



FREQUENTLY ASKED QUESTIONS – ASHBA REGISTRY RULES – TRANSFER OF OWNERSHIP OF EMBRYOS

Q. Why is the new rule needed?

A. The Registry has observed that sales of embryos are becoming increasingly popular, including sales on auction sites. Buyers of embryos had to rely solely on their contractual rights to ensure that months (and potentially years) later, the donor mare owner would be available and willing to sign the “Embryo Transplant Certification” portion of the Application for Registration. Adding provisions for the recording of an Embryo Ownership Transfer removes the need for the buyer/registrant to obtain the signature of the donor mare owner when registering the foal.

As to the rule change on the presumption (recovery from donor mare vs. transfer to carrier mare) of embryo ownership, the rule change was needed to ensure that the correct party is the owner of the embryo (particularly in the case of a frozen embryo) and can register the foal or transfer ownership of the embryo.

Q. When does the rule go into effect?

A. The new rules are effective immediately (as of June 5, 2023), and with respect to the presumption of embryo ownership for recovered embryos, the rule change is retroactive.

Q. Will the Registry report these transfers on the website? How can I know who is the owner of an embryo I am seeking to purchase?

A. The ownership transfers of embryos will NOT be included in the website database. The Registry will append the Embryo Ownership Transfer Form(s) to the donor mare’s record. At the request of the donor mare’s owner (or the previous buyer in the case of an embryo being resold), the Registry staff will be able to provide information to a third party about the current status of any embryo ownership transfers. **This information is not a substitute for proper contacting between the parties.** *Please see Rule Section X. Registry Not Liable.*

Q. I want to sell an embryo out of my mare, but I still want to be listed as the foal’s breeder. The buyer insists that I record the Embryo Ownership Transfer Form with the Registry. How can I be sure that I will be listed as the foal’s breeder?

A. The Embryo Ownership Transfer Form has a separate section for the assignment of breeder’s designation rights, so you can retain that right. It would be prudent to have the buyer sign first and return the form to you so that your sections of the form can be completed in the manner you dictate before you sign the form.

Q. Why doesn't the new rule address the transfer of ownership of oocytes?

A. At this time, the technology does not facilitate the freezing of equine oocytes (unfertilized eggs). Because there is a very short time between the extraction of oocytes from a donor mare, fertilization, and knowing whether there is a potentially viable embryo, recording ownership of oocytes themselves is not practical.

Q. Why do I have to use separate forms for different stallions/different dispositions of embryos?

A. Using separate forms will assist the Registry in matching Applications for Registration and Breeder's Certificate (or Stallion Service Report) to the specific Embryo Ownership Transfer Form. Also, using separate forms will make it easier if an embryo is resold.

Q. If I own a mare and flush an embryo that I freeze and/or transfer to a recipient/carrier mare, do I need to use the Embryo Ownership Transfer Form if I later sell the mare and keep my embryo?

A. No, you are the presumed owner of that foal. The only instance in which you would want to use the form is if you sold the embryo to the mare's purchaser or to a third party.

Q. If I own a mare who is carrying her foal in utero, and then sell the mare, who owns the in-utero foal?

A. This rule has not been changed – the owner of the foal is the owner of the mare at the time the foal is born.

If you wish to retain ownership of the in-utero foal, at the time the Transfer Report is filed for the mare, an Embryo Ownership Transfer Form could also be filed, showing you as the embryo "buyer" and the mare purchaser as the "Donor Mare Recorded Owner."

If the mare being sold is a recipient mare (i.e., carrying a donor mare's embryo), then the rules for embryo ownership apply to the in-utero foal.

Q. If an Embryo Ownership Transfer Form is on file with the Registry, do I still have to complete the Embryo Transplant Certification section of the Application for Registration for the resulting foal?

A. If the embryo was transferred directly to the carrier mare and complete information is provided on the Embryo Ownership Transfer Form, then the Embryo Transplant Certification is not required. If the embryo was frozen for later transfer to a carrier mare, then the Embryo Transplant Certification is still required. In all cases, the \$50 Embryo Transplant Certification must be submitted

Q. When I sold my mare in 20xx, my sale contract gave me the right to breed the mare and keep two embryos. Can I use this new rule/form to record my rights to those embryos?

A. No. This form only is used for embryos that are already in existence. Your rights to recover embryos from the mare you sold (and all other rights and obligations of the parties) is determined by your contract with the purchaser. However, just as soon as an embryo is recovered from the mare, you could get the form completed and recorded.