

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)**

810 KAR 4:030. Entries, subscriptions, and declarations.

RELATES TO: KRS 230.215, 230.240, 230.260, 230.290, 230.310, 230.320

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission (the "commission") to promulgate administrative regulations prescribing the conditions under which all horse racing is conducted in Kentucky. KRS 230.260(8) grants the commission the authority to regulate conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entry, subscription, and declaration of horses in order to race.

Section 1. Definition. "Subscriber" means an owner who enters a horse into a stakes race and pays the requisite entry fee.

Section 2. Entering Required. A horse shall not be qualified to start in any race unless it has been, and continues to be, entered in the race. Entries or subscriptions for any horse, or the transfer of entries or subscriptions for any horse, may be refused or cancelled by the association without notice or reason given.

Section 3. Procedure for Making Entries.

(1) An entry, subscription, declaration, or scratch shall be filed with the racing secretary and shall not be effective until received by the racing secretary. The racing secretary shall maintain a record of the time of receipt of an entry, subscription, declaration, or scratch for a period of at least one (1) year.

(2) An entry shall be made by the owner, the trainer, or an authorized agent of the owner or trainer. An entry shall be in the name of a horse's licensed owner, as completely disclosed and registered with the racing secretary pursuant to subsection (3) of this section.

(3) An entry shall be submitted in writing or by telephone to the racing secretary. A telephone entry shall be confirmed promptly in writing if requested by the stewards, the racing secretary, or an assistant to the racing secretary.

(4) An entry shall clearly designate the horse entered as reflected by its registration certificate, racing permit, or virtual certificate.

(a) A horse shall not race unless registered pursuant to 810 KAR 4:010 or otherwise correctly identified to the satisfaction of the stewards.

(b) Establishing the identity of a horse shall be the responsibility of its owner and of any other person required to certify the identity of the horse. A person shall be subject to appropriate disciplinary action under 810 KAR 8:030 for incorrect identification.

(5) The entry shall indicate usage of furosemide pursuant to 810 KAR 8:010.

(6) An entry shall not be altered after the closing of entries, except to correct an error with permission of the stewards.

(7) A horse shall not be entered in two (2) races to be run on the same day.

(8)(a) A horse that has not started in the past forty-five (45) days shall not be permitted to start unless it has at least one (1) published workout within twenty (20) days of entry at a distance satisfactory to the stewards. If a horse has performed the requisite workout, but the workout does not appear in the past performances, the horse shall be permitted to start if the

stewards determine that the workout failed to be published through no fault of the trainer.

(b) A horse starting for the first time shall not be permitted to start unless it has three (3) workouts, one (1) of which is from the starting gate, one (1) of which is within twenty (20) days of entry, and at least one (1) of which is published.

(c) A workout not appearing in the official program shall be publicly displayed on television monitors, the tote board, and, if available, the bulletin boards where photo finishes are shown at the time when mutuel windows are opened and shall be displayed until the conclusion of the race in which the horse is entered.

(d) A horse that has never started shall not be entered until the trainer has produced a document or card issued by the starter indicating that the horse has been adequately trained to race from the starting gate.

(9) If the published conditions of the race permit, an association may accept in a turf race an entry designated "main track only." Preference shall apply to all horses drawn into a race, except that horses entered as "main track only" shall be listed as also-eligible and be considered only if the race is taken off the turf.

(10) A horse shall only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer submits a complete medical record for the horse for the fourteen (14) day period prior to the entry date.

Section 4. Limitation as to Spouses.

(1) An entry in a race shall not be accepted for a horse owned wholly or in part or trained by a person whose spouse is under license suspension, revocation, or is otherwise ineligible to be licensed, at the time of the entry except as established in subsection (2) of this section.

(2) If the license of a jockey has been suspended for a routine riding offense, depending on the severity of the offense, the stewards may waive the application of this section as to the licensed spouse of the suspended jockey.

Section 5. Mutuel Entries.

(1) More than two (2) horses having common ties through training shall not be entered in a purse race.

(2) Horses entered in the same race and owned wholly or in part by the same owner or spouse, shall be joined as a mutuel entry and single betting interest, except as established in subsection (5) of this section.

(3) More than two (2) horses having common ties through ownership shall not be joined as a mutuel entry in a purse race. If making a double entry of horses owned wholly or in part by the same owner or spouse, a preference for one (1) of the horses shall be made.

(4)(a) Two (2) horses having common ties through ownership shall not start in a purse race to the exclusion of a single entry, unless the horses have been uncoupled pursuant to subsection (5) of this section.

(b) In a purse race, the racing secretary may uncouple entries having common ties through training to make two (2) separate betting interests.

(5) In any stakes race with added money of \$50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

Section 6. Subscriptions.

(1) A subscriber to a stakes race may transfer or declare a subscription prior to the closing of entries for the race.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse. Each owner shall be jointly and severally liable for all payments due.

(3) Death of a horse or a mistake in its entry if the horse is eligible shall not release the subscriber or transferee from liability for all stakes fees due. Fees paid in connection with a subscription to a stakes race that is run shall not be refunded, except as otherwise stated in the conditions of the stakes race.

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) If a horse is sold privately, sold at public auction, or claimed, stakes engagements for it shall be transferred automatically with the horse to its new owner. If the horse is transferred to a person whose license is suspended, revoked, or is otherwise ineligible to be licensed, the subscription shall be void as of the date of the transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the condition for the stakes race. If a stakes race is cancelled for any reason, all subscription fees paid shall be refunded.

Section 7. Closings.

(1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for the races.

(a) If a race is not split, an entry, subscription, or declaration shall not be accepted after closing time.

(b) If a purse race fails to fill, or in an emergency, the racing secretary may extend the closing time, if the approval of a steward has been obtained.

(2) Entries that have closed shall be compiled without delay by the racing secretary and shall be posted along with declarations.

Section 8. Number of Starters in a Race.

(1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and any extensions approved by the commission as can be positioned across the width of the track at the starting point for the race. The maximum number of starters further shall be limited by the number of horses that, in the opinion of the stewards after considering the safety of the horses and riders and the distance from the start to the first turn, may be afforded a fair and equal start.

(2)(a) A maiden, starter, or claiming race shall be run if:

1. Eight (8) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(b) Except as established in paragraph (c) of this subsection, any other purse race shall be run if:

1. Six (6) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(c) If a purse race under paragraph (b) of this subsection includes two (2) horses having common ties through training, the race shall be run if eight (8) or more horses are entered.

(3) If a purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (2) of this section, the association may cancel or declare the race off. The names of all horses entered in the race shall be publicly posted in the office of the racing secretary on the date of entry.

Section 9. Split or Divided Races.

(1) If a race is cancelled or declared off, the association may split any race programmed for the same day that may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) If a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice of the split not less than fifteen (15) minutes before the races are closed in order to grant time for the making of additional entries to the split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions were made and the conditions established in paragraphs (a) through (c) of this subsection.

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making the multiple entry, at the time of the entry, indicates the coupling of horses is not to be uncoupled if the race is split.

(b) Division of entries in any split stakes race may be made according to age, sex, or both.

(c) Entries for any split race not divided by any method provided for in this administrative regulation shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of the split race.

Section 10. Post Positions.

(1) Post positions for all races shall be determined by lot, except as established in Section 11(5) of this administrative regulation. Owners, trainers, and their representatives shall have the opportunity to be present at the drawing.

(2) The racing secretary shall assign program numbers for each starter to conform with the post position drawn, except if a race includes two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List.

(1) If the number of entries for a race exceeds the number of horses permitted to start, as established by Section 8 of this administrative regulation, the names of no more than eight (8) horses entered but not drawn into the race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After a horse has been excused from a race at scratch time, also-eligible horses shall be drawn into the body of the race based on preference. If preference is equal, horses shall be drawn by lot, unless otherwise stipulated in the conditions of the race.

(3)(a) An owner or trainer of a horse on the also-eligible list not wishing to start the horse in a race shall notify the racing secretary prior to scratch time for the race. The horse shall forfeit any preference to which it may have been entitled.

(b) If there are no scratches in the body of a race, a horse on the also-eligible list not drawn into the race shall retain its previously established preference.

(4) A horse on the also-eligible list for a race on the present day that has been drawn into the body of a race on a future [~~the succeeding~~] race day, shall not be permitted to run in the race on the present day for which it had been listed as also-eligible. This shall not include stakes, ~~and~~handicaps, races at subsequent meets, or races in other jurisdictions.

(5) A horse on the also-eligible list shall be assigned a post position by preference. If preference is equal, post positions

shall be drawn by lot, unless otherwise stipulated in the published conditions of the race.

Section 12. Preferred List.

(1) The racing secretary shall maintain a list of horses that were entered but denied an opportunity to race because they were eliminated from a race included in the printed condition

book either by overfilling or failure to fill.

(2) The racing secretary shall submit, for approval of the commission at least thirty (30) days prior to the opening date of a race meeting, a detailed description of the manner in which preference will be allocated.

(3) Preferences shall not be given to a horse otherwise eligible for a race if it is also entered for a race on a future [~~the succeeding~~] race day. This shall not include stakes and handicaps.

Section 13. Arrears. Unless approved by the racing secretary, a horse shall not be entered or raced unless its owner has paid all stakes fees owed.

Section 14. Declarations.

(1) Declarations shall be made in the same form, time, and procedure as required for the making of entries.

(2) Declarations shall be irrevocable.

(3) A declaration fee shall not be required by any licensed association.

Section 15. Scratches.

(1) Scratches shall be irrevocable and shall be permitted under the conditions established in this section.

(a) Except as established in paragraph (b) of this subsection, a horse may be scratched from a stakes race for any reason at any time until four (4) hours prior to post time for the race by obtaining approval from the stewards. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of the scratch to be made.

(b) If a list of also-eligible horses has been drawn, scratches shall be filed at the regular scratch time as posted by the racing secretary. Scratch time may be extended by the stewards at their discretion if warranted. Thereafter, a horse shall not be scratched unless:

1. A valid physical reason exists; or

2. The scratch is related to adverse track conditions or change of racing surface.

(c) A horse shall not be scratched from a purse race unless:

1. The approval of the stewards has been obtained; and

2. Intention to scratch has been filed in writing with the racing secretary or the secretary's assistant at or before scratch time.

(2) A scratch of one (1) horse coupled in a mutuel entry in a purse race shall be made at or before scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time.

(3) In a purse race, a horse that is physically disabled or sick shall be permitted to be scratched first. If horses representing more than eight (8) betting interests remain in after horses with physical excuses have been scratched, an owner or trainer may scratch horses without physical excuses at scratch time, down to a minimum of eight (8) betting interests. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) A horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall be placed on the commission's veterinarian list for six (6) calendar days beginning the day after the horse was scratched or excused.

(5) Each association shall keep records and statistics documenting the effect upon field sizes of the six (6) day veterinarian list requirement in subsection (4) of this section. Records and statistics kept pursuant to this section shall be retained by the licensed racing association for at least one (1) year.

Section 16. Official Publication Statistics. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form or similar publication as the commission considers appropriate to advise the public and the monthly chart books, or corresponding official publications of any foreign country, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

Section 17. Examination by Attending Veterinarian.

(1) Subject to the exception in subsection (4), a horse shall only be entered if:

(a) The horse has been examined by an attending veterinarian licensed by the veterinary regulatory body in the jurisdiction where the examination occurs no more than three (3) days prior to entry;

(b) The attending veterinarian certifies in writing that the horse is in serviceable, sound racing condition; and

(c) The written certification is provided to the Equine Medical Director or designee~~[racing secretary]~~ no later than the time of entry.

(2) The examination required by paragraph (a) of subsection (1) of this section shall include watching the horse jog in hand.

(3) If the attending veterinarian who examines the horse prescribes a diagnostic test as part of the evaluation of the horse's soundness, the results of the test shall be provided to the commission's veterinarian no later than one (1) day before the horse is set to start.

(4) If a racing secretary contacts a trainer to fill a ~~[an extra]~~ race, the trainer may enter a horse prior to obtaining the examination and written certification required in this section, if the certification required in this section is provided to the Equine Medical Director or designee on the day that the horse is entered.~~[racing secretary:~~

~~(a) On the same day that the horse is entered; and~~

~~(b) Prior to the race in which the horse is entered.]~~

JONATHAN RABINOWITZ, Chair

KERRY HARVEY, Secretary

APPROVED BY AGENCY: October 29, 2020

FILED WITH LRC: October 29, 2020 at 8:55a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. on January 21, 2021, at Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on January 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction. These rules provide an orderly means of determining which horses will be considered eligible to enter a race.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific requirements and methods for entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions related to entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction, and it therefore assists in ensuring the integrity of racing by requiring a uniform application of the rules for all entries, subscriptions, and/or declarations.

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

(a) How the amendment will change this existing administrative regulation: Section 11 of 810 KAR 4:030 currently allows owners to enter into the also-eligible list for a race at the first part of the week, and to enter the body of a race in the latter part of the week. Since horses do not race more than once a week, this practice allows horse owners to investigate both races, and to then make their choice as to which race to run. This leaves an undetermined situation for the racing association. Such a practice can harm the association if the owner chooses to race on their also-eligible day. This is because the association then loses that horse on the day when the horse was originally scheduled to run in the body of the race. The association may not have an also-eligible list from which to draw another horse. The proposed amendment to Section 11 bars a horse from racing on its also-eligible day when it is entered for a race on a future race date. This prohibition does not include instances where the horse is listed in the body of the race at a subsequent meet in Kentucky, or a race in another jurisdiction. Additionally, the proposed amendment changes the word 'succeeding' to 'future,' in hopes of using language that will generate less confusion. Due to the above issues, the proposed amendment also includes a change to Section 12(3), which would now state that preferences shall not be given to a horse if it is also entered for a race at a future race day. Section 15 of 810 KAR 4:030 also contains a proposed amendment. The current version of the regulation requires scratch time to be at a specific time when there is an also-eligible list. However, as amended, the stewards would be afforded discretion to extend that scratch time if needed. For instance, if it is raining and there is a possibility that horses will have to race off the turf, the stewards could extend scratch time so that all parties can make a decision as to whether to race their horses. Finally, Section 17 of the regulation, relating to the veterinarian's examination, has been amended as follows: two (2) obsolete references to the racing secretary have been replaced with references to the Equine Medical Director or his or her designee. Additionally, the regulation currently contains an exception for a situation in which a racing secretary contacts a trainer to fill an extra race. This reference has been broadened in the amended version of the

regulation to allow for the exception anytime the secretary contacts a trainer to fill any race. Lastly, the reference to providing paperwork prior to the race has been removed from the amended version of the regulation, as it is redundant and confusing.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure: (1) that the also-eligible list is not used in a way that could harm racing associations and negatively impact the integrity of horse racing; (2) that the stewards are afforded necessary discretion to extend that scratch time, if warranted by the circumstances; and (3) that the regulation uses consistent, current language throughout.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This amendment addresses the conditions related to entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction.

(d) How the amendment will assist in the effective administration of the statutes: This amendment addresses the conditions related to entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction, and it therefore assists in ensuring the integrity of racing by requiring a uniform application of the rules for all entries, subscriptions, and/or declarations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This proposed amendment will affect the eight currently-licensed racing associations in the Commonwealth, any applicant for a racing association license, the owners and trainers who participate in racing in the Commonwealth, the jockeys who ride in the Commonwealth, and the commission.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Participants in horse racing, and especially owners and trainers, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries, subscriptions, and declarations for all horse racing falling under the commission's jurisdiction.

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

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

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

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

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

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

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation does not establish any new fees or increase any current fees to participate.

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 230.215, 230.240, KRS 230.260, 230.290, 230.310, 230.320.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

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

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this regulation for subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None