



Ohio Administrative Code

Rule 3769-8-12 Independent analysis of official specimen.

Effective: December 26, 2022

(A) The commission veterinarian shall, whenever physically possible, collect a minimum of fifty milliliters of urine and a minimum of thirty milliliters of blood specimens from each horse selected for testing by the stewards.

(1) The official laboratory shall retain all portions of each specimen in secure, limited access, frozen storage at a site approved by the commission for the time period required by this rule;

(2) If the results of tests on a specimen are negative, the official laboratory may discard all portions of said specimen;

(3) If the results of tests on a specimen are positive, the official laboratory shall retain all portions of said specimen until the matter has been finally adjudicated or until directed to forward the specimen or a portion thereof to another laboratory for independent analysis;

(4) The trainer and/or owner shall not be entitled to a retained specimen in those instances where the official laboratory deems it necessary to consume the entirety of an official specimen for official laboratory testing purposes.

(B) The results of all tests performed by the official laboratory shall remain confidential until the time of the stewards hearing, if any, and shall be communicated only to the executive director of the commission, the state steward and the trainer. The trainer shall be responsible for notifying the owner of a horse of a positive test result as reported by the official laboratory.

(1) The trainer or owner of a horse for which a positive test result was reported may request that the retained specimen or a portion thereof be retested in accordance with this rule. A commission approved independent laboratory or the official laboratory must perform the retest;

(2) Approved independent laboratories are identified on a list maintained by the commission:



- (3) Approved independent laboratories must establish reasonable fees for testing that may include the costs of testing negative control specimens if requested by the trainer or owner;
- (4) The request for retesting shall be in writing and shall be delivered to the stewards not more than forty-eight hours after the issuance of notification to the trainer regarding the positive by the stewards. Notice of a positive test result shall be communicated in writing to the trainer and may also be communicated orally to the trainer. Failure to request retesting of the retained specimen within forty-eight hours of issuance of notification to the trainer regarding the positive by the stewards shall constitute waiver of this right;
- (5) The laboratory selected by the trainer or owner for independent testing of the retained specimen shall be contacted by a representative of the commission to request acceptance of the specimen for testing;
- (6) The owner or trainer is entitled to be present at the retest if they have requested retesting of the retained specimen by the official laboratory;
- (7) The results of testing by an approved independent laboratory shall be furnished to the commission and may be introduced as evidence in any hearing;
- (8) If a retained specimen is sent to an independent laboratory for retesting, the official laboratory shall arrange for shipment of the specimen in a manner that ensures the integrity of the sample. Costs of shipping and handling will be paid by the owner or trainer requesting the retest;
- (9) The identity of the drug or drug metabolite(s) identified by the official laboratory shall be communicated to the independent laboratory in writing;
- (10) Should the independent laboratory determine that there is insufficient sample volume to retest the sample, or if an act of god, power failure, accident, labor strike or any other event beyond the control of the commission or its representatives prevents the retained sample from being tested, then the results of tests performed by the official laboratory shall be prima facie evidence of the presence of the substance(s) identified by the official laboratory.



(11) The trainer or owner may request that negative control samples be tested with the retained sample. The relative identities of the negative control samples and the retained sample shall be known only to the official laboratory.

(C) The independent laboratory shall send a confidential written report of the results of its tests to the commission, which in turn shall send a confidential report to the trainer and owner forthwith.

(1) No action shall be taken against the trainer or owner if the results of the retesting are negative.

(2) Should the results of retesting prove negative, the owner or trainer shall be reimbursed by the commission for all costs of retesting.