There is no permissible concentration of clenbuterol or albuterol that is allowed to appear in any official sample. This includes samples collected from Quarter Horses and Thoroughbreds.

(5) The restrictions set forth in Paragraph (3) above do not apply to the following substances:
(a) Topical applications, such as antiseptics, ointments, salves, leg rubs and leg paints which may contain antibiotics (excluding procaine, penicillin and chloramphenicol) but which shall not contain ethanol, benzocaine, dimethylsulfoxide, lidocaine, steroids or other medications.

(b) Vitamins and electrolytes, provided the vitamins and electrolytes are administered orally and do not contain any medications.

(c) Mentholated products designed to be used and administered topically to the nostril areas.

(d) Products containing eucalyptus oil and peppermint oil, such as Wind-Aid, provided the products are administered orally and do not contain any medications.

(6) Commission personnel may at any time confiscate any material or devices used for the administration of any substance identified in Paragraph (5) above and submit it to the official laboratory for testing in order to ensure the contents are accurately identified.

(7) The use of a nebulizer or any similar device used to administer a drug or other substance by inhalation is not permitted on the day a horse is entered to race.

(8) Any horse that is the subject of a positive test report from the official laboratory for a drug in one of the following categories shall be placed immediately on the steward's list:

(a) any drug categorized by the association of racing commissioner's international "uniform classification guidelines for foreign substance and recommended penalties and model rule" incorporated by reference under 15.2.6.9 NMAC as a penalty class A substance;

(b) any prohibited anabolic androgenic steroid or any anabolic androgenic steroid in excess of the permitted concentrations listed in Subsection G of 15.2.6.9 NMAC;

(c) clenbuterol, albuterol, or other beta-agonist drugs with significant anabolic effects that are not currently penalty class A drugs (specifically Quarter Horses or Thoroughbreds);

(d) other drugs designed to promote growth or muscle including, but not limited to, growth hormones, somatotropins, insulin growth factors and gene modifying agents;

(e) cobalt in excess of the allowable concentration specified pursuant to Subsection L of 15.2.6.9 NMAC.

(9) Horses placed on the steward's list for a positive test for any of the substances listed in Paragraph (8) of Subsection C above shall remain on the steward's list for 60 days. The first day shall be considered the day following the date of the signed report from the official laboratory.

(10) In order to be removed from the steward's list and prior to entry, the following conditions shall be met:

(a) a minimum of 60 days must have elapsed;

(b) the horse must be presented to the test barn on or after day 60 for the official veterinarian to obtain blood, urine or hair samples;

(c) the collected samples must test negative for any substance identified in Paragraph (8) of Subsection C above;

(d) the cost of the testing, including applicable shipping costs, shall be borne by the licensed owner and must be paid in full at the time of shipment.

(11) If a split sample obtained under Subsection D of 15.2.6.10 NMAC does not confirm the original finding of the official laboratory of a positive test, the horse shall be removed from the steward's list.

(12) A practicing veterinarian that is licensed by the commission may prescribe a drug identified by Paragraph (8) of Subsection C above under the following conditions:

(a) the diagnosis justifying the prescribed drug, the dosage, the expected duration of treatment, the name of the horse and the name of the trainer must be submitted to the official veterinarian on a form prescribed by the commission;

(b) only FDA label-approved drugs for use in the horse may be prescribed;

(c) the horse shall be placed on the veterinarian's list for a period of time not less than 30 days after the last administration of the drug as prescribed;

(d) the horse must be presented to the test barn once eligible to be removed from the list for the official veterinarian to obtain blood or urine samples;

(e) the collected samples must test negative for the prescribed substance and any other substance identified in Paragraph (8) of Subsection C above;

(f) the cost of testing, including applicable shipping costs shall be borne by the licensed owner and must be paid in full at the time of shipment;

(g) horses placed on the veterinarian's list for the therapeutic use of any substance identified in Paragraph (8) of Subsection C above will be exempt from hair sampling for a six-month period following the last day of the reported treatment. Horses will be subject to out of competition blood and urine sampling during the treatment period pursuant to Subsection J of 15.2.6.9 NMAC to ensure that the concentration of drug found is within the range expected for the recognized therapeutic dose of the drug and will be subject to enhanced out of competition blood and urine sampling during the period exempt from hair sampling.

D. Furosemide:

(1) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the trainer enters the horse on furosemide on the entry card and only after the official veterinarian has placed the horse on the furosemide list. In order for a horse to be placed on the furosemide list, the following process must be followed:

(a) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official veterinarian or their designee shall be notified using the prescribed form that the horse is to be put on the furosemide list.

(b) The form must be received by the official veterinarian or their designee by the proper deadlines so as to ensure public notification.

(c) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or their designee, on the proper form, no later than the time of entry.

(d) After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official furosemide list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(e) Furosemide shall only be administered on association grounds.

(f) Furosemide shall be the only authorized bleeder medication.

(2) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which the horse is entered. A horse qualified for furosemide administration must be brought to the detention barn one hour prior to the four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or commission security supervision until called to the saddling paddock.

(3) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or their designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission: the racetrack name, the date and time the furosemide was administered to the entered horse; the dosage amount of furosemide administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide.

(4) Any veterinarian or veterinarian technicians participating in a third-party furosemide administration process under association requirements must be prohibited from working as private veterinarians or technicians on the racetrack or with participating licensees.

(5) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed.

(6) Quantitation of furosemide in serum or plasma shall be performed when specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

E. Bleeder list:

(1) The official veterinarian shall maintain a bleeder list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official or racing veterinarian.

(2) Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

(a) First incident - 10 days;

(b) Second incident within 365-day period - 30 days;

(c) Third incident within 365-day period - 180 days;

(d) Fourth incident within 365-day period - barred for racing lifetime.

(3) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(4) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

(5) A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(6) A horse, which has been placed on a bleeder list in another jurisdiction pursuant to these rules, shall be placed on a bleeder list in this jurisdiction.

F. Permissible medications with acceptable levels: The official urine or blood test sample may contain one of the following drug substances listed below or the drugs listed on “association of racing commissioners international inc. controlled therapeutic medication schedule”, their metabolites or analogs, in any amount that does not exceed the specified levels.

(1) **Atropine:** The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine.

(2) **Benzocaine:** The use of benzocaine shall be permitted under the following conditions: any horse to which benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine.

(3) **Dipyron:** The use of dipyron shall be permitted under the following conditions: any horse to which dipyron has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyron shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(4) **Flumethasone:** The use of flumethasone shall be permitted under the following conditions: any horse to which flumethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine.

(5) **Isoxsuprine:** The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(6) **Naproxen:** The use of naproxen shall be permitted under the following conditions: any horse to which naproxen has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of naproxen shall be administered in such dosage amount that the official test sample shall not exceed 5000 nanograms per milliliter of urine.

(7) **Pentoxifylline:** The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

(8) **Pyrilamine:** The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other

drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

G. Androgenic-anabolic steroids (AAS):

(1) No AAS shall be permitted in official samples collected from racing horses except for endogenous concentrations of the naturally occurring substances boldenone, nandrolone, and testosterone at concentrations less than the indicated thresholds.

(2) Concentrations of these AAS shall not exceed the following free (i.e., not conjugated) steroid concentrations in plasma or serum:

(a) Boldenone - a confirmatory threshold not greater than 25 picograms/milliliter for all horses, regardless of sex;

(b) Nandrolone - a confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares and geldings; male horses other than geldings shall be tested for nandrolone in urine (see Subparagraph (b) of Paragraph (3) of this subsection below):

(c) Testosterone - a confirmatory threshold not greater than 100 picograms/milliliter for fillies, mare and geldings.

(3) Total concentrations of these AAS shall not exceed the following total concentrations in urine after hydrolysis of conjugates;

(a) Boldenone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares and geldings; a confirmatory threshold not greater than 15 nanograms/milliliter in male horses other than geldings;

(b) Nandrolone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares, and geldings; a confirmatory threshold not greater than 45 nanograms/milliliter (as 5 α -estrane-3 β , 17 α -diol) of urine in males horses other than geldings;

(c) Testosterone - a confirmatory threshold of not greater than 55 nanograms/milliliter of urine in fillies and mares (unless in foal); a confirmatory threshold of not less than 20 nanograms/milliliter in geldings.

(4) Any other AAS are prohibited in racing horses.

(5) The presence of more than one of the three AAS identified in Paragraph (2) and (3) of this subsection at concentrations greater than the individual thresholds indicated above shall not be permitted.

(6) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for androgenic-anabolic steroids testing.

(7) If an AAS has been administered to a horse in order to assist in its recovery from illness or injury, that horse may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.

H. Medical labeling:

(1) No person on association grounds where horses are lodged or kept, excluding veterinarians licensed by the commission, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effect or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following:

(a) name, address, and telephone number of the pharmacy or veterinarian;

(b) prescription number when dispensed by a pharmacy if required by law;

(c) date prescription filled;

(d) name of the prescribing veterinarian;

(e) name of the horse for whom the medication is prescribed or dispensed;

(f) name of the trainer or owner of the horse for whom the product was dispensed;

(g) dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);

(h) name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number if applicable); and

- (i) cautionary statements (if any), and if applicable, withdrawal time.
- (3) The use of an expired medication is considered a violation of this rule.
- (4) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.
- (5) Any licensee that voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section. A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has commenced.

I. Alkalinizing substances: The use of agents that elevate the horses TCO₂ above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

- (1) the regulatory threshold for TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.
- (2) the decision level to be used for the regulation of TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.
- (3) such violation is that of a penalty class B drug.

J. Out of competition testing:

(1) A horse may be subject to out of competition testing without advance notice if the horse is:

- (a) on the grounds of a racetrack or training center under the jurisdiction of the commission;
- (b) under the care or control of a trainer or owner licensed by the commission; or
- (c) any horse whose papers are filed in the racing office; or
- (d) has been nominated to a stakes race; or
- (e) on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC.

(2) This rule applies to the detection of prohibited substances in out of competition official samples as follows:

(a) penalty class A drugs as listed with the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC;

(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hemopure, aranasep or any substance that abnormally enhances the oxygenation of body tissues;

(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia

(d) clenbuterol or albuterol present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC; and

(e) androgenic-anabolic steroids present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC.

(3) The penalty for a positive test resulting from an out of competition blood or urine sample will be determined by the penalty class of the drug listed in the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC.

(4) A horse with a positive test in an out of competition official sample for any substance identified under Paragraph (6) of Subsection C of 15.2.6.9 NMAC will be placed on the steward's list as per the conditions set forth in that subsection. Horses already on the steward's list for violations of Subsection C of 15.2.6.9 NMAC that have a positive out of competition test in a blood or urine sample for one of the substances identified in the referenced paragraph shall be placed on the steward's list for an additional, consecutive 60-day period.

(5) Horses to be tested may be selected at random, with probable cause or as determined by the commission or an agent of the commission.

(6) The commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time take an official sample from a horse for this purpose.

(7) Split samples shall be collected in accordance with Subsection B of 15.2.6.10 NMAC and shall be secured and made available for further testing in accordance with Subsection D of 15.2.6.10 NMAC.

(8) All horses selected for testing must be presented to the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, at the time designated, unless

the trainer or owner provides verification of an extenuating circumstance that makes it impossible. Penalties for violations of this subsection include:

(a) any horse not presented for testing upon notification absent extenuating circumstances will be placed immediately on the steward's list for a minimum of 60 days and shall be subject to all the requirements set forth in Paragraph (8) of Subsection C of 15.2.6.9 NMAC; and

(b) the licensed trainer of a horse not presented for testing upon notification and absent extenuating circumstances is a minimum license suspension of one year.

(9) Any licensee who does not comply with the rule or the commission veterinarian for a sample may be subject to disciplinary action.

(10) Cooperation with the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, includes:

(a) assisting in the immediate location and identification of the horse selected for out of competition testing; and

(b) assisting the veterinarian in properly procuring the samples.

(11) Out of competition samples will be sent to the official laboratory of the commission, or another laboratory as designated by the commission, with reports made in accordance with the provisions of the medication rules and the penalty provisions therefore.

K. Contraband:

(1) No person on association grounds or any premises under the jurisdiction of the New Mexico racing commission where horses are lodged or kept, excluding licensed veterinarians, shall have in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with Subsection H of 15.2.6.9 NMAC. This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person's personal property, effects or vehicle.

(2) The New Mexico racing commission may confiscate any contraband in violation of Subsection H of 15.2.6.9 NMAC and any drug or illegal substance that is found on association premises or any premises under the jurisdiction of the New Mexico racing commission which a licensed trainer occupies or has the right to occupy, or in that trainer's personal property, effects or vehicle in that trainer's care, custody or control.

(3) Upon finding a violation of this subsection, the stewards shall consider the classification level as it is listed in the uniform classification guidelines for foreign substances and recommended penalties as promulgated by Subsection A of 15.2.6.9 NMAC.

(4) If the contraband is required to be tested by the official laboratory, payment of all costs for testing shall be borne by the licensee upon final decision by the stewards that the substance is prohibited pursuant to these rules.

L. Environmental contaminants and substances of human use:

(1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction which may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds listed below:

(a) Arsenic - 0.3 micrograms per milliliter total arsenic in urine;

(b) Benzoylcegonine - 150 nanograms per milliliter in urine;

(c) Caffeine - 100 nanograms per milliliter of plasma or serum;

(d) Cathinone - 10 nanograms per milliliter in urine;

(e) Cobalt - 25 ppb in blood plasma or serum (penalties for cobalt vary depending on the concentration; see uniform classification guidelines for foreign substances for recommended penalty for concentrations of 25 parts per billion or greater of blood plasma or serum).

(f) Estranediol - 0.045 micrograms per milliliter, free + conjugated 5 α -estrane-3 β , 17 α -diol, in the urine of male horses other than geldings;

(g) Gamma Aminobutyric Acid - 110 nanograms per milliliter of plasma or serum;

(h) Hydrocortisone - 1 microgram per milliliter of urine;

- (i) Methoxytyramine - 4 micrograms per milliliter, free + conjugated in urine;
- (j) Morphine/morphine glucuronides - 100 nanograms per milliliter in urine;
- (k) Salicylate/Salicylic Acid - 750 micrograms per milliliter of urine or 6.5 micrograms per milliliter of serum or plasma;
- (l) Scopolamine - 75 nanograms per milliliter of urine;
- (m) Strychnine - 100 nanograms per milliliter of urine;
- (n) Theobromine - 2 micrograms per milliliter of urine or 0.3 micrograms per milliliter of serum or plasma; and
- (o) Theophylline - 400 nanograms per milliliter of urine.

M. Suspension of authorized medication:

(1) After a public meeting that has been noticed in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978, the commission may, for any cause, temporarily suspend the authorized administration to a horse of any drug, substance or medication that is otherwise permitted under the commission rules.

(2) The temporary suspension of the authorized administration of a drug, substance or medication may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions.

(3) The commission shall notify in writing the racing association, the trainer's organization, and licensed veterinarians of any temporary suspension of authorization to administer a drug, substance or medication to a horse entered to race. The written notification shall include at minimum:

- (a) the authorized medication is temporarily suspended,
 - (b) the period of time for which the use of the authorized medication is temporarily suspended; and
 - (c) whether the temporary suspension is for a specific breed or a race meeting.
- (4) A suspension of authorization to administer a drug, substance or medication to a horse entered to race shall not exceed 12 months.

N. Non-steroidal anti-inflammatory drugs (NSAIDs): The use of NSAIDs shall be governed by the following conditions:

(1) NSAIDs included in the "association of racing commissioner's international incorporated controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "association of racing commissioner's international incorporated controlled therapeutic medication schedule for horses" are not to be present in a racing horse's official sample above the official laboratory limit of detection.

(2) The presence of more than one NSAID may constitute a NSAID stacking violation.

(3) A NSAID stacking violation with a penalty class B occurs when two non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac - 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib - 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin - 20 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen - 2 nanograms per milliliter of plasma or serum;
- (e) Phenylbutazone - 2 micrograms per milliliter of plasma or serum; or
- (f) all other non-steroidal anti-inflammatory drugs - official laboratory limit of detection.

(4) A NSAID stacking violation with a penalty class B occurs when three or more non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac - 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib - 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin - 3 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen - 1 nanogram per milliliter of plasma or serum;
- (e) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum; or
- (f) all other non-steroidal anti-inflammatory drugs - official laboratory limit of detection.

(5) A NSAID stacking violation with a penalty class C (**major**) occurs when any one substance noted in Subparagraphs (a) through (e) of Paragraph (3) above is found in excess of the restrictions contained therein in combination with any one of the following substances at the following levels:

- (a) Flunixin - 3 nanograms per milliliter of plasma or serum but below 20 nanograms per milliliter of plasma or serum;
 - (b) Ketoprofen - 1 nanogram per milliliter of plasma or serum but below 2 nanograms per milliliter of plasma or serum;
 - (c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum but below 2 micrograms per milliliter of plasma or serum.
- (6) A NSAID stacking violation with a penalty class C (**minor**) occurs when any combination of two of the following non-steroidal anti-inflammatory drugs are found at concentrations between the noted restrictions:
- (a) Flunixin - 3 nanograms per milliliter of plasma or serum but below 20 nanograms per milliliter of plasma or serum;
 - (b) Ketoprofen - 1 nanogram per milliliter of plasma or serum but below 2 nanograms per milliliter of plasma or serum;
 - (c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum but below 2 micrograms per milliliter of plasma or serum.
- (7) Any horse to which a NSAID has been administered shall be subject to having a blood sample or urine sample, or both blood and urine sample(s), taken at the direction of the official veterinarian to determine the quantitative NSAID level(s).

O. Multiple Medication Violations (MMV):

(1) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a class 1-5 medication with penalty class A-C, as provided in the version of the ARCI "uniform classification guidelines for foreign substances" listed in 15.2.6.9 NMAC, or similar state regulatory guidelines, shall be assigned points as follows;

Penalty Class	Points If Controlled Therapeutic Substance	Points if Non-Controlled Substance
Class A	N/A	6
Class B	2	4
Class C	1/2 point for first violation with an additional 1/2 point for each additional violation within 365 days	1 for first violation with an additional 1/2 point for each additional violation with 365 days
Class D	0	0

Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation. If the stewards or the commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(2) The points assigned to a medication violation by the stewards or commission shall be included in the ARCI official database. The ARCI shall record points consistent with Paragraph (1) of this Subsection including when appropriate, a designation that points have been suspended for the medication violation. Points assigned by such commission ruling shall reflect, in the case of multiple positive tests as described in Paragraph (4) , whether they constitute a single violation. The stewards or commission ruling shall be posted on the official website of the commission and within the official database of the ARCI. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

(3) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the ARCI. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the commission in its determination to subject the trainer to the mandatory enhanced penalties by the stewards or commission as provided in this rule.

(4) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(5) The official ARCI record shall be used to advise the stewards or commission of a trainer's past record of violations and cumulative points. Nothing in this administrative regulation shall be construed to

confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(6) The stewards or commission shall consider all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(7) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in their official ARCI record:

POINTS	SUSPENSION IN DAYS
5 - 5.5	15 to 30
6 - 8.5	30 to 60
9 - 10.5	90 to 180
11 or more	180 to 360

MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

- (a) Has more than one medication violation for the relevant time period, and
- (b) exceeds the permissible number of points.

The stewards and commission shall consider aggravating and mitigating circumstances, including the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication penalty is intended to be a separate and additional penalty for a pattern of violations.

(8) The suspension periods as provided in this subsection shall run consecutive to any suspension imposed for the underlying offense.

(9) The stewards or commission ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards or commission review of the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

(10) Points shall expire as follows:

Penalty Classification	Time to Expire
A	3 years
B	2 years
C	1 year

In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 4/13/2001; A, 8/30/2001; A, 7/15/2002; A, 8/15/2002; A, 9/29/2006; A, 10/31/2006; A, 8/30/2007; A, 1/31/2008; A, 3/01/2009; A, 6/15/2009; A, 6/30/2009; A, 9/15/2009; A, 12/15/2009; A, 3/16/2010; A, 7/05/2010; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 4/30/2012; A, 7/31/2012; A, 12/14/2012; A, 5/1/2013; A/E, 5/2/2013; A, 9/30/2013; A, 4/01/2014; A, 5/16/2014; A, 8/15/2014; A, 9/15/2014; A, 3/16/2015; A, 9/16/15; A, 3/15/2016; A, 6/15/2016; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 10/31/17; A, 03/14/2018; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019]

15.2.6.10 TESTING:

A. Reporting to the test barn:

- (1) The official winning horse, or any other horses ordered by the commission or the stewards shall be taken to the test barn to have an official sample taken at the direction of the official veterinarian.
- (2) Random or extra testing may be required by the stewards or the commission at any time on any horse.
- (3) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

(4) A track security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 18-years-old, be currently licensed by the commission, display their commission identification badge and have a legitimate reason for being in the test barn area.

B. Sample collection:

(1) Sample collection shall be done in accordance to guidelines and instruction provided by the New Mexico racing commission official veterinarian or the New Mexico racing commission agency director.

(2) The official veterinarian shall determine a minimum sample volume requirement for the primary testing laboratory. A primary testing laboratory must be accredited by ISO 17025 and approved by the commission.

(3) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

(4) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

(5) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(6) No split samples will be collected for determination of TCO₂ levels.

C. Alkalinizing substances:

(1) Blood samples for TCO₂ and base excess testing should be collected 45 minutes (+ or - 15 min) pre-race and approximately three hours after furosemide administration. The samples must be handled in a consistent manner and cannot be frozen. If samples are obtained pre-furosemide a lower regulatory threshold is necessary and the horse must be kept in a secure barn until race time.

(2) The provisions of this rule pertaining to sample collection shall not apply to blood samples drawn for TCO₂ analysis.

(3) Blood samples must be processed and tested within 120 hours using standardized, reproducible, validated procedures.

D. Storage and shipment of split samples:

(1) Split samples obtained in accordance with Paragraphs (3) and (4) Subsection B, of 15.2.6.10 NMAC above shall be secured and made available for further testing. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer or other secured mechanism at a secure location as provided by state statute or approved by the commission.

(2) A trainer, owner or designee of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another testing laboratory that is accredited by ISO 17025 and approved by the commission. The ISO 17025 requirement may only be waived by the commission for the purpose of a split sample test involving a hair sample. The request must be made and confirmed with the commission not later than 48 hours excluding weekends and holidays after the trainer of the horse receives notice of the findings of the primary laboratory. The trainer's first choice, second choice and third choice of laboratories, for the split sample to be sent to, shall be listed within that 48 hours and kept on file with the horsemen's association. Any request not received within the specified deadline shall be considered a positive test. Any split sample so requested must be shipped within seven working days after the trainer's 48 hour deadline or the New Mexico horsemen's association may be subject to disciplinary action.

(3) The owner, trainer or designee requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the commission or the commission's designee shall constitute a waiver of all rights to split sample testing. Prior to shipment, the owner, trainer or designee shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the commission, and arrangements for payment satisfactory to the split sample laboratory.

(4) Prior to opening the split sample freezer or any other secure split sample storage mechanism, the commission shall ensure that the standard operating procedure for the handling and shipping of the split sample are followed and documented. Standard operating procedure for the handling and shipping of a split sample shall include documentation of the following at a minimum:

(a) the date and time the sample is removed from the split sample freezer or other secured mechanism;

(b) the sample number;

(c) the address where the split sample is to be sent;

- shipment;
- (d) the name of the carrier and the address where the sample is to be taken for shipment;
 - (e) verification the owner, trainer or designee received the split sample from the freezer or other secured mechanism;
 - (f) verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and,
 - (g) the date and time custody of the sample is transferred to the carrier.
- (5) A split sample shall be removed from the split sample freezer or other secured mechanism by a commission representative in the presence of the owner, trainer or designee.
- (6) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the commission, in accordance with the packaging procedures recommended by the commission. A form shall be signed by both the horsemen's representative and the commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.
- (7) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission-approved laboratory selected by the owner or trainer.
- (8) The owner, trainer or designee and the commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.
- (9) All documents verifying the handling and shipping of the split sample chain of custody shall be completed and signed by the representatives of the commission and the owner, trainer or designee. A commission representative shall keep all original documents and provide copies for the owner, trainer or designee.

E. Official state racing chemist: The state racing commission may hire or contract with a qualified chemist to act as the official state racing chemist. The duties of the official state racing chemist may include, but shall not be limited to the following:

- (1) review and evaluate scientific data submitted by the official testing laboratory concerning any race horse's positive drug test;
- (2) submit a written report to the agency director of the racing commission concerning a positive test, certifying the positive test as such, or that the test does not constitute a positive test based on the scientific data submitted by the official testing laboratory; if the test does not constitute a positive test it may be referred back to the laboratory for further testing;
- (3) in the event that a split sample is sent for independent testing and the result of that test does not confirm with the results of the primary testing laboratory, the official state racing chemist shall review all scientific data submitted by the laboratory which tested the split and make recommendations to the agency director;
- (4) appear before the racing commission as an expert witness, as needed in matters concerning chemical testing for drugs and medications;
- (5) consult with the racing commission in matters concerning chemical testing for drugs and medication as the need arises;
- (6) at the request of the commission, inspect the official testing laboratory and the racetrack collection facilities to insure their compliance with, and use of, proper scientific techniques and procedures.

[15.2.6.10 NMAC - Rp, 15 NMAC 2.6.10, 4/13/2001; A, 3/30/2007; A, 9/1/2010; A, 7/31/2012; A, 5/1/2013; A, 5/16/2014; A, 6/15/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018]

15.2.6.11 TRAINER RESPONSIBILITY: The purpose of this subsection is to identify responsibilities of the trainer that pertain specifically to the health and wellbeing of horses in their care.

A. The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a commission-approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer is responsible.

B. A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

C. A trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.

D. The trainer is responsible for: maintaining the assigned stable area in a clean, neat and sanitary condition at all times; using the services of those veterinarians licensed by the commission to attend horses that are on association grounds.

E. Additionally, with respect to horses in their care or custody, the trainer is responsible for:

- (1) the proper identity, custody, care, health, condition and safety of horses;
- (2) having each horse in their care that is racing, or is stabled on association grounds, tested for equine infectious anemia (EIA) and for filing evidence of such negative test results with the racing secretary as required by the commission;
- (3) immediately reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;
- (4) promptly reporting to the racing secretary and the official veterinarian when a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;
- (5) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in their charge;
- (6) promptly reporting the serious injury or death of any horse at locations under the jurisdiction of the commission to the stewards and the official veterinarian and compliance with the rules in this part governing postmortem examinations;
- (7) maintaining knowledge of the medication record and status;
- (8) immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;
- (9) ensuring the fitness to perform creditably at the distance entered;
- (10) ensuring that every horse entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed in this part;
- (11) ensuring proper bandages, equipment and shoes;
- (12) presence in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;
- (13) personally attending in the paddock and supervising the saddling thereof, unless excused by the stewards;
- (14) attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so;
- (15) immediately reporting to the stewards any administration of any medication or drugs, except as provided, within 24 hours of post time of the race in which the horse has been entered;
- (16) immediately submitting to the official veterinarian and the racing secretary the necessary forms to scratch any horse treated with any medication, or drug, within 24 hours of the post time of the race in which the horse has been entered unless such treatment is permitted herein.

[15.2.6.11 NMAC - Rp, 15 NMAC 2.6.11, 4/13/2001; A, 8/30/2007; A, 7/31/2012]

15.2.6.12 PHYSICAL INSPECTION OF HORSES:

A. Assessment of racing condition:

- (1) Every horse entered to participate in an official race may be subjected to a veterinary inspection prior to starting in a race for which it is entered.
- (2) The inspection shall be conducted by the official veterinarian or the racing veterinarian.
- (3) The agency or the association employing the examining veterinarian(s) should provide a staffing level of not less than two veterinarians.
- (4) The trainer of each horse or a representative of the trainer must present the horse for inspection as required by the examining veterinarian. Horses presented for examination must have bandages removed and the legs must be clean. Prior to examination horses may not be placed in ice nor shall any device or substance be applied that impedes veterinary clinical assessment.
- (5) The assessment of a horse's racing condition shall be based on the recommendations of the American association of equine practitioners and shall include: proper identification of each horse inspected; observation of each horse in motion; manual palpation and passive flexion of both forelimbs; clinical observation in the paddock and saddling area, during the parade to post and at the starting gate; any other inspection deemed necessary by the official veterinarian and the racing veterinarian or the stewards.
- (6) Every horse shall be observed by the racing veterinarian during and after the race.

(7) The official veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

(8) The official veterinarian or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

(9) If, prior to starting, a horse is determined to be unfit for competition, or if the veterinarian is unable to make a determination of racing soundness, the veterinarian will recommend to the stewards the horse be scratched.

(10) Horses scratched upon the recommendation of the official veterinarian or the racing veterinarian, are to be placed on the veterinarian's list.

(11) All pre-race examination reports on each horse selected for a pre-race examination will be submitted to the commission on a monthly basis. In addition, these reports will be made available to the commission upon request within a 48-hour period.

B. Veterinarian's list:

(1) The official veterinarian or racing veterinarian shall maintain the veterinarian list of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official veterinarian or racing veterinarian that the horse is unfit to race.

(2) Horses so listed are ineligible to enter to race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(3) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse maybe released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(4) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(a) A minimum of seven calendar days has elapsed;

(b) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(c) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 seconds or better for thoroughbreds; or 220 yards at 13.3 seconds or better for quarter horses while being observed the official veterinarian or racing veterinarian, and;

(d) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(5) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Paragraph (1) of C of 15.2.6.9 NMAC.

(6) A horse placed on the veterinarian's list for administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C. of 15.2.6.8.

C. Postmortem examination:

(1) The commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) The commission may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the commission shall take possession of the horse upon death for a postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(4) If a postmortem examination is to be conducted, the commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The commission may submit blood, urine, bodily fluid, or other biologic specimens collected during a postmortem examination for testing analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) Requests for each postmortem examination shall be filed with the official veterinarian by the owner's or trainer's veterinarian within one hour of the death and shall be submitted on a necropsy submission

form entitled New Mexico racing commission necropsy submission form, hereby incorporated by reference and which is available at all official veterinarian offices and all stable gates. The trainer or their designee is responsible to supply all information to complete this form.

(6) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

(7) Postmortem examinations shall be conducted according to the most recent edition of the American association of equine practitioners' guidelines for the necropsy of racehorses.

(8) Upon completion of the postmortem examination the diagnostic laboratory shall file a written report with the racing commission's agency director and official veterinarian.

(9) The owner or the owner's authorized agent will be responsible for all costs of a postmortem examination, i.e., testing fees, transportation of the horse, disposal, etc., when the results of a postmortem examination constitute a violation of the New Mexico racing commission rules.

[15.2.6.12 NMAC - Rp, 15 NMAC 2.6.12, 4/13/2001; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 7/31/2012; A, 12/19/2019]

History of 15.2.6 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1., Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981;

History of Repealed Material:

15 NMAC 2.6, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, filed 9/29/1995 repealed in its entirety; renumbered, reformatted and replaced by 15.2.6 NMAC, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, to conform to the new NMAC requirements effective 4/13/2001.

Other History:

NMSRC 81-1, Rules Governing Horse Racing in new Mexico, filed 12/4/1981 - that applicable portion renumbered, reformatted and amended to 15 NMAC 2.6, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, filed 9/29/1995.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 2 HORSE RACING
PART 7 PARI MUTUEL WAGERING

15.2.7.1 ISSUING AGENCY: New Mexico Racing Commission.
[15.2.7.1 NMAC - Rp, 15 NMAC 2.7.1, 3/15/2001]

15.2.7.2 SCOPE: General Public and all persons, firms, or associations participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, and 16.47.1 NMAC.
[15.2.7.2 NMAC - Rp, 15 NMAC 2.7.2, 3/15/2001]

15.2.7.3 STATUTORY AUTHORITY: Section 60-1A-1 through 60-1A-4 NMSA 1978 created the state racing commission and delegated its powers for the promulgation of rules for holding, or engaging in, horse race meetings in the state of New Mexico; mandates the commission regulate the pari mutuel system of wagering; Section 60-1A-15 NMSA 1978 provides that within the enclosure where any horse races are conducted, either as live on-track horse races or as horse races simulcast, and where the licensee has been licensed to use the pari mutuel method of system of wagering on races, the pari mutuel system is lawful, but only within the enclosure where races are conducted; and Section 60-A-16 NMSA 1978 and Section 60-1A-17 NMSA 1978 allow the racing commission to permit interstate and intrastate simulcasting of races and common pooling.
[15.2.7.3 NMAC - Rp, 15 NMAC 2.7.3, 3/15/2001; A, 9/15/2009]

15.2.7.4 DURATION: Permanent.
[15.2.7.4 NMAC - Rp, 15 NMAC 2.7.4, 3/15/2001]

15.2.7.5 EFFECTIVE DATE: March 15, 2001 unless a later date is cited at the end of a section.
[15.2.7.5 NMAC - Rp, 15 NMAC 2.7.5, 3/15/2001]

15.2.7.6 OBJECTIVE: To achieve the objectives that all pari mutuel wagering is lawful and licensed; establish procedures for interstate/intrastate simulcasting and interstate common-pool wagering.
[15.2.7.6 NMAC - Rp, 15 NMAC 2.7.6, 3/15/2001; A, 12/19/2019]

15.2.7.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
[15.2.7.7 NMAC - Rp, 15 NMAC 2.7.7, 3/15/2001]

15.2.7.8 GENERAL PROVISIONS:

A. General: Each association shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the commission. The totalisator shall be tested prior to and during the meeting as required by the commission. Each association shall make reasonable provisions for providing a backup system in case of a mechanical failure. The association is required to report to the commission on the backup system so provided.

B. Records:

(1) The association shall maintain records of all wagering so the commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each association and safeguarded for a period of time specified by the commission. The commission may require that certain of these records be made available to the wagering public at the completion of each contest.

(2) The association shall provide the commission with a list of the licensed individuals afforded access to pari-mutuel records and equipment at the wagering facility.

C. Pari-Mutuel Tickets:

(1) A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the association and is evidence of the obligation of the association to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The association shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold, and for a 60 day period after the last day of the meeting.

(2) To be deemed a valid pari-mutuel ticket, such ticket shall have been recorded by a pari-mutuel ticket machine operated by the association and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

- (a) the name of the association operating the meeting;
- (b) a unique identifying number or code;
- (c) identification of the terminal at which the ticket was issued;
- (d) a designation of the performance for which the wagering transaction was issued;
- (e) the contest number for which the pool is conducted;
- (f) the type or types of wagers represented;
- (g) the number or numbers representing the betting interests for which the wager is

recorded;

(h) the amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

(3) No pari-mutuel ticket recorded or reported as previously paid, cancelled, or non-existent shall be deemed a valid pari-mutuel ticket by the association. The association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in Subsection D of 15.2.7 NMAC of these general provisions.

D. Pari-Mutuel Ticket Sales:

(1) Pari-mutuel tickets shall not be sold by anyone other than an association licensed to conduct pari-mutuel wagering.

(2) No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalisator is closed for wagering on such contest.

(3) Claims pertaining to a mistake on an issued ticket, or a mistake involving failure to issue a ticket, must be made by the bettor prior to leaving the seller's window. Cancellation or exchange of tickets issued shall not be permitted after a patron has left a seller's window except in accordance with written policies established by the association and approved by the commission.

(4) Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official". Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the stewards or commission shall in no way affect the pari-mutuel payout. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payout prices may be corrected and an announcement concerning the change shall be made to the public.

(5) The association shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the commission.

(6) The association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

(7) No person under eighteen (18) years of age is permitted to purchase or cash a pari-mutuel ticket. It shall be the duty of the pari-mutuel employees to demand proof of age from any person whose age, as it pertains to this rule, is doubtful.

E. Advance Performance Wagering: No association shall permit wagering to begin more than four days before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the commission.

F. Claims for Payment from Pari-Mutuel Pool:

(1) At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by the association in any case where the association has withheld payment or has refused to cash a pari-mutuel wager. The claim shall be made on such form as approved by the commission, and the claimant shall make such claim under penalty of perjury. The original of such claim shall be forwarded to the commission within 48 hours.

(2) In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in Paragraph (2) of Subsection C of 15.2.7 NMAC of these general provisions, the association shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

(3) In the case of a claim made for payment on a pari-mutuel wager, the commission shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the association, or may deny the claim, or may make such other order as it may deem proper.

G. Payment for Errors: If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed; and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

(1) verification is required to show that the amount of the commission, the amount in breakage, and the amount in payouts is equal to the total gross pool; if the amount of the pool is more than the amount used to calculate the payout, the underpayment shall be added to the corresponding pool of the next contest; if underpayments are discovered after the close of the meeting, the underpayment shall be held in an interest-bearing account approved by the commission until being added, together with accrued interest, to the corresponding pool of the next meeting;

(2) any claim not filed with the association within 60 days, inclusive of the date on which the underpayment was publicly announced, shall be deemed waived; and the association shall have no further liability therefore;

(3) in the event the error results in an overpayment to winning wagers, the association shall be responsible for such payment.

H. Betting Explanation: A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on association grounds and available upon request through association representatives.

I. Display of Betting Information:

(1) Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.

(2) The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the commission.

(3) Official results and payouts must be displayed upon each contest being declared official.

J. Cancelled Contests: If a contest is cancelled or declared "no contest", refunds shall be granted on valid wagers in accordance with these rules.

K. Refunds:

(1) Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(a) win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two;

(b) place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three;

(c) show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four.

(2) Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

L. Coupled Entries and Mutuel Fields:

(1) Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

(2) For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

M. Pools Dependent upon Betting Interests: Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

(1) may offer win, place, and show wagering on all contests with six or more betting interests;

(2) may be allowed to prohibit show wagering on any contest with five or fewer betting interests scheduled to start;

- (3) may be allowed to prohibit place wagering on any contest with four or fewer betting interests scheduled to start;
- (4) may be allowed to prohibit quinella wagering on any contest with three or fewer betting interests scheduled to start;
- (5) may be allowed to prohibit quinella double wagering on any contests with three or fewer betting interests scheduled to start;
- (6) may be allowed to prohibit exacta wagering on any contest with three or fewer betting interests scheduled to start;
- (7) may prohibit trifecta wagering on any contest with seven or fewer betting interests scheduled to start;
- (8) may prohibit superfecta wagering on any contest with seven or fewer betting interests scheduled to start;
- (9) may be allowed to prohibit twin quinella wagering on any contests with three or fewer betting interests scheduled to start;
- (10) may prohibit twin trifecta wagering on any contests with seven or fewer betting interests scheduled to start;
- (11) may prohibit tri-superfecta wagering on any contests with seven or fewer betting interests scheduled to start;
- (12) may prohibit twin superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

N. Prior Approval Required for Betting Pools:

- (1) An association desiring to offer new forms of wagering must apply in writing to the commission and receive written approval prior to implementing the new betting pool.
- (2) The association may suspend previously approved forms of wagering with the prior approval of the commission. Any carryover shall be held until the suspended form of wagering is reinstated. An association may request approval of a form of wagering or separate wagering pool for specific performances.

O. Closing of Wagering in a Contest:

- (1) A commission representative shall close wagering for each contest after which time no pari-mutuel tickets shall be sold for that contest.
- (2) The association shall maintain, in good order, a system approved by the commission for closing wagering.

P. Complaints Pertaining to Pari-Mutuel Operations:

- (1) When a patron makes a complaint regarding the pari-mutuel department to an association, the association shall immediately issue a complaint report, setting out:
 - (a) the name of the complainant;
 - (b) the nature of the complaint;
 - (c) the name of the persons, if any, against whom the complaint was made;
 - (d) the date of the complaint;
 - (e) the action taken or proposed to be taken, if any, by the association.
- (2) The association shall submit every complaint report to the commission within 48 hours after the complaint was made.

Q. Licensed Employees: All licensees shall report any known irregularities, wrong doings by, or dismissal of, any person involving pari-mutuel wagering immediately to the commission and cooperate in subsequent investigations.

R. Unrestricted Access: The association shall permit the commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the association that relate to pari-mutuel wagering.

S. Emergency Situations: Should an emergency arise in connection with the operation of the pari-mutuel department not covered by these rules and an immediate decision is necessary, the manager of the pari-mutuel department shall make the decision and render a full report to the commission within 48 hours.

[15.2.7.8 NMAC - Rp, 15 NMAC 2.7.8, 3/15/2001; A, 10/29/2004; A, 2/14/2005]

15.2.7.9 ACCOUNT WAGERING:

A. General: The association may offer a system of account wagering to its patrons whereby wagers are debited and payouts credited to a sum of money, deposited in an account by the patron, that is held by the association. The association shall notify the patron, at the time of opening the account, of any rules the association

has made concerning deposits, withdrawals, average daily balance, user fees, interest payments and any other aspect of the operation of the account. The association shall notify the patron whenever the rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The association shall request authorization from the commission before a system of account wagering is offered.

B. Account Opening: The association may offer to open for its patrons:

(1) short-term accounts that are operational only for the performance during which they were opened and only at the site where they were opened, whereby wagers are placed by the account holder at a self-service terminal;

(2) long-term accounts that are operational for any performance offered by the association, whereby wagers are placed by the account holder at a self-service terminal or by telephone within the enclosure of the racetrack;

(3) voucher accounts that are operational for any performance offered by the association, whereby wagers are placed by the account holder at any ticket issuing terminal operated by the association; the patron may choose to credit winning payouts in cash and may choose to close or cash-in the account at any time.

C. Refusals: The association may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.

D. Patron Information: Each short-term or long-term account holder shall provide such personal information as the association and the commission require, including an address to which communications are to be delivered. The association shall provide, for each short-term or long-term account holder, a confidential account number and password to be used by the patron to confirm validity of every account transaction.

E. Deposits: Deposits may be made in cash or by check, whereby the proceeds of the check may first need banker's clearance. Holding periods will be determined by the association and advised to the account holder. A receipt for the deposit must be issued to the account holder, but does not need to reflect the current account balance.

F. Sufficient Account Balance: Each account holder shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would exceed the available balance of that account. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

G. Account Credits: When an account is entitled to a payout or refund, said monies will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the association within the agreed upon time frame for consideration. Unresolved disputes may be forwarded to the commission by the association or the account holder. No claim will be considered by the commission unless submitted in writing and accompanied by supporting evidence.

H. Account Operation:

(1) The association must maintain complete records of every deposit, withdrawal, wager and winning payout for each short and long-term account. Voucher accounts shall be recorded in a manner similar to a ticket. These records shall be made available to the commission upon request.

(2) For wagers made for an account by telephone, the association shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable.

(3) Any account wagering system must provide for the account holder's review and finalization of a wager before it is accepted by the association. Neither the account holder nor the association shall change a wager after the account holder has reviewed and finalized the wager. In the case of a wager made by telephone, the voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

I. Account Closure: The association may close any account when the holder thereof attempts to operate with insufficient balance or when the account is dormant for a period approved by the commission. In either case, the association shall refund the remaining balance of the account.

[15.2.7.9 NMAC - Rp, 15 NMAC 2.7.9, 3/15/2001]

15.2.7.10 SIMULCAST WAGERING:

A. General Provisions: No person shall conduct or attempt to conduct interstate, or intrastate, simulcast wagering unless authorized and permitted to do so by the commission.

(1) No person shall attempt to conduct wagering on the results of a simulcast unless an agreement has been executed between the host and guest track operators, the agreement has been approved by the New Mexico Horsemen's Association and the agreement is filed with the commission.

(2) In the event the New Mexico horsemen's association withholds its approval of an agreement submitted, reasons for non-approval will be detailed to the commission in writing, with the final decision to be made by the commission.

B. Duties of Simulcast Host: Every host association simulcasting its performance, if requested, may contract with an authorized receiver for the purpose of providing authorized users its simulcast.

(1) A host association is responsible for content of the simulcast and shall use all reasonable effort to present a simulcast, which offers the viewers an exemplary depiction of each performance.

(2) Unless otherwise permitted by the commission, every simulcast will contain in its video content a digital display of actual time of day, the name of the host facility from where it emanates, the number of the contest being displayed, and any other relevant information available to patrons at the host facility.

(3) The host association shall maintain such security controls including encryption over its uplink and communications systems as directed or approved by the commission.

(4) In the event that the host association fails to link with any guest association, or loses a link and is unable to re-establish that link, the tote operator at the host association will immediately call tote at all New Mexico guest associations to close pools on the racetrack in question. The tote operator at the guest association(s) will notify the manager on duty and supply a written report of the event to the commission and the simulcast coordinator at once. This report must include, but not be limited to the following: a detailed incident report, name of manager on duty, time and person contacted at the guest association(s) and any other pertinent information. In no event will a guest association take a simulcast race, which the host association is not taking. If the link is re-established by the host association, the tote operator will call the guest association(s) and advise them that they may link up. In the event of a total telephone outage at the host association, the tote operator will contact the other tote company by cellular phone. In the event that a guest association fails to establish or loses a link, the tote operator will notify the manager on duty of his track and supply a written report of the event to the commission and the simulcast coordinator at once. This report must include, but not be limited to the following: a detailed incident report, name of manager on duty, time and person contacted at the host association(s), and any other pertinent information.

C. Duties of Authorized Receiver: An authorized receiver conducts and operates a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of one or more host associations and with the approval of the commission.

(1) An authorized receiver shall provide:

(a) adequate transmitting and receiving equipment of acceptable broadcast quality, which shall not interfere with the closed circuit TV system of the host association for providing any host facility patron information;

(b) pari-mutuel terminals, pari-mutuel odds displays, modems and switching units enabling pari-mutuel data transmission, and data communications between the host and guest associations;

(c) a voice communication system between each guest association and the host association providing timely voice contact among the commission designees, placing judges and pari-mutuel departments.

(2) The guest association and all authorized receivers shall conduct pari-mutuel wagering pursuant to the applicable commission rules.

(3) The commission may appoint at least one designee to supervise all approved simulcast facilities and may require additional designees as is reasonably necessary for the protection of the public interest.

(4) Not less than 30 minutes prior to the commencement of transmission of the performance of pari-mutuel contests for each day or night, the guest association shall initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system.

(5) The guest association shall, in conjunction with the host association or associations for which it operates pari-mutuel wagering, provide the commission with a certified report of its pari-mutuel operations as directed by the commission.

(6) Every authorized receiver shall file with the commission an annual report of its simulcast operations and an audited financial statement.

[15.2.7.10 NMAC - Rp, 15 NMAC 2.7.10, 3/15/2001]

15.2.7.11 INTERSTATE/INTRASTATE COMMON POOL WAGERING:

A. General: All contracts governing participation in interstate/intrastate common pools shall be submitted to the commission for approval.

(1) Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined for computing odds and calculating payouts and breakage, but will be held separate for auditing and all other purposes.

(2) Any surcharges or withholdings in addition to the takeout shall only be applied in the jurisdiction otherwise imposing such surcharges or withholdings.

(3) In determining whether to approve an interstate/intrastate common pool which does not include the host track, the commission shall consider and may approve use of a bet type which is not utilized at the host track, application of a takeout rate not in effect at the host track, or other factors which are presented to the commission.

(4) The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate/intrastate common pool need not be identical to the similar information permitted or required to be displayed under these rules.

B. Guest State Participation in Interstate/Intrastate Common Pools:

(1) With the prior approval of the commission, pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state, or with corresponding pools established by one or more other jurisdictions.

(2) The commission may permit adjustment of the takeout from the pari-mutuel pool so that the takeout rate in this jurisdiction is identical to that at the host track, or identical to that of other jurisdictions participating in a merged pool.

(3) Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.

(4) Rules of racing as established for the contest in the host state shall apply to the merged pool.

(5) The commission shall approve agreements made between the association and other participants in interstate/intrastate common pools governing the distribution of breakage between the jurisdictions.

(6) If, for any reason, it becomes impossible to successfully merge the bets placed into the interstate/intrastate common pool, the association shall make payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; except that, with permission of the commission, the association may alternatively determine to either pay winning tickets at the payout prices at the host track, or declare such accepted bets void and make refunds in accordance with the applicable rules.

C. Host State Participation in Merged Pools:

(1) With the prior approval of the commission, an association licensed to conduct pari-mutuel wagering may determine that one or more of its contest be utilized for pari-mutuel wagering at guest facilities in other states, and may also determine that pari-mutuel pools in guest states be combined with corresponding wagering pools established by it as the host track or comparable wagering pools established by two or more states.

(2) Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.

(3) Rules of racing established for races held in this state shall also apply to interstate/intrastate common pools unless the commission shall have specifically otherwise determined.

(4) The commission shall approve agreements made between the association and other participants in interstate/intrastate common pools governing the distribution of breakage between the jurisdictions.

(5) Any contract for interstate/intrastate common pools entered into by the association shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state into the interstate/intrastate common pool formed by the association, or if, for any reason, the commission's or the association's representative determines that attempting to effect transfer of pool data from the guest state may endanger the association's wagering pool, the association shall have no liability for any measures taken which may result in the guest's wagers not being accepted into the pool.

D. Takeout Rates in Interstate/Intrastate Common Pools:

(1) With the prior approval of the commission, an association wishing to participate in an interstate/intrastate common pool may change its takeout rate (within the limits permitted by state law) so as to achieve a common takeout rate with all other participants in the interstate/intrastate common pool.

(2) An association wishing to participate in an interstate/intrastate common pool may request that the commission approve a methodology whereby host and guest states with different takeout rates for corresponding pari-mutuel pools may effectively and equitably combine wagers from the different states into an interstate/intrastate common pool.

[15.2.7.11 NMAC - Rp, 15 NMAC 2.7.11, 3/15/2001]

15.2.7.12 CALCULATION OF PAYOUTS AND DISTRIBUTION OF POOLS:

A. General:

(1) All permitted pari-mutuel wagering pools shall be separately and independently calculated and distributed. Takeouts shall be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool shall constitute the net pool for distribution as payout on winning wagers.

(2) For each wagering pool, the amount wagered on the winning betting interest or betting combinations is deducted from the net pool to determine the profit; the profit is then divided by the amount wagered on the winning betting interest or combinations, such quotient being the profit per dollar.

(3) Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools.

STANDARD PRICE CALCULATION PROCEDURE

**SINGLE PRICE POOL
(WIN POOL)**

Gross pool = Sum of wagers on all betting interest - Refunds.

Takeout = Gross pool x percent takeout.

Net pool = Gross pool - takeout.

Profit = Net pool - Gross amount bet on winner.

Profit per dollar = Profit/gross amount bet on winner.

\$1 unbroken price = profit per dollar + \$1.

\$1 broken price = \$1 unbroken price rounded down to the break point.

Total payout = \$1 broken price x gross amount bet on winner.

Total breakage = net pool - total payout

**PROFIT SPLIT
(PLACE POOL)**

Profit is net pool less gross amount bet on all place finishers

Finishers split profit 1/2 and 1/2 (place profit), then divide by gross amount bet on each place finisher for two unique prices.

**PROFIT SPLIT
(SHOW POOL)**

Profit is net pool less gross amount bet on all show finishers

Finishers split profit 1/3 and 1/3 and 1/3 (show profit), then divide by gross amount bet on each show finisher for three unique prices.

NET PRICE CALCULATION PROCEDURE

**SINGLE PRICE POOL
(WIN POOL)**

Gross pool = Sum of wagers on all betting interests - refunds.

Takeout = gross pool x percent takeout for each source.

Net pool = gross pool - takeout.

Net bet on winner = gross amount bet on winner x (1 percent takeout).

Total net pool = sum of all sources net pools

total net bet on winner = sum of all sources net bet on winner.

Total profit = total net pool - total net bet on winner.

Profit per dollar = total profit/total net bet on winner.
 \$1 unbroken base price = profit per dollar + \$1* for each source.
 \$1 unbroken price = \$1 unbroken base price x (1 percent takeout).
 \$1 broken price = \$1 unbroken price rounded down to the break point.
 Total payout = \$1 broken price x gross amount bet on winner.
 Total breakage = net pool - total payout.

**PROFIT SPLIT
(PLACE POOL)**

Total profit is the total net pool less the total net amount bet on all place finishers.

Finishers split total profit ½ and ½ (place profit), then divide by total net amount bet on each place finisher for two unique unbroken base prices.

**PROFIT SPLIT
(SHOW POOL)**

Total profit is the total net pool less the total net amount bet on all show finishers.

Finishers split total profit 1/3 and 1/3 and 1/3 (show profit), then divide by total net amount bet on each show finisher for three unique unbroken base prices.

- (4) If a profit split results in only one covered winning betting interest or combinations it shall be calculated the same as a single price pool.
- (5) Minimum payouts and the method used for calculating breakage shall be established by the commission.
- (6) The individual pools outlined in these rules may be given alternative names by each association, provided prior approval is obtained from the commission.

B. Win Pools:

- (1) The amount wagered on the betting interest which finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to win on that betting interest.
- (2) The net win pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:
 - (a) to those whose selection finished first; but if there are no such wagers, then
 - (b) to those whose selection finished second; but if there are no such wagers, then
 - (c) to those whose selection finished third; but if there are no such wagers, then
 - (d) the entire pool shall be refunded on Win wagers for that contest.
- (3) If there is a dead heat for first involving:
 - (a) contestants representing the same betting interest, the win pool shall be distributed as if no dead heat occurred;
 - (b) contestants representing two or more betting interests, the win pool shall be distributed as a profit split.

C. Place Pools:

- (1) The amounts wagered to place on the first two betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to place on that betting interest, the resulting quotient is the profit per dollar wagered to place on that betting interest.
- (2) The net place pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
 - (a) if contestants of a coupled entry or mutuel field finished in the first two places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise

- (b) as a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then
- (c) as a single price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then
- (d) as a single price pool to those who selected the third-place finisher; but if there are no such wagers, then
- (e) the entire pool shall be refunded on place wagers for that contest.
- (3) If there is a dead heat for first involving:
 - (a) contestants representing the same betting interest, the place pool shall be distributed as a single price pool;
 - (b) contestants representing two or more betting interests, the place pool shall be distributed as a profit split.
- (4) If there is a dead heat for second involving:
 - (a) contestants representing the same betting interest, the place pool shall be distributed as if no dead heat occurred;
 - (b) contestants representing two or more betting interests, the place pool is divided with one-half of the profit distributed to place wagers on the betting interest finishing first and the remainder is distributed equally amongst place wagers on those betting interests involved in the dead heat for second.

D. Show Pools:

- (1) The amounts wagered to show on the first three betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to show on that betting interest, the resulting quotient being the profit per dollar wagered to show on that betting interest.
- (2) The net show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
 - (a) if contestants of a coupled entry or mutuel field finished in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise;
 - (b) if contestants of a coupled entry or mutuel field finished as two of the first three finishers, the profit is divided with two-thirds distributed to those who selected the coupled entry or mutuel field and one-third distributed to those who selected the other betting interest included within the first three finishers; otherwise
 - (c) as a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then;
 - (d) as a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then;
 - (e) as a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then;
 - (f) as a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then;
 - (g) the entire pool shall be refunded on show wagers for that contest.
- (3) If there is a dead heat for first involving:
 - (a) two contestants representing the same betting interest, the profit is divided with two-thirds distributed to those who selected the first-place finishers and one-third distributed to those who selected the betting interest finishing third;
 - (b) three contestants representing a single betting interest, the show pool shall be distributed as a single price pool;
 - (c) contestants representing two or more betting interests, the show pool shall be distributed as a profit split.
- (4) If there is a dead heat for second involving:
 - (a) contestant representing the same betting interest, the profit is divided with one-third distributed to those who selected the betting interest finishing first and two-third distributed to those who selected the second-place finishers;
 - (b) contestants representing two betting interests, the show pool shall be distributed as a profit split;

(c) contestants representing three betting interests, the show pool is divided with one-third of the profit distributed to show wagers on the betting interest finishing first and the remainder is distributed equally amongst show wagers on those betting interests involved in the dead heat for second.

(5) If there is a dead heat for third involving:

(a) contestants representing the same betting interest, the show pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the show pool is divided with two-thirds (2/3) of the profit distributed to show wagers on the betting interests finishing first and second and the remainder is distributed equally amongst show wagers on those betting interests involved in the dead heat for third.

E. Double Pools:

(1) The double requires selection of the first-place finisher in each of two specified contests.

(2) The net double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) as a single price pool to those whose selection finished first in each of the two contests; but if there are no such wagers, then

(b) as a profit split to those who selected the first-place finisher in either of the two contests; but if there are no such wagers, then

(c) as a single price pool to those who selected the one covered first-place finisher in either contest; but if there are no such wagers, then

(d) as a single price pool to those whose selection finished second in each of the two contests; but if there are no such wagers, then

(e) the entire pool shall be refunded on double wagers for those contests.

(3) If there is a dead heat for first in either of the two contests involving:

(a) contestants representing the same betting interest, the double pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the double pool shall be distributed as a profit split if there is more than one covered winning combination.

(4) Should a betting interest in the first-half of the double be scratched prior to the first double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(5) Should a betting interest in the second-half of the double be scratched prior to the close of wagering on the first double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(6) Should a betting interest in the second-half of the double be scratched after the close of wagering on the first double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest shall be allocated a consolation payout. In calculating the consolation payout the net double pool shall be divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payout. Breakage is not utilized in this calculation. The consolation payout is deducted from the net double pool before calculation and distribution of the winning double payout. Dead heats including separate betting interests in the first contest shall result in a consolation payout calculated as a profit split.

(7) If either of the double contests is cancelled prior to the first double contest, or the first double contest is declared "no contest", the entire double pool shall be refunded on double wagers for those contests.

(8) If the second double contest is cancelled or declared "no contest" after the conclusion of the first double contest, the net double pool shall be distributed as a single price pool to wagers selecting the winner of the first double contest. In the event of a dead heat involving separate betting interests, the net double pool shall be distributed as a profit split.

F. Pick Three Pools:

(1) The pick three requires selections of the first-place finisher in each of three specified contests.

(2) The net pick three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) as a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then

(b) as a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then

(c) as a single price pool to those who selected the first-place finisher in any one of the three contest; but if there are no such wagers, then

(d) the entire pool shall be refunded on pick three wagers for those contests.

(3) If there is a dead heat for first in any of the three contests involving:

(a) contestants representing the same betting interest, the pick three pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the pick three pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick three contest be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as the result of the substitution, in addition to the normal winning combinations.

(5) If all three pick three contests are cancelled or declared "no contest"; the entire pool shall be refunded on pick three wagers for those contests.

(6) If one or two of the pick three contests are cancelled or declared "no contest", the pick three pool will remain valid and shall be distributed in accordance with Paragraph (2) of Subsection F of 15.2.7 NMAC.

G. Pick (n) Pools:

(1) The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in Paragraph (2) of Subsection G of 15.2.7 NMAC, and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission.

(2) The pick (n) pool shall be apportioned under one of the following methods:

(a) method 1, pick (n) with carryover: the net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order or finish; if there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover;

(b) method 2, pick (n) with minor pool and carryover: the major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover;

(c) method 3, pick (n) with no minor pool and no carryover: the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish; if there are no winning wagers, the pool is refunded;

(d) method 4, pick (n) with minor pool and no carryover: the major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool; if there are no winning wagers, the pool is refunded;

(e) method 5, pick (n) with minor pool and no carryover: the major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if

there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) contests; if there are no winning wagers, the pool is refunded.

(f) method 6, pick (n) with “unique winning ticket” provision: The net pick (n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the pick (n) contests, or if there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, and the major share shall be added to the carryover. Association may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated.

(3) If there is a dead heat for first in any of the pick (n) contests involving:

(a) contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) contest be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combinations.

(5) The pick (n) pool shall be cancelled and all pick (n) wagers for the individual performance shall be refunded if:

(a) at least two contests included as part of a pick 3 are cancelled or declared "no contest";

(b) at least three contests included as part of a pick 4, pick 5 or pick 6 are cancelled or declared "no contest";

(c) at least four contests included as part of a pick 7, pick 8 or pick 9 are cancelled or declared "no contest";

(d) at least five contests included as part of a pick 10 are cancelled or declared "no contest".

(6) If at least one contest included as part of a pick (n) is cancelled or declared "no contest", but not more than the number specified in Paragraph (5) of Subsection G of 15.2.7 NMAC, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

(7) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.

(8) A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(9) Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) upon written approval from the commission as provided in Paragraph (8) of Subsection G of 15.2.7 NMAC of this section;

(b) upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

(c) on the closing performance of the meet or split meet.

(10) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the commission.

(11) With the written approval of the commission, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(13) The association may suspend previously approved pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances.

H. Solo 6:

(1) The *solo 6* requires selection of the first place finisher in each of six designated contests. The entire net *solo 6* pool and carryover, if any, shall be distributed to the holder of a unique wager selecting the first place finisher in each of the selected six contests. If there is no unique wager selecting the first place finisher in all six contests, the minor share of the *solo 6* shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of contests. The major share shall be added to the carryover. The designated percentage of minor and major pools must be approved by the New Mexico racing commission and posted in the official racing program.

(2) Unique wager, as used in this subsection, shall be defined as having occurred when the total amount wagered on a winning combination selecting the first place finisher in each of the six contests **is equal to the minimum allowable wager.**

(3) If there is a dead heat for first in any of the *solo 6* contests involving:

(a) contestants representing the same betting interest, the *solo 6* pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the *solo 6* pool shall be distributed as a single price pool with each winning wager receiving an equal share of that day's pool if there is more than one winning ticket.

(4) Should a betting interest in any of the *solo 6* contests be scratched or determined to be a non-starter, the actual favorite, as evidenced by the total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number.

(5) The *solo 6* pool shall be cancelled and all *solo 6* wagers for the individual performance shall be refunded if at least three contests included as part of the *solo 6* are cancelled or declared a no contest.

(6) If at least one contest of the *solo 6* is cancelled or declared a no contest, but not more than three contests, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of *solo 6* contests for that performance. Such distribution shall include the portion ordinarily retained for the *solo 6* carryover, but not the carryover from previous performances.

(7) The *solo 6* carryover may be capped at a designated level approved by the New Mexico racing commission so that if, at the close of any performance, the amount in the carryover equals or exceeds the designated cap, the *solo 6* carryover will be frozen until it is won or distributed under other provisions of this rule. After the *solo 6* carryover is frozen, one hundred per cent of the net pool, part of which ordinarily would be added to the *solo 6* carryover, shall be distributed to those whose selections finished first in the greatest number of *solo 6* contests for that performance.

(8) A written request for permission to distribute the *solo 6* carryover on a specific date shall be submitted to the New Mexico racing commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of the distribution.

(9) Should the *solo 6* be designated for distribution on a specific date, the unique wager provision of this subsection shall be suspended, and the entire pool shall be distributed as a single price pool to those

whose selection finished first in the greatest number of *solo 6* contests. The *solo 6* carryover shall be designated for distribution on a specific date and performance only under the following circumstances:

(a) upon written approval from the New Mexico racing commission as provided in Paragraph (8) of Subsection H of 15.2.7.12 NMAC;

(b) when the *solo 6* is discontinued; or

(c) on the closing day of the meet.

(10) If for any reason the *solo 6* carryover must be held over to the corresponding *solo 6* pool or subsequent meet, the carryover shall be deposited into an interest bearing account approved by the New Mexico racing commission. The *solo 6* carryover, plus accrued interest, shall then be added to the net *solo 6* pool of the following meet. Following meet would be defined as next racing season of the racetrack where the carryover occurred.

(11) Association may suspend previously approved *solo 6* wagering with the prior approval of the New Mexico racing commission. Any carryover shall be held until the suspended *solo 6* wagering is reinstated. *Solo 6*, as used in this rule, shall mean the selection of winners in six contests during the course of an official racing program.

I. Place Pick (n) Pools:

(1) The place pick (n) is a separate pari-mutuel pool established by the association on a designated number of races. The pool consists of amounts wagered on a horse to finish first or second in each of the races. It is not a parlay and has no connection with or relation to other pools conducted by the association, except for the provisions in Paragraph (5) of Subsection H of 15.2.7.12 NMAC, or to rules governing the distribution of other pools.

(2) A valid place pick (n) ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of place pick (n) provisions and rules contained herein.

(3) A place pick (n) may be given a distinctive name by the association conducting the meeting, subject to commission approval.

(4) A wager on a coupled entry or mutuel field is considered a wager on the remaining part of the coupled entry or mutuel field if any part of such entry starts for pari-mutuel purposes in accordance with Subsection L of 15.2.7.8 NMAC.

(5) If a ticket in any place pick (n) race designates a selection that is scratched, excused or determined by the stewards to be a nonstarter in the race, the association may designate the actual favorite, which is determined by the amounts wagered in the win pool at the time of the start of the race. The actual favorite will be substituted for the nonstarting selection for all purposes.

(6) Except as provided in Subparagraph (a) of Paragraph (6) of Subsection H of 15.2.7.12 NMAC, in a dead heat for win between two or more horses, only the horses in such dead heat shall be considered winning horses.

(a) In a dead heat for win between two or more coupled horses, all such horses together with the horse(s) which finishes next in order shall be considered winning horses.

(b) Except as provided in Paragraph (6) of Subsection H 15.2.7.12 NMAC, a dead heat for second between two or more horses, all such horses together with the horse which finished first shall be considered winning horses.

(7) The association shall distribute the net pool to holders of valid tickets that correctly selected the most first or second place finishers.

(8) All tickets shall be refunded if all races comprising the place pick (n) are cancelled or declared as no contest. The entire pool shall be refunded if less than four races are completed and if four or more races are completed the net pool shall be distributed pursuant to Paragraph (7) of Subsection H of 15.2.7.12 NMAC.

(9) After wagering closes on the first race comprising of the place pick (n) no ticket shall be sold, exchanged or cancelled.

(10) If the racing surface changes from turf to dirt or dirt to turf in any race of a place pick (n), and such change is not announced to the public before the close of wagering on the place pick (n) pool, all wagers on such race shall be considered winning wagers for the purposes of the place pick (n).

J. Grand Slam Pools:

(1) The grand slam requires selection of the official first, second or third place finisher in each of the first three races in a series of four designated grand slam races. A completed winning grand slam wager requires the selection of the official first place finisher in the fourth and final event in this same series of races. The association must obtain written approval from the commission for the initial scheduling or specific performances of

grand slam races or any other name used to characterize this bet type and identify the pari-mutuel pool and any required distribution percentages. Changes to the approved grand slam format, or suspension of previously approved grand slam wagering, require prior approval from the commission.

(2) The grand slam pool shall be apportioned under the following method:

(a) Grand slam wager with no carryover; the net grand slam pool shall be distributed from a single betting pool to participants who selected the first, second or third place finisher in the first three races of a series of four grand slam races completing a winning wager with the selection of the first place finisher in the fourth and final grand slam event in this same series, based upon the official order of finish.

(b) Grand slam wager with no carryover; if there are no winning wagers taking into account all four segments of the grand slam wager, the pool shall be distributed as a single price pool to those who selected the first place finisher in the fourth and final grand slam event in this series of races along with the greatest number of first, second or third place finishers each of which had an accompanying show pari-mutuel payout, in accordance with Subsection M of 15.2.7.8 NMAC in each of the first three races in the series of four designated grand slam races. All results are based upon the official order of finish for each race.

(3) If there is a dead heat for the first in any of the grand slam segments involving:

(a) Official program numbered horses representing the same betting interest, the grand slam pool shall be distributed as if no dead heat occurred.

(b) Official program numbered horses representing two or more betting interests, the grand slam pool shall be distributed from a single betting pool with a winning wager including each betting interest participating in the dead heat provided each entrant has a pari-mutuel show payout within its race.

(4) If there is a dead heat for second and/or third in any of the first three races in a series of four designated grand slam contests involving:

(a) Horses representing the same betting interest, the grand slam pool shall be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the grand slam pool shall be distributed from a single betting pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second or third providing the horse has a show pari-mutuel payout.

(5) Should a betting interest in any of the grand slam contests be scratched:

(a) The actual favorite, as evidenced by total amounts wagered in the win pool at the association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculation. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the greatest amount of money in the place pool. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(b) Should a scratch or scratches occur in any of the first three races in a series of four designated grand slam contests and subsequently show wagering is cancelled due to an insufficient number of remaining betting interests, this race for winning grand slam wagering purposes would include the win and place horse only.

(6) The grand slam pool shall be canceled and all grand slam wagers for the individual performance shall be refunded if at least two contests included as part of a grand slam wager are cancelled or declared "no contest".

(7) If at least one race included as part of a grand slam wager is canceled or declared "no contest", but not more than the number specified in Paragraph (6) of Subsection I of 15.2.7.12 NMAC, the net pool shall be distributed from a single betting pool to those bettors whose selections finished first, second or third in the greatest number of grand slam contests in the first three races in a series of four designated grand slam contests. In determining a pari-mutuel distribution under this section, a finish of first in the final and fourth designated grand slam contest race for the performance in question shall have the same weight as a finish of first, second or third in the greatest number of grand slam contests in the first three races in a series of four designated grand slam contests.

(8) When the condition of the turf course warrants a change of racing surface in any of the legs of the grand slam races, and such change has not been made known to the betting public prior to the close of wagering for the grand slam pool, the stewards shall declare the changed leg(s) a "no contest" for grand slam wagering purposes and the pool shall be distributed in accord with Paragraph (7) of Subsection I of 15.2.7.12 NMAC.

(9) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining prior to the third segment of

the wager being made official is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

K. Quinella Pools:

(1) The quinella requires selection of the first two finishers, irrespective of order, for a single contest.

(2) The net quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) if contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry of mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) as a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(c) as a profit split to those whose combination included either the first or second-place finisher; but if there are no such wagers on one of the two finishers, then

(d) as a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(e) the entire pool shall be refunded on quinella wagers for that contest.

(3) If there is a dead heat for first involving:

(a) contestants representing the same betting interest, the quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish;

(b) contestants representing two betting interests, the quinella pool shall be distributed as if no dead heat occurred;

(c) contestants representing three or more betting interests, the quinella pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving contestants representing the same betting interest, the quinella pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving contestants representing two or more betting interests, the quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(a) as a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) as a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) as a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(d) as a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(e) the entire pool shall be refunded on quinella wagers for that contest.

L. Quinella Double Pools:

(1) The quinella double requires selection of the first two finishers, irrespective of order, in each of two specified contests.

(2) The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) if a coupled entry or mutuel field finishes as the first two contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two finishers in the alternate quinella double contest; otherwise

(b) as a single price pool to those who selected the first two finishers in each of the two quinella double contests; but if there are no such wagers, then

(c) as a profit split to those who selected the first two finishers in either of the two quinella double contests; but if there are no such wagers on one of those contests, then

(d) as a single price pool to those who selected the first two finishers in the one covered quinella double contest; but if there were no such wagers, then

(e) the entire pool shall be refunded on quinella double wagers for those contests.

- (3) If there is a dead heat for first in either of the two quinella double contests involving:
- (a) contestants representing the same betting interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest;
 - (b) contestants representing two betting interests, the quinella double pool shall be distributed as if no dead heat occurred;
 - (c) contestants representing three or more betting interests, the quinella double pool shall be distributed as a profit split.
- (4) If there is a dead heat for second in either of the quinella double contests involving contestants representing the same betting interest, the quinella double pool shall be distributed as if no dead heat occurred.
- (5) If there is a dead heat for second in either of the quinella double contests involving contestants representing two or more betting interests, the quinella double pool shall be distributed as profit split.
- (6) Should a betting interest in the first-half of the quinella double be scratched prior to the first quinella double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.
- (7) Should a betting interest in the second half of the quinella double be scratched prior to the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.
- (8) Should a betting interest in the second-half of the quinella double be scratched after the close of wagering on the first quinella double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest shall be allocated a consolation payout. In calculating the consolation payout the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payout. Breakage is not utilized in this calculation. The consolation payout is deducted from the net quinella double pool before calculation and distribution of the winning quinella double payout. In the event of a dead heat involving separate betting interests, the net quinella double pool shall be distributed as a profit split.
- (9) If either of the quinella double contests is cancelled prior to the first quinella double contest, or the first quinella double contest is declared "no contest", the entire quinella double pool shall be refunded on quinella double wagers for those contests.
- (10) If the second quinella double contest is cancelled or declared "no contest" after the conclusion of the first quinella double contest, the net quinella double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first quinella double contest. If there are no wagers selecting the winning combination in the first quinella double contest, the entire quinella double pool shall be refunded on quinella double wagers for those contests.

M. Exacta Pools:

- (1) The exacta requires selection of the first two finishers, in their exact order, for a single contest.
- (2) The net exacta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
- (a) if contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise
 - (b) as a single price pool to those whose combination finished in correct sequence as the first two betting interests; but if there are no such wagers, then
 - (c) as a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then
 - (d) as a single price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then
 - (e) the entire pool shall be refunded on exacta wagers for that contest.
- (3) If there is a dead heat for first involving:

(a) contestants representing the same betting interest, the exacta pool shall be distributed as a single price pool to those selecting the coupled entry of mutuel field combined with the next separate betting interest in the official order of finish;

(b) contestants representing two or more betting interests, the exacta pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving contestants represent the same betting interest, the exacta pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving contestants representing two or more betting interests, the exacta pool shall be distributed to ticket holders in the following precedence, based upon the official order of finish:

(a) as a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) as a single price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) as a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but there are no such wagers, then

(d) the entire pool shall be refunded on exacta wagers for that contest.

N. Trifecta Pools:

(1) The trifecta requires selection of the first three finishers, in their exact order, for a single contest.

(2) The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) as a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combinations included, in correct sequence, the first two betting interest; but if there are no such wagers, then

(c) as a single price pool to those whose combinations correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) the entire pool shall be refunded on trifecta wagers for that contest

(e) where only two horses finish in the race on which trifecta wagering is conducted, the pool shall be calculated so that the net pool should be divided by the value of tickets sold in the pool on horses selected to finish first and second in the exact order of the official result coupled with any other horse that started in the race;

(f) where only one horse finishes in a race on which trifecta wagering is conducted, the pool shall be calculated so that the net pool shall be divided by the value of the tickets sold in the trifecta pool selecting that horse to finish first, coupled with any two other horses started in the race.

(3) If less than three betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

(4) If there is a dead heat for first involving:

(a) contestants representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split;

(b) contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

O. Supertrifecta Pools:

(1) The superfecta requires selection of the first four finishers, in their exact order for a single contest.

(2) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

- (a) as a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then
- (b) as a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then
- (c) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
- (d) as a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then
- (e) the entire pool shall be refunded on superfecta wagers for that contest.
- (3) If less than four betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.
- (4) If there is a dead heat for first involving:
 - (a) contestants representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split;
 - (b) contestants representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth place betting interest shall share in a profit split;
 - (c) contestants representing two betting interests, both of the wagering a combination selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.
- (5) If there is a dead heat for second involving:
 - (a) contestants representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split;
 - (b) contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.
- (6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.
- (7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.
- (8) Coupled entries and mutuel fields may be permitted in superfecta contests with the prior written approval of the commission.

P. Pentafecta (Super Hi-5):

- (1) The pentafecta (super hi-5) requires the selection of the first five finishers, in their exact order, for a single contest.
- (2) An association may elect to conduct a pentafecta (super hi-5) in the carryover method as provided in Paragraph (7) below. If an association elects to offer the carryover method, a notice shall be made in the daily program explaining that there is a carryover provision and the percentages applying to the jackpot pool and the minor pool. All pentafectas (super hi-5) not conducted in the carryover method shall be conducted in the non-carryover method as provided in Paragraph (3) below.
- (3) The net non-carryover pentafecta (super hi-5) pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
 - (a) as a single price pool to those whose combination finished in exact order as the first five betting interests, if there are no such wagers;
 - (b) as a single price pool to those whose combination included, in exact order, the first four betting interests, if there are no such wagers;
 - (c) as a single price pool to those whose combination included, in exact order, the first three betting interests, if there are no such wagers;
 - (d) as a single price pool to those whose combination included, in exact order, the first two betting interests, if there are no such wagers;

- (e) as a single price pool to those whose combination correctly selected the first place betting interest only, if there are no such wagers;
- (f) the entire pentafecta (super hi-5) pool shall be refunded for that contest.
- (4) If less than five betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest.
- (5) If there is a dead heat in any of the finishing positions, all wagers selecting either of the dead-heated positions with the correct non-dead-heated positions shall be winners and share in the specified payout pool. For example, the results 1/2 -3-4-5-6 with a dead heat in the win position involving numbers 1 and 2 would produce the following winning combinations: 1-2-3-4-5 and 2-1-3-4-5. Payouts will be calculated by splitting the pool equally between each winning combination, then dividing each portion by the number of winning tickets (a "profit split"). As such, a dead heat will produce separate and distinct payouts associated with the distinct winning combinations.
- (6) In the event that more than one component of a coupled entry or mutual field finishes within the first five positions, the first member of the coupled entry or field to finish shall determine the position of the single betting interest. The net pool shall be distributed to those whose selection included the coupled entry or mutual field and each of the other four betting interests.
- (7) The net carryover pentafecta (super hi-5) pool shall be distributed to winning wagers in the following order of finish:
- (a) if tickets are sold on the winning combination of the pentafecta (super hi-5), the net pool shall have added to it any carryover monies from previous pentafecta (super hi-5) contests, and shall then be equally divided among those ticket holders;
- (b) if no tickets are sold on the winning combination of the pentafecta (super hi-5), then the net pool shall be divided into two separate pools. The major pool of the net pool shall be paid as a carryover pool into the next scheduled pentafecta (super hi-5) race. The remaining minor pool shall be paid as a pentafecta (super hi-5) consolation pool, which will be equally divided among those tickets holders who correctly selected the first four betting interests; but if there is no such wager then;
- (c) the pentafecta (super hi-5) consolation pool will be divided among those ticket holders who correctly select the first three interests; but if there are no such wagers, then;
- (d) the pentafecta (super hi-5) consolation pool will be divided among those ticket holders who correctly select the first two interests; but if there are no such wagers, then;
- (e) the pentafecta (super hi-5) consolation pool will be divided among those ticket holders who correctly select the first betting interest; but if there are no such wagers, then;
- (f) the entire net pool shall become a carryover pool into the next regularly scheduled pentafecta (super hi-5) race.
- (g) If the pentafecta (super hi-5) gross pool is refunded in accordance with the above-described rules, then all monies carried over, if any, shall be carried over to the next regularly scheduled pentafecta (super hi-5).
- (h) If less than five betting interests finish and the contest is declared official, payoffs will be made based on the order of finish of those betting interests completing the contest. In this event, payouts will be calculated as consolation payouts and the remaining net pool will be handled as a jackpot carryover.
- (i) In the event the accumulated jackpot carryover has not been distributed prior to the final contest of the performance, then the accumulated jackpot carryover and the net pool in the final pentafecta (super hi-5) contest of the performance will be added to the first pentafecta (super hi-5) contest of the next performance.
- (j) All dead heat provisions of Paragraphs (5), (6), (7), (8), (9) of this subsection and coupled entry of mutual field provisions of Paragraph (6) of this subsection apply to the net carryover pentafecta (super hi-5) pool distributions.
- (8) Unique winning wager option:
- (a) Unique winning wager, as used in this subsection shall be defined as having occurred when there is one and only one winning wager whose combination finished in correct sequence as the first five betting interests based upon the official order of finish and is equal to the minimum allowable wager. In the event that there is more than one winning wager whose combination finished in correct sequence as the first five betting interests, a unique winning wager shall be deemed to not have occurred.
- (b) If an association elects to offer the unique winning wager option, the net pentafecta (super hi-5) pool shall be distributed to winning wagers in the following order of precedence, based on the official order of finish:

(1) as a single price pool, including any applicable carryover, to the holder of a unique winning wager whose combination finished in correct sequences as the first five betting interests, but if there is no such unique winning wager, then,

(2) the net pool shall be divided into two separate pools. The major pool of the net pool shall be paid as a carryover into the next regularly scheduled pentafecta (super hi-5). The remaining minor pool shall be paid as a pentafecta (super hi-5) consolation pool, which shall be equally divided among those wager holders who correctly select the first five interests in order, but if there are no such wagers, then

(3) the entire net pool shall be carried over into the next regularly scheduled pentafecta (super hi-5) pool.

(c) The association shall specify the minimum monetary amount of a unique winning wager with prior approval of the Commission.

(d) Prior to the start of the race meet, the association shall specify the percentages for a major and minor pool with prior approval of the commission.

(e) A written request to distribute the pentafecta (super hi-5) pool plus any carryover on a specific date and performance may be submitted by the association to the executive director for approval. The request must be for a specified date no greater than one year from the date the request is submitted. Should the pentafecta (super hi-5) net pool and any applicable carryover be designated for distribution on a specified date and performance in where there is no unique winning wager, the entire pool shall be distributed using the method described in this subsection.

(9) The minimum number of betting interests required to start in a contest in which pentafecta (super hi-5) wagering is offered shall be seven.

(10) Associations electing to offer the net carryover pentafecta or unique payout (super hi-5) pool may, prior to offering the wager designate the jackpot carryover amount at any given percentage of the net pool; the remaining percentages will be the minor pool portion, if any. This elected percentage may not be changed during the performance on which the pentafecta (super hi-5) is conducted in the carryover method.

(11) At the association's discretion, the pentafecta (super hi-5) wager may be discontinued and there will be a final distribution of any jackpot carryover combined with the final net pool of the final pentafecta (super hi-5) race and priced as a single price pool as described in Paragraph (3) of this subsection.

(12) Each association conducting the pentafecta (super hi-5) pool of any type, must notify the wagering public via a statement in the official program [~~or by prominently displaying on each level of the facility,~~] a declaration of whether the standard version or the carryover version of the pool is being conducted.

(13) Different methods of conduct of this pool may not be combined for the pentafecta (super hi-5) between intertrack or simulcast wagering hosts and guests.

Q. Twin Quinella Pools:

(1) The twin quinella requires selection of the first two finishers, irrespective of order, in each of two designated contests. Each winning ticket for the first twin quinella contest must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin quinella contest. There will be no monetary reward for winning the first twin quinella contest. Both of the designated twin quinella contests shall be included in only one twin quinella pool.

(2) In the first twin quinella contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin quinella contest:

(a) if a coupled entry or mutuel field finishes as the first two finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners; otherwise

(b) those whose combination finished as the first two betting interests shall be winners; but if there are no such wagers, then

(c) those whose combination included either the first or second-place finisher shall be winners; but if there are no such wagers on one of those two finishers, then

(d) those whose combination included the one covered betting interest included within the first two finishers shall be winners; but if there are no such wagers, then

(e) the entire pool shall be refunded on twin quinella wagers for that contest.

(3) In the first twin quinella contest only, if there is a dead heat for first involving:

(a) contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners;

(b) contestants representing two betting interests, the winning twin quinella wagers shall be determined as if no dead heat occurred;

(c) contestants representing three or more betting interests, those whose combination included any two of the betting interests finishing in the dead heat shall be winners.

(4) In the first twin quinella contest only, if there is a dead heat for second involving:

(a) contestants representing the same betting interest, those who selected the first-place finisher combined with the coupled entry or mutuel field in second-place shall be winners;

(b) contestants representing two or more betting interests, those who combined the first-place finisher with any of the betting interests involved in the dead for second shall be winners.

(5) In the second twin quinella contest only, the entire net twin quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin quinella contest:

(a) if a coupled entry or mutuel field finishes as the first two finishers, as a single price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) as a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(c) as a profit split to those whose combination included either the first or second-place finisher; but if there are no such wagers on one of those two finishers, then

(d) as a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(e) as a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then

(f) in accordance with Paragraph (2) of Subsection M of 15.2.7 NMAC.

(6) In the second twin quinella contest only, if there is a dead heat for first involving:

(a) contestants representing the same betting interest, the net twin quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish;

(b) contestants representing two betting interests, the net twin quinella pool shall be distributed as if no dead heat occurred;

(c) contestants representing three or more betting interests, the net twin quinella pool shall be distributed as a profit split to those whose combination included any two of the betting interests finishing in the dead heat.

(7) In the second twin quinella contest only, if there is a dead heat for second involving:

(a) contestants representing the same betting interest, the net twin quinella pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the net twin quinella pool shall be distributed as a profit split to those who combined the first-place finisher with any of the betting interests involved in the dead heat for second.

(8) If a winning ticket for the first-half of the twin quinella is not presented for exchange prior to the close of betting on the second-half twin quinella contest, the ticket holder forfeits all rights to any distribution of the twin quinella pool resulting from the outcome of the second contest.

(9) Should a betting interest in the first half of the twin quinella be scratched, those twin quinella wagers including the scratched betting interest shall be refunded.

(10) Should a betting interest in the second half of the twin quinella be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin quinella contest, the ticket holder forfeits all rights to the twin quinella pool.

(11) If either of the twin quinella contests is cancelled prior to the first twin quinella contest, or the first twin quinella contest is declared "no contest", the entire twin quinella pool shall be refunded on twin quinella wagers for that contest.

(12) If the second-half twin quinella contest is cancelled or declared "no contest" after the conclusion of the first twin quinella contest, the net twin quinella pool shall be distributed as a single price pool to wagers selecting the winning combination in the first twin quinella contest and all valid exchange tickets. If there is no such wagers, the net twin quinella pool shall be distributed as described in Paragraph (2) of Subsection M of 15.2.7 NMAC.

R. Twin Trifecta Pools:

(1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin trifecta contest must be exchanged for a free ticket on the second twin trifecta contest in order to remain eligible for the second-half twin trifecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin trifecta contest. Winning first half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta contests shall be included in only one twin trifecta pool.

(2) After wagering closes for the first half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into separate pools; the first-half twin trifecta pool and the second-half twin trifecta pool.

(3) In the first twin trifecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta contest:

(a) a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) as a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) the entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second-half shall be cancelled.

(4) If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

(5) Winning tickets from the first half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta contest:

(a) as a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half twin trifecta pool of the next consecutive performance.

(6) If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta contest, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(7) Should a betting interest in the first half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

(8) Should a betting interest in the second half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin trifecta contest, the ticket holder forfeits all rights to the second-half twin trifecta pool.

(9) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin trifecta carryover.

(10) If there is a dead heat or multiple dead heats in either the first or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(a) the first half of the twin trifecta, the payout shall be calculated as a profit split;

(b) the second half of the twin trifecta, the payout shall be calculated as a single

price pool.

(11) If either of the twin trifecta contests are cancelled prior to the first twin trifecta contest, or the first twin trifecta contest is declared "no contest", the entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second-half shall be cancelled.

(12) If the second-half twin trifecta contest is cancelled or declared "no contest", all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that

contest as a single price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in Paragraph (3) of Subsection N of 15.2.7 NMAC.

(13) The twin trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carryover is frozen, 100 percent of the net twin trifecta pool for each individual contest shall be distributed to winners of the first half of the twin trifecta pool.

(14) A written request for permission to distribute the twin trifecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(15) Should the twin trifecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first half of the twin trifecta:

(a) as a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) as a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) as a single price pool to holders of valid exchange tickets.

(e) as a single price pool to holders of outstanding first-half winning tickets.

(16) Contrary to Paragraph (4) of Subsection N of 15.2.7 NMAC, during a performance designated to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first, second, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place betting interests. If there are no wagers correctly selecting the first and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the twin trifecta, all first-half tickets will become winners and will receive 100 percent of that day's net twin trifecta pool and any existing twin trifecta carryover as a single price pool.

(17) The twin trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) upon written approval from the commission as provided in Paragraph (15) of Subsection N of 15.2.7 NMAC;

(b) upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued;

(c) on the closing performance of the meet or split meet.

(18) If, for any reason, the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover plus accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and performance so designated by the commission.

(19) Providing information to any person regarding covered combinations or amount wagered on specific combinations is prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(20) The association must obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the commission.

S. Tri-Superfecta Pools:

(1) The tri-superfecta requires selection of the first three finishers, in their exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first tri-superfecta contest must be cashed for an exchange ticket on the second tri-superfecta contest in order to remain eligible for the second-half tri-superfecta pool. The number of exchanges to be determined by the association with written approval of the commission. Such tickets may be exchanged only at attended ticket windows prior to the second tri-superfecta contest. Winning first-half tri-superfecta tickets will

receive both an exchange and a monetary payout. Both of the designated tri-superfecta contests shall be included in only one tri-superfecta pool.

(2) After wagering closes for the first half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools; the first-half tri-superfecta pool and the second-half tri-superfecta pool.

(3) In the first tri-superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for the first tri-superfecta contest:

(a) as a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combinations included, in correct sequence, the first two betting interest; but if there are no such wagers, then

(c) as a single price pool to those whose combinations correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) the entire pool shall be refunded.

(4) If no first-half tri-superfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half tri-superfecta pool. In such case, the second-half tri-superfecta pool shall be retained and added to any existing tri-superfecta carryover pool.

(5) Winning tickets from the first half of the tri-superfecta shall be exchanged for tickets selecting the first four finishers of the second half of the tri-superfecta. The second-half tri-superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second tri-superfecta contest:

(a) as a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(b) the entire second-half tri-superfecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half tri-superfecta pool of the next performance.

(6) If a winning first-half tri-superfecta ticket is not presented for cashing and exchange prior to the second-half tri-superfecta contest, the ticket holder may still collect the monetary value associated with the first-half tri-superfecta pool but forfeits all rights to any distribution of the second-half tri-superfecta pool.

(7) Coupled entries and mutuel fields may be permitted in tri-superfecta contests with the prior written approval of the commission.

(8) Should a betting interest in the first half of the tri-superfecta be scratched, those tri-superfecta tickets including the scratched betting interest shall be refunded.

(9) Should a betting interest in the second half of the tri-superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second tri-superfecta contest, the ticket holder forfeits all rights to the second-half tri-superfecta pool.

(10) If, due to a late scratch, the number of betting interests in the second-half of the tri-superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover.

(11) If there is a dead heat or multiple dead heats in either the first or second-half of the tri-superfecta, all tri-superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(a) the first half of the tri-superfecta, the payout shall be calculated as a profit split;

(b) the second half of the tri-superfecta, the payout shall be calculated as a single price pool.

(12) If either of the tri-superfecta contests are cancelled prior to the first tri-superfecta contest, or the first tri-superfecta contest is declared "no contest", the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest and the second-half shall be cancelled.

(13) If the second-half tri-superfecta contest is cancelled or declared "no contest", all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be distributed as described in Paragraph (3) of Subsection O of 15.2.7 NMAC.

(14) The tri-superfecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds

the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half tri-superfecta carryover is frozen, 100 percent of the net tri-superfecta pool for each individual contest shall be distributed to winners of the first half of the tri-superfecta pool.

(15) A written request for permission to distribute the tri-superfecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(16) Should the tri-superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second half of the tri-superfecta after completion of the first half of the tri-superfecta:

- (a) as a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then
- (b) as a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then
- (c) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
- (d) as a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then
- (e) as a single price pool to holders of valid exchange tickets.
- (f) as a single price pool to holders of outstanding first half-winning tickets.

(17) Contrary to Paragraph (4) of Subsection O of 15.2.7 NMAC, during a performance designated to distribute the tri-superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the tri-superfecta. If there are no wagers correctly selecting the first, second, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place betting interests. If there are no wagers correctly selecting the first and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first half of the tri-superfecta, all first-half tickets will become winners and will receive 100 percent of that day's net tri-superfecta pool and any existing tri-superfecta carryover as a single price pool.

(18) The tri-superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

- (a) upon written approval from the commission as provided in Subsection O Paragraph (15) of 15.2.7 NMAC;
- (b) upon written approval from the commission when there is a change in the carryover cap or when the tri-superfecta is discontinued;
- (c) on the closing performance of the meet or split meet.

(19) If, for any reason, the tri-superfecta carryover must be held over to the corresponding tri-superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The tri-superfecta carryover plus accrued interest shall then be added to the second-half tri-superfecta pool of the following meet on a date and performance so designated by the commission.

(20) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(21) The association must obtain written approval from the commission concerning the scheduling of tri-superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved tri-superfecta format require prior approval from the commission.

T. Twin Superfecta Pools:

(1) The twin superfecta requires selection of the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin superfecta contest. Winning first-half twin superfecta tickets will receive both an exchange and a monetary payout. Both of the designated twin superfecta contests shall be included in only one twin superfecta pool.

(2) After wagering closes for the first half of the twin superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools; the first-half twin superfecta pool and the second-half twin superfecta pool.

(3) In the first twin superfecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin superfecta contest:

(a) as a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) as a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) the entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest and the second half shall be cancelled.

(4) If no first-half twin superfecta ticket selects the first four finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin superfecta pool. In such case, the second-half twin superfecta pool shall be retained and added to any existing twin superfecta carryover pool.

(5) Winning tickets from the first half of the twin superfecta shall be exchanged for tickets selecting the first four finishers of the second half of the twin superfecta. The second-half twin superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin superfecta contest:

(a) as a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(b) the entire second-half twin trifecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half twin superfecta pool of the next performance.

(6) If a winning first-half twin superfecta ticket is not presented for cashing and exchange prior to the second-half twin superfecta contest, the ticket holder may still collect the monetary value associated with the first-half twin superfecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(7) Coupled entries and mutuel fields may be permitted in twin superfecta contests with the prior written approval of the commission.

(8) Should a betting interest in the first half of the twin superfecta be scratched, those twin superfecta tickets including the scratched betting interest shall be refunded.

(9) Should a betting interest in the second half of the twin superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin superfecta contest, the tickets holder forfeits all rights to the second-half twin superfecta pool.

(10) If, due to a late scratch, the number of betting interests in the second-half of the twin superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin superfecta pool for that contest as a single price pool, but not the twin superfecta carryover.

(11) If there is a dead heat or multiple dead heats in either the first or second-half of the twin superfecta, all twin superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(a) the first half of the twin superfecta, the payoff shall be calculated as a profit split;

(b) the second half of the twin superfecta, the payoff shall be calculated as a single price pool.

(12) If either of the twin superfecta contests are cancelled prior to the first twin superfecta contest, or the first twin superfecta contest is declared "no contest", the entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest and the second-half shall be cancelled.

(13) If the second-half twin superfecta contest is cancelled or declared "no contest", all exchange tickets and outstanding first-half winning twin superfecta tickets shall be entitled to the net twin superfecta pool for that contest as a single price pool, but not the twin superfecta carryover. If there are no such tickets, the net twin superfecta pool shall be distributed as described in Paragraph (3) of Subsection P of 15.2.7 NMAC.

(14) The twin superfecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the twin superfecta carryover equals or exceeds the designated cap, the twin superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half twin superfecta carryover is frozen, 100 percent of the net twin superfecta pool for each individual contest shall be distributed to winners of the first half of the twin superfecta pool.

(15) A written request for permission to distribute the twin superfecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(16) Should the twin superfecta carryover be designated for distribution on a specified date and superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin superfecta carryover plus accrued interest shall then be added to the second-half performance, the following precedence will be followed in determining winning tickets for the second half of the twin superfecta after completion of the first half of the twin superfecta:

(a) as a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) as a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) as a single price pool to holders of valid exchange tickets;

(f) as a single price pool to holders of outstanding first half winning tickets.

(17) Contrary to Paragraph (4) of Subsection P of 15.2.7 NMAC, during a performance designated to distribute the twin superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin superfecta. If there are no wagers correctly selecting the first, second, third, and fourth-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first, second, and third-place betting interests. If there are no wagers correctly selecting the first, second, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place betting interests. If there are no wagers correctly selecting the first and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the twin superfecta, all first-half tickets will become winners and will receive 100 percent of that day's net twin superfecta pool and any existing twin superfecta carryover as a single price pool.

(18) The twin superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) upon written approval from the commission as provided in Subsection P Paragraph (15) of 15.2.7 NMAC of the twin superfecta rules;

(b) upon written approval from the commission when there is a change in the carryover cap or when the twin superfecta is discontinued;

(c) on the closing performance of the meet or split meet.

(19) If, for any reason, the twin superfecta carryover must be held over to the corresponding twin twin superfecta pool of the following meet on a date and performance so designated by the commission.

(20) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(21) The association must obtain written approval from the commission concerning the scheduling of twin superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any subsequent changes to the approved twin superfecta format require prior approval from the commission.

U. Exacta (n) Pools:

(1) The exacta (n) requires selection of the first two finishers, in their exact order, in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of exacta (n) contests, the designation of one of the methods prescribed in Paragraph (2) of Subsection Q

15.2.7 NMAC; and the amount of any cap to be set on the carryover. Any changes to the approved exacta (n) format require prior approval from the commission.

(2) The exacta (n) pool shall be apportioned under one of the following methods:

(a) Method 1, exacta (n) with no minor pool and no carryover. The net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta (n) contests. If there are no winning wagers, the entire pool shall be refunded on exacta (n) wagers for those contests.

(b) Method 2, exacta (n) with no minor pool and carryover instead of a refund. The net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the net exacta (n) pool and the carryover shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta (n) contests. If there are no winning wagers, the net exacta (n) pool shall be added to the carryover.

(c) Method 3, exacta (n) with no minor pool and carryover. The net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. If there are no winning wagers, the net exacta (n) pool shall be added to the carryover.

(d) Method 4, exacta (n) with minor pool and no carryover. The major share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the major share of the net exacta (n) pool shall be combined with the minor share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta (n) contests. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of exacta (n) contests, the minor share of the net exacta (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests. If there are no winning wagers, the pool shall be refunded on exacta (n) wagers for those contests.

(e) Method 5, exacta (n) with minor pool and carryover. The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the minor share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta (n) contests, and the major share shall be added to the carryover. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of exacta (n) contests, the minor share of the net exacta (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, or if there are no such winning wagers, added to the carryover.

(f) Method 6, exacta (n) with minor pool based upon any one exacta and no carryover. The major share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the major share of the net exacta (n) pool shall be combined with the minor share for distribution as a single price pool to those who

selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests. If there are no winning wagers, the pool is refunded.

(g) Method 7, exacta (n) with minor pool based upon any one exacta, and carryover. The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the major share shall be added to the carryover. If there are no wagers selecting the first and second place finishers, in exact order, in any of the exacta (n) contests, the minor share of the net exacta (n) pool shall also be added to the carryover.

(h) Method 8, exacta (n) with minor pool based upon individual exactas, and no carryover. The major share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination. If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, the major share shall be combined with the minor share and the entire net exacta (n) pool shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool. If there are no winning wagers, the pool shall be refunded.

(i) Method 9, exacta (n) with minor pool based upon individual exactas, and carryover. The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination. If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool, and the major share shall be added to the carryover; except that if there are no winning wagers in either the major or the minor pool, today's pool shall be refunded and the carryover shall be carried over.

(j) Method 10, exacta (n) with minor pool based upon individual exactas and carryover; 100% carryover if no winning wagers. The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination. If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool, and the major share shall be added to the carryover. If there are no winning wagers, the minor share shall also be added to the carryover.

(3) Dead Heats: In the event of a dead heat in any of the exacta (n) contests, the net exacta (n) shall be distributed to winning wagers in the following precedence, based upon the official order of finish, for each exacta contest within the exacta (n) wager:

(a) If there is a dead heat for first in any of the exacta (n) contests involving contestants representing the same betting interest, the exacta (n) pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(b) If there is a dead heat for first in any of the exacta (n) contests involving contestants representing two or more betting interests, the exacta (n) pool shall be distributed as a single price pool with a winning wager including each betting interest involved in the dead heat.

(c) If there is a dead heat for second in any of the exacta (n) contests involving contestants representing the same betting interest, the exacta (n) pool shall be distributed as if no dead heat occurred.

(d) If there is a dead heat for second in any of the exacta (n) contests involving contestants representing two or more betting interests, the exacta (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first together with any betting interest involved in the dead heat for second.

(4) Scratches: Should a betting interest in any contest of the exacta (n) be scratched or excused from the contest prior to the first exacta (n) contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the exacta (n) pool and refunded.

(a) Should a betting interest in any contest of the exacta (n) be scratched or excused from the contest after the first exacta (n) contest has been declared official, all money wagered on combinations including this betting interest shall remain in the exacta (n) pool and the ticket holder may still collect the monetary value of any distribution evidenced by the ticket containing the scratched betting interest.

(b) If, due to a late scratch, the number of betting interests in a contest of the exacta (n) is reduced to fewer than two, for purposes of the exacta (n) such contests shall be declared "no contest" and the exacta (n) pool shall be subject to the rules set forth in Paragraph (5) of Subsection Q of 15.2.7 NMAC of these rules.

(5) Cancelled Contests: If any of the exacta (n) contests are cancelled or declared "no contest" prior to the first exacta (n) contest being declared official, the entire exacta (n) pool shall be refunded on exacta (n) wagers for those contests.

(a) If all remaining exacta (n) contests are cancelled or declared "no contest" after the first exacta (n) contest is declared official, the net exacta (n) pool shall be distributed as a single price pool to wagers selecting the winning combination in the first exacta (n) contest, but not the exacta (n) carryover. However, if there are no wagers selecting the winning combination in the first exacta (n) contest, the entire exacta (n) pool shall be refunded on exacta (n) wagers for those contests.

(b) If any of the remaining exacta (n) contests are cancelled or declared "no contest" after the first exacta (n) is declared official, the net exacta (n) pool shall be distributed in accordance with rules governing distribution of the minor share where there is no winner of the major share.

(6) Mandatory Distribution: A written request for permission to distribute the exacta (n) carryover on a specific performance may be submitted to the commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The association must notify the commission at least 10 days prior to implementation. If the exacta (n) pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next scheduled mandatory distribution performance.

(a) If the exacta (n) carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the net exacta (n) pool and the carryover pool;

(b) As a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, then

(c) As a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests based upon the official order of finish.

(d) If there are no wagers which correctly selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish, then all exacta (n) tickets shall become winners and receive 100 percent of that day's net exacta (n) pool and the exacta (n) carryover pool as single price pool.

(e) Subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The exacta (n) carryover plus accrued interest shall then be added to the net exacta (n) pool of the following meet on a date and performance so designated by the commission.

V. Team Wager Pool:

(1) The team wager pool requires selection of a designated “team” in each of a designated number of contests. Winning bets shall be determined based upon the official order of finish in each contest and the standing of each team with respect to the official order of finish. For purposes of the team wager, finishers from the same team shall be bracketed together to determine a single betting interest, as set forth in Paragraph (4).

(2) Prior to the start of the contests that comprise the team wager, all participants in each of the contests shall be divided by the association between or among each of the team wager teams, and the roster of each team made public, as well as the number of points to be awarded to the team whose member is the first finisher in a designated contest, the second finisher, and so forth until no more points are awarded in that contest.

(3) At the conclusion of all contests that comprise the team wager, the number of points for each team shall be compiled, and the team with the most points shall be declared the “winning team”.

(4) The team wager pool shall be apportioned under either of the following methods:

(a) Winning Margins Team Wager:

(i) In the “winning margins team wager”, the total number of points awarded in the team wager shall be divided by the association into a series of brackets comprised of a series of point ranges (“winning margin”) by which one team (team A) might defeat the other team (team B); a series of point ranges by which team B might defeat team A; and a tie between the teams. Each bracket shall constitute a separate betting interest in the winning margins team wager.

(ii) The net winning margins team wager pool shall be distributed as a single price pool to those who selected the correct bracket. If there are no wagers selecting the correct bracket, the entire pool shall be refunded.

(iii) Example: Points are assigned to each of the first four finishers in each contest (four points for the first finisher down to one point for the fourth finisher, for a total of 10 points awarded in each contest), based upon the official order of finish, with a total of six contests in the team wager, resulting in a total of 60 points in all. The brackets could be designated as:

Team A’s winning margin is	1-10 points
	11-20 points
	21-30 points
	31-40 points
	41-50 points
	51-60 points
Team B’s winning margin is	1-10 points
	11-20 points
	21-30 points
	31-40 points
	41-50 points
	51-60 points

The two teams tie, and the margin is 0 points

In this example, there are 13 separate betting interests

If, in this example, finishers representing team A come in 1st and 3rd in one contest, and finishers representing team B come in 2nd and 4th in that contest, team A would have $4+2=6$ points and team B would have $3+1=4$ points. The current winning margin (after the first contest) would be team A by 2 points

(b) Team Double Wager

(i) In the “team double wager”, the commission shall approve two different methods of determining the winning tickets qualifying for a share of the net pool.

(ii) The commission shall also approve the manner of apportioning the net team double wager pool, and the conditions under which the pool shall be refunded or otherwise apportioned if there are no winning wagers.

(iii) Example: A “daily-double”-style pool consisting of having to correctly select the bracket of the winning margin, as above, as well as a bracket based upon and including the total points achieved by the winning team.

(5) Brackets

(a) The brackets may be comprised of the margins by which the winning team defeats the team that finishes second; the total number of points achieved by the winning team; or other method of determining the brackets, as approved by the commission.

(b) Such factors as the number of teams in the team wager; the method by which teams are designated; the number of points to be awarded in each contest, the number of contests comprising the team wager; and the method by which the “brackets” constituting each betting interest in the team wager are designated, shall all be subject to approval of the commission.

(6) Coupled Entries or Fields: With approval of the commission, coupled entries may be permitted in contests comprising the team wager, but may only participate as part of the same team. With approval of the commission, fields may be permitted in contests comprising the team wager, but may only participate as part of the same team.

(7) Dead Heat: If there is a dead heat including any finisher(s) for which points are awarded in the team wager, the total amount of points in the dead heat positions shall be combined and divided equally amongst the betting interests that have finished in the dead heat.

(8) Scratches

(a) Should an entry in any contest of the team wager be scratched or excused from the contest, all money wagered on combinations including this entry shall remain in the team wager pool and the ticket holder may still collect the monetary value of any distribution evidenced by the ticket containing the scratched betting interest.

(b) If, due to a scratched or excused entry, the number of entries assigned to a team in a contest of the team wager is reduced to fewer than the number of positions in the final order of finish for which the team is eligible to receive points, for purposes of the team wager pool such contest shall be declared “no contest” and wagers involving any betting interests that are no longer capable of being achieved shall be refunded.

W. Match Rival Pools:

(1) The match rival requires the selection of the winning contestant in a designated contest or series of contests, in a competition between two or more equally matched betting interests, or based on the sportsmanship or skill of the jockeys or trainers, regardless of the official placing of the other betting interests in that contest or series of contests.

(2) The choice of which contestants from a contest shall participate in the match rival shall be made as follows:

(a) the association must obtain written approval from the commission concerning who shall determine the contestants for each match rival contest;

(b) the matching of contestants for the match rival shall be limited to contestant versus contestant, jockey versus jockey or trainer versus trainer;

(c) the contestants chosen for the match rival wager shall be conspicuously identified in the official program;

(3) The net match rival pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

(a) as a single price pool to those whose selection finished first in a single match rival contest, or first in the greatest number of a series of match rival contests; but if there are no such wagers, then;

(b) the match rival pool shall be refunded;

(4) If there is a dead heat in a contest involving two or more of the contestants in:

(a) a single-contest match rival pool, then the entire pool shall be refunded; or

(b) one or more contests of a series, then all contestants involved in the dead heat shall be considered winners and the net pool shall be distributed as a single price pool, provided that:

(c) in a series of contests, if there is a dead heat in half or more of the contests then the match rival pool for those contests shall be refunded.

(5) If any match rival contest is cancelled or declared no contest;

(a) in a single-contest match rival pool, the pools shall be refunded;

(b) in a series of contests, if half or more of the contests are cancelled or declared no contest, then the match rival pool for those contests shall be refunded.

(6) If any contestant is scratched or declared a non-starter in any match rival contest, then that contest shall be cancelled.

(7) If all contestants fail to finish in a match rival contest, then that contest shall be cancelled.

X. 123Racing Pick (N) Wager Pool:

(1) The 123Racing pick-n is a pari-mutuel wager that requires the selection of one runner from each contest in a series of specific contests comprising the 123Racing pick-n pool ("123Racing pool"). "N" denotes the number of designated contests in that pool.

(2) Four is the minimum number of contests required to offer a 123Racing pick-n pool.

(3) If a 123Racing pick-n pool is reduced to fewer than four completed contests, the 123Racing pick-n pool will be cancelled and all wagers will be refunded.

(4) Each wager is automatically assigned to a unique wager identification by the host totalizator platform, and is allocated "points" in each contest.

(5) Points are allocated for winning selections of contestants that finish in the first, second or third position in the official results for each contest and have a pari-mutuel payout associated with its finish. Points scored will be equivalent to adding the pari-mutuel pool host payouts for its finish. Points scored will be equivalent to adding the pari-mutuel pool host payouts for the win, place and show wager on that selection (i.e. \$2 win, \$2 place and \$2 show wagers).

(6) Points are accumulated after each contest in the 123Racing pick-n pool and displayed on a leaderboard shown at betting venues and online.

(7) Each 123Racing pick-n wager is assigned a unique identifier or nickname associated with the serial number of the ticket or account wager record. This unique identifier or nickname is used to identify the wagers' progress on the leaderboard display.

(8) The unique 123Racing pick-n wagers with the highest points scores after the last designated contest, share in the payouts of the net pool according to paragraph (14) of this subsection.

(9) After each leg of the contests comprising the 123Racing pick-n wager, the leaderboard displays the points accumulated from that leg and the cumulative points of each player and their ranking in the 123Racing pick-n pool. After the final contest comprising the 123Racing pick-n, the leaderboard displays the final results and payouts for the 123Racing pick-n pool.

(10) Where a selection in a 123Racing pick-n wager does not finish in first, second or third in the official results, or the selection was a non-wagering interest, no points are scored.

(11) The 123Racing pick-n wager is not eliminated if a selection does not score points.

(12) Wagering on the 123Racing pick-n pool shall close at the start of the first designated contest in the 123Racing pick-n pool. Participants are not permitted to cancel a 123Racing pick-n wager after the 123Racing pick-n pool has closed.

(13) One hundred percent of the net 123Racing pick-n pool is paid out upon completion of all designated contests in the 123Racing pick-n pool.

(14) The distribution of the 123Racing pick-n pool is based on the winning wager(s) in the following order of precedence:

(a) Single winners of the 123Racing pick-n pool

(i) The highest scoring single wager in the 123Racing pick-n pool receives sixty percent of the net pool.

(ii) The second highest scoring single wager receives thirty percent of the net pool.

(iii) The third highest scoring single wager receives ten percent of the net pool.

(b) If there are two 123Racing pick-n wagers that score the highest points then those two winning wagers share ninety percent (sixty percent plus thirty percent) of the net pool equally divided between the two winning wagers and the second highest scoring single wager receive ten percent of the net pool.

(c) If there are three or more winning wagers scoring the same highest points, one hundred percent of the net pool is equally divided amongst each winning wager. This shall be done consistent with the minimum pari-mutuel payouts of the jurisdiction in which the wager was hosted.

(d) If there is a single wager with the highest points total, and two or more wagers with the second highest points total, the highest scoring wager will receive sixty percent of the net pool, and the second highest points wagers share forty percent of the net pool equally divided by the two or more wagers, as the case may be, that scored the second highest points total.

(e) If there is a single wager with the highest points total, and a single wager with the second highest points total, and two or more wagers with the third highest points total, the highest scoring wager will receive sixty percent of the net pool, the second highest point wager will receive thirty percent of the net pool, and the third highest point wagers will share ten percent of the net pool equally divided by the two or more wagers, as the case may be, that scored the third highest point total.

(15) Subject to paragraph (3) of this subsection, if a single contest included as part of a 123Racing pick-n pool is cancelled or declared a "no contest", the net pool shall be distributed based on the results of the other designated contests included in the pool.

(16) Coupled entries or mutuel fields, as defined within the rules and regulations of the commission, shall race in any 123Racing pick-n contest as a single betting interest for purposes of the 123Racing pick-n pool calculations.

(17) A scratch after wagering on the 123Racing pick-n has begun of any betting interest of a coupled entry or mutuel field selection in said 123Racing pick-n contest shall be of no effect with respect to the status of such remaining entry either or both field as a viable wagering interests, unless in conflict with the wagering rules in the host track jurisdiction.

(18) Should a betting interest in any of the 123Racing pick-n contests be scratched, the post time favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that contest shall be substituted for the scratched betting interest for all purposes including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interest which became winners as result of the substitution in addition to the normal winning combination.

(19) The takeout and the pool distribution for a 123Racing pick-n pool shall be set by the host association and approved by the host regulatory commission.

(20) With written approval of the commission, the pool host may contribute to the net amount of the 123Racing pick-n pool.

(21) 123Racing pick-n scoring example: Picks that finish first, second, or third in each contest score points allocated by summing the pari-mutuel payouts equivalent to a \$2 win, place and show wager, i.e. by summing the official win, place and show pari-mutuel payouts for the contest, as in the following examples:

Horse A - First Place	Horse B - Second Place	Horse C - Third Place
Win: \$6.00 Place: \$5.60 Show: \$2.20	Place: \$15.60 Show: \$4.80	Show: \$2.10
Total Score Equals:	Total Score Equals:	Total Score Equals:
Win + Place + Show = 13.80 points	Place + Show = 20.40 points	Place = 2.10 points

[15.2.7.12 NMAC - Rp, 15 NMAC 2.7.12, 3/15/2001; A, 3/31/2003; A, 9/15/2003; A, 4/14/2005; A, 7/15/2005; A, 11/30/2005; A, 3/30/2007; A, 6/15/2009; A, 12/1/2010; A, 11/1/2011; A, 1/1/2013; A, 9/15/2014; A, 12/16/2016; A, 5/1/2019; A, 12/19/2019]

History of 15.2.7 NMAC:

Pre NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1, Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981;

History of Repealed Material: 15 NMAC 2.7, Horse Racing - Pari Mutuel Wagering, filed 9/15/1995 repealed in its entirety; renumbered, reformatted and replaced by 15.2.7 NMAC, Horse Racing - Pari Mutuel Wagering, to conform to the new NMAC requirements effective 3/15/2001.

Other History: NMSRC 81-1, Rules Governing Horse Racing in new Mexico, filed 12/4/1981 - that applicable portion renumbered, reformatted and amended to 15 NMAC 2.7, Horse Racing - Pari Mutuel Wagering, filed 9/15/1995.