

DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 4815(b)(3)(c)(3) (3 **Del.C.** §4815(b)(3)(c)(3))
3 **DE Admin. Code** 1001

FINAL

ORDER

Pursuant to 29 **Del.C.** §10118 and 3 **Del.C.** §10103, the Delaware Thoroughbred Racing Commission issues this Order adopting proposed rules to the Commission's Rules. Following notice and a public hearing on June 24, 2008, the Commission makes the following findings and conclusions:

Summary of the Evidence

1. The Commission posted public notice of the proposed rules June 1, 2008 in the Register of Regulations and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to amend Section 13 of the rules and regulations to address Claiming Races by amending existing Rule 13.1.1, and adding Rule 13.20.
2. The Commission received no written comments. The Commission held a public hearing on June 24, 2008 and received no public comments.

Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.
4. The Commission concludes that Rule 13.1.1 and Rule 13.20 should be adopted to reflect current policies, practices, and procedures.
5. The effective date of this Order will be ten (10) days from the publication of this Order in the Register of Regulations on August 1, 2008.

IT IS SO ORDERED this 14th day of July 2008.

Bernard J. Daney, Chairman
W. Duncan Patterson, Secretary/Commissioner
Henry James Decker, Commissioner
Edward Stegemeier, Commissioner
Debbie Killeen, Commissioner

1001 Thoroughbred Racing Rules and Regulations

(Break in Continuity of Sections)

13.0 Claiming Races

13.1 Owners Entitled:

13.1.1 In claiming races, any horse, unless declared ineligible under Rule 13.20, is subject to claim for its entered price by any Owner in good standing, who has horses stabled on the Licensee's grounds, and who has started a horse at the race meeting at which the claim is made.

13.1.2 An Owner may claim out of the race in which he first starts a horse. Owners shipping in from other stable areas who have a horse claimed shall be allowed one claim to replace the horse lost via claiming.

13.1.3 A new Owner, i.e., an individual, partnership, corporation or any other authorized racing interest who has not held an Owner's license in any racing jurisdiction during the prior year, is eligible to claim by obtaining an "Open Claiming License" from the Commission.

13.1.4 In order to obtain an open claiming license and file an open claim, an individual must comply with the following procedures:

13.1.4.1 Depositing an amount no less than the minimum claiming price of the intended claim at that meet with the Horsemen's Bookkeeper. Such amount shall remain on account until a claim is in fact made. In the event of withdrawal of such fund, any license issued hereunder shall be automatically revoked and terminated.

13.1.4.2 Securing an Owner or authorized racing interest license by the Commission. Such license will be conditioned upon the making of a claim and shall be revoked if no such claim is, in fact, made within thirty (30) racing days after issuance or if the deposit above required is withdrawn prior to completion of a claim.

13.1.4.3 Naming a Trainer licensed by the Commission who will represent him once said claim is made.

13.2 Claim by Agent:

13.2.1 A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is authorized and registered as agent and the name of the authorized agent, as well as the name of the Owner for whom the claim is being made, shall appear on the claim slip.

13.3 Claiming Own Horse Prohibited:

13.3.1 No person shall claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the Owner or Trainer from whom claimed.

13.4 Limits on claims:

13.4.1 No person shall claim more than one horse from any one race. No authorized agent, although representing several Owners, shall submit more than one claim for any race. When a stable consists of horses owned by more than one person, trained by the same Trainer, not more than one claim may be entered on behalf of such stable in any one race. An Owner who races in a partnership may not claim except in the interest of the partnership, unless he has also started a horse in his own individual interest. An owner who races in a partnership may claim in his or her individual interest if the individual has started a horse in the partnership. The individual must also have an account with the horsemen's bookkeeper that is separate from the partnership account.

13.5 Twenty Day Prohibition -- Sale of Claimed Horse:

13.5.1 A claimed horse shall not run for twenty days after being claimed in a race in which the determining eligibility price is less than twenty-five percent more than the price for which the horse was claimed. The day claimed shall not count but the following calendar day shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the twenty-first calendar day following the claim. This provision shall not apply to starter handicaps, allowance and starter allowance races.

13.6 Thirty Day Prohibition -- Sale of Claimed Horse:

13.6.1 No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No claimed horse shall race elsewhere until sixty (60) calendar days after the date on which it was claimed or until after the close of the meeting at which it was claimed, whichever comes first. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter elsewhere whenever necessary so the horse may start on the 61st calendar day following the claim. The Stewards shall have the authority to waive this rule upon application, so as to allow a claimed horse to race in a stakes race. The Stewards may also permit a horse claimed in a steeplechase or hurdle race to race elsewhere in a steeplechase or hurdle race after the close of the steeplechase program, if such a program ends before the close of the meeting at which it is claimed.

Revised: 7/16/86

13.7 Form of Claim:

13.7.1 Each claim shall be made in writing on a form and in an envelope supplied by Licensee. Both form and envelope must be filled out completely and must be accurate in every detail.

13.8 Procedure for Claim:

13.8.1 Claims must be deposited in the claim box at least ten (10) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid, the claimant must have, at the time of filing the claim, a credit balance in his account with the Horsemen's Bookkeeper of not less than the amount of the claim.

13.8.2 Officials and employees of the association shall not provide any information as to filing of claims until after the race has been run except as is necessary for processing of the claim.

Revised: 8/15/95

13.9 Stewards' Duties:

13.9.1 The Stewards, or their designated representatives, shall open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the Horsemen's Bookkeeper to ascertain whether the proper credit balance has been established with the Licensee and with the Racing Secretary as to whether the claimant has claiming privileges at Licensee's meeting.

13.10 Conflicting claims:

13.10.1 If more than one valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the Stewards or their designated representative.

13.11 Delivery of Claimed Horse:

13.11.1 Any horse that has been claimed shall, after the race has been run, be taken to the paddock for delivery to the claimant, who must present written authorization for the claim from the Racing Secretary. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race and, until delivery is made, the horse in question shall be disqualified from further racing.

13.12 Nature and Effect of a Claim:

13.12.1 Claims are irrevocable except as otherwise provided for in these Rules. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter and said claimant shall then become the Owner of the horse, whether it be alive or dead, sound or unsound, or injured, during the race or after it. A claimed horse shall run in the interest of and for the account of the Owner from whom claimed.

13.12.2 A post-race test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race sample is collected. Any claimed horse not otherwise selected for testing by the stewards shall be tested if requested by the claimant at the time the claim form is submitted in accordance with these Rules. The successful claimant shall have the right to void the claim should the forensic analysis be positive for any prohibited substance, an illegal level of a permitted medication, or if a blood sample exhibits a positive response to the Erythropoietin (EPO) antibody test.

13.13 Prohibited Practices:

13.13.1 No person shall offer or enter into an agreement to claim or not to claim or to attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt, by intimidation, to prevent anyone from running a horse in any claiming race. No Owner or Trainer shall make an agreement with another Owner or Trainer for the protection of each other's horses in a claiming race.

13.13.2 A person shall not claim a horse in which the person has a financial or beneficial interest as on owner or trainer.

13.13.3 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.

13.13.4 A person shall not claim a horse or enter into any agreement to have a horse claimed on behalf of an ineligible person.

13.14 Invalidation of Claim:

13.14.1 Claims which are not made in keeping with the Rules shall be void. The Stewards may, at any time in their discretion, require any person filing a claim to furnish an affidavit in writing that he is claiming in accordance with these Rules. The Stewards shall be the judges of the validity of the claim and, if they feel that a "starter" was nominated for the purpose of making its Owner eligible to claim, they may invalidate the claim.

13.15 Necessity to Record Lien:

13.15.1 Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the Racing Secretary and/or Horsemen's Bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be conclusively assumed, for claiming purposes, that none exists.

13.16 Claiming Privileges -- Eliminated Stable:

13.16.1 If a person's stable shall be eliminated with thirty (30) racing days or less remaining in the current racing season, and such person is unable to replace the horse(s) lost via a claim by the end of the racing season, such person may apply to the Stewards for an additional thirty (30) racing days of eligibility to claim in the new race meeting as long as the person owns no other horses at the start of the next race meeting. Should a stable at a meeting be eliminated by sale or removal from the grounds, the right to claim is void. After claiming a horse under the conditions of this Rule, the Owner shall be required to reinstate his eligibility to claim pursuant to these Rules before being eligible to make another claim.

13.17 Claim Embraces Horse's Prior Engagements:

13.17.1 The engagements of a claimed horse pass automatically with the horse to the claimant.

13.18 Caveat Emptor:

13.18.1 Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

13.19 Racing Claimed Horse: Repealed

13.20 Option to Declare Horse Ineligible to be Claimed:

13.20.1 At the time of entry into a claiming race, the owner may opt to declare a horse ineligible to be claimed provided that the horse has been laid-off and has not started for a minimum of 180 days since its last race and is entered for a claiming price equal to or greater than the claiming price of the horses last start.

1 DE Reg. 713 (12/1/97)

2 DE Reg. 373 (9/1/98)

2 DE Reg. 2043 (5/1/99)

5 DE Reg. 849 (10/1/01)

5 DE Reg. 1710 (3/1/02)

6 DE Reg. 1205 (3/1/03)

7 DE Reg. 316 (9/1/03)

7 DE Reg. 1540 (5/1/04)

11 DE Reg. 1373 (04/01/08)

***Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Thoroughbred Racing Commission is available at:**

<http://regulations.delaware.gov/AdminCode/title3/1000/1001/index.shtml#TopOfPage>

12 DE Reg. 201 (08/01/08)