

Jonathan Zachem, Secretary

Rick Scott, Governor

December 27, 2017

Via Hand Delivery

Mr. Ernie Reddick, Chief
Bureau of Administrative Code
Florida Administrative Register
The R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

FILED
2017 DEC 27 PM 3:59
MELANIE G. HARRIS
TALLAHASSEE, FLORIDA

Re: Emergency Rule 61DER17-2, Florida Administrative Code

Dear Mr. Reddick:

Enclosed please find the original and two copies of the above-captioned emergency rule filed by the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, which is being filed with your office today. A Copy of the Notice of Emergency Rule was also filed with the Florida Administrative Register to be published in the next available issue. Specifically, I have enclosed the following:

- One original and two copies of the following:
 - A signed emergency rule certification form, and
 - A copy of the Notice of Emergency Rule.

Thank you for your assistance in this matter. Bryan Barber and I are the contact persons for this rule. You can contact Bryan Barber at bryan.barber@myfloridalicense.com; Division of Pari-Mutuel Wagering, 2601 Blair Stone Road, Tallahassee, FL, 32399; (850)717-1761. You can contact me at, Louis.Trombetta@myfloridalicense.com; Office of the General Counsel, Division of Pari-Mutuel Wagering, 2601 Blair Stone Road, Tallahassee, Florida 32399-1035; 850.717.1508.

Sincerely,

/s/ Louis Trombetta

Louis Trombetta

Assistant General Counsel

Cc: Marjorie C. Holladay, Chief Attorney
The Florida Legislature
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400

**CERTIFICATION OF DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
EMERGENCY RULE FILE D WITH THE DEPARTMENT OF STATE**

I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with Section 120.54(4), F.S. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No(s):
61DER17-2

Under the provision of Section 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing, is set out below:

Effective: 12/27/17
(month) (day) (year)



Signature, Person Authorized to Certify Rules

Director

Title

3

Number of Pages Certified

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TALLAHASSEE, FLORIDA

Notice of Emergency Rule

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

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TALLAHASSEE, FLORIDA

RULE NO.: RULE TITLE:

61DER17-2 Emergency Procedures for Collecting Samples from Racing Greyhounds

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: An Emergency rule is necessary because there exists an immediate danger to the public health, safety and welfare due to a final order concluding that the Division of Pari-Mutuel Wagering's ("Division") greyhound sample collection process contains some procedures that qualify as unadopted rules.

On December 22, 2017, the Division of Administrative Hearings issued a partial summary final order in DOAH case number 17-5238RU, holding that the sample collection procedures performed by the Division included procedures that were considered unadopted rules.

In light of the summary final order, an emergency rule is necessary because the Division would be unable to test for many prohibited substances in greyhounds and be unable to take subsequent administrative action in cases where a prohibited substance is found in such an animal. Such substances would include performance enhancing substances, pain numbing substances, and others that could lead to potential injuries or death the racing animals. Further, the Division must be able to test for such substances in order to ensure legitimate and fair races and to protect the betting public.

Although the Division rejects the legal finding in the Partial Summary Final Order, the Emergency Rule is necessary so that the Division can ensure the greyhound races that occur during the pendency of any legal challenges occur under safe conditions.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Due to the number of performances scheduled in the immediate future, conducting regular rule making, without an emergency rule in place, will not provide a timely remedy.

SUMMARY: Emergency rule 61DER17-2, adds language about collecting, sealing, storing, and shipping samples to the laboratory for analysis to the current sample collection rule. These changes address specific concerns identified by the administrative law judge and are valid exercise of delegated legislative authority.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Bryan Barber, bryan.barber@myfloridalicense.com, (850)717-1761, 2601 Blair Stone Road, Tallahassee, FL, 32399

THE FULL TEXT OF THE EMERGENCY RULE IS:

61DER17-2 Emergency Procedures for Collecting Samples from Racing Greyhounds

(1) In addition to the rules that exist in 61D-6.005, Florida Administrative Code, the following procedures are promulgated under an emergency basis.

(2) Collection of Samples:

(a) Urine samples shall be collected in an unused sample container supplied by the division or its agent.

(b) Authorized representatives of the division shall collect as much urine as possible from each greyhound sampled until all of the urine the greyhound produces is collected, or time restrictions require the collection attempts to cease.

(c) Authorized representatives of the division shall record the identification tattoo of any greyhound from which a sample is collected or attempted to be collected.

(3) Sealing and Labeling of Samples:

(a) As soon as possible after a sample is collected the sample container shall be closed.

(b) Evidence tape shall be placed over both the sample container and lid on at least two sides.

(4) Storing and Shipping the Samples:

(a) Urine samples shall be stored in a lockable freezer in the detention enclosure until the time of shipping.

(b) Urine samples shall be shipped to the laboratory under contract with the division for testing of the samples via the laboratory's contracted common carrier in a locked and sealed container maintained in a manner to preserve the integrity of the samples.

(c) The container or cooler lid shall be closed and locked upon the completion of packing the samples for shipment. All appropriate forms for shipment shall be completed in order to assure the samples are correctly delivered to the laboratory under contract with the division for testing of the samples.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 12/27/2017