

3.32 : continued

(h) 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.

(i) The split sample chain of custody verification form shall be completed and signed by the representatives of the Commission and the owner or trainer. A Commission representative shall keep the original and provide a copy for the owner or trainer.

(j) If the split sample does not arrive at the referee laboratory because of an act of God or other condition beyond the control of the Commission, the findings in the original sample shall serve as *prima facie* evidence of any medication violation.

(4) Frozen Samples. The Commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. The fact that purse money has been distributed prior to the issuance of a laboratory report from the future analysis of a frozen sample shall not be deemed a finding that no drug substance prohibited by 205 CMR 3.00 has been administered.

(5) Suspicious Substances. The representatives of the Commission may take for analysis samples of any medicine or other materials suspected of containing improper medication or drugs which could affect the racing conditions of a horse in a race, which may be found in the stable area or elsewhere on the track or in the possession of any person connected with racing on such tracks.

3.33 : Postmortem Examinations

(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 *postmortem* examination. All shoes 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 fluids, or other biologic specimens collected during a *postmortem* examination for analysis. The presence of a prohibited substance in a specimen collected during the *postmortem* examination may constitute a violation.

(5) 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.

(6) Mortality Review: The Massachusetts Gaming Commission Director of Racing shall conduct a review for the purpose of gathering information surrounding the death of each racehorse and to have an open communication between the following listed individuals regarding issues which may have led to the incident and to ultimately arrive, if possible, at conclusions and recommendations to the appropriate entity or person. The Director of Racing shall consult the following:

1. the racetrack's Director of Racing or a designee;

2. the Association Judge and a Massachusetts Gaming Commission Judge;

3. the Chief Commission Veterinarian or a designee;

4. the on-track Association Veterinarian;

5. the trainer of the deceased horse;

6. the driver of the deceased horse;

7. the attending veterinarian;

8. the track superintendent;

9. the horseperson's representative; and

10. any other person the Director of Racing determines is necessary to adequately examine the death.

3.34 : 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 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 in the most recent version of the ARCI Endogenous, Dietary, or Environmental Substances Schedule.

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(4) The identification and adoption of these uniform thresholds for certain substances shall not preclude an individual jurisdiction from maintaining thresholds for substances not on this list which predate the adoption of 205 CMR 3.34 in such jurisdiction.

3.35 : Adoption of United States Trotting Association Rules and Regulations

The Massachusetts Gaming Commission adopts the United States Trotting Association (USTA) Rules and Regulations as amended; and supplements those rules and regulations with 205 CMR 3.00.

In any situation where a conflict exists between the United States Trotting Association Rules and 205 CMR 3.00, 205 CMR 3.00 will govern. In any instance where a situation is not covered by the USTA Rules, 205 CMR 3.00 will govern and vice versa. The assessment of fines and suspensions shall be in the discretion of the Judges and the Gaming Commission.

REGULATORY AUTHORITY

205 CMR 3.00: M.G.L. c. 128A, § 9.