

**CHAPTER 70**

**HORSE RACING**

**Authority**

N J S A 5 5-30

**Source and Effective Date**

Effective August 28, 2017  
See 49 N J R 3361(b)

**Chapter Expiration Date**

Chapter 70, Horse Racing, expires on August 28, 2024

**Chapter Historical Note**

Chapter 70, Horse Racing, was filed and became effective prior to September 1, 1969

Subchapter 31, Violations, was adopted as R 1976 d 292, effective September 16, 1976 See 8 N J R 250(c), 8 N J R 483(a)

Subchapter 14A, Stimulation and Test, was adopted as R 1979 d 497, effective January 1, 1980 See 11 N J R 579(a), 12 N J R 91(b)

Pursuant to Executive Order 66(1978), Subchapter 3, Racing Associations, Subchapter 14, Illegal Practices, Subchapter 15, Racing Officials, Subchapter 19, Other Officials, and Subchapter 29, Mutuels, were readopted as R 1983 d 295, effective July 8, 1983 See 15 N J R 685(a), 15 N J R 1256(a)

Pursuant to Executive Order No 66(1978), Subchapter 4 Licensing, was readopted as R 1984 d 103, effective March 19, 1984 See 16 N J R 221(a), 16 N J R 742(a), 16 N J R 1360(a)

Pursuant to Executive Order No 66(1978), Subchapter 6, Entries and Subscriptions, was readopted as R 1984 d 213, effective May 18, 1984 See 16 N J R 690(a), 16 N J R 1361(a)

Pursuant to Executive Order No 66(1978), Subchapter 2, Definitions, and Subchapter 14A, Stimulation and Test, expired on December 19, 1984

Subchapter 2, Definitions, was adopted as new rules by R 1984 d 621, effective December 24, 1984 See 16 N J R 2976(a), 17 N J R 204(b)

Subchapter 14A, Medication and Testing Procedures, was adopted as new rules by R 1985 d 59, effective February 19, 1985 (operative April 1, 1985) See 16 N J R 3180(a), 17 N J R 468(a)

Pursuant to Executive Order No 66(1978), Subchapter 12, Claiming, was readopted as R 1985 d 137, effective February 25, 1985 See 17 N J R 57(a), 17 N J R 710(c)

Pursuant to Executive Order No 66(1978), Chapter 70, Horse Racing, was readopted as R 1990 d 127, effective January 25, 1990 See 21 N J R 3856(b), 22 N J R 663(b)

Pursuant to Executive Order No 66(1978), Chapter 70, Horse Racing, was readopted as R 1995 d 102, effective January 25, 1995 See 26 N J R 4742(a), 27 N J R 733(a)

Pursuant to Executive Order No 66(1978), Chapter 70, Horse Racing, was readopted as R 2000 d 34, effective December 22, 1999 See 31 N J R 3047(b), 32 N J R 321(d)

Subchapter 32, "Self-Exclusion List" Rules, was adopted as R 2004 d 399, effective October 18, 2004 See 36 N J R 2980(a), 36 N J R 4828(a)

Chapter 70, Horse Racing, was readopted as R 2005 d 233, effective June 17, 2005 See 37 N J R 417(a), 37 N J R 2696(a)

Chapter 70, Horse Racing, was readopted as R 2011 d 015, effective December 7, 2010 See 42 N J R 1486(a), 43 N J R 56(b)

Subchapter 29A, Single-Pool Wagering, was adopted as new rules by R 2013 d 068, effective April 15, 2013 See 44 N J R 3043(a), 45 N J R 926(a)

In accordance with N J S A 52 14B-5 1b, Chapter 70, Horse Racing, was scheduled to expire on December 7, 2017 See 43 N J R 1203(a)

Chapter 70, Horse Racing, was readopted, effective August 28, 2017 See Source and Effective Date

**Law Review and Journal Commentaries**

Horse Drugging—The New Jersey Trainer Absolute Insurer Law  
Luke P Iovine, III, John E Keefe, Jr, 1 Seton Hall J Sport L 61 (1991)

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- 13 70-31 1 Liability
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SUBCHAPTER 32 "SELF-EXCLUSION LIST" RULES

- 13 70-32 1 "Self-exclusion list" rules incorporated herein by reference

SUBCHAPTER 1 GENERAL RULES

13:70-1.1 Applicability

These rules are to apply to all tracks, all race meetings and to all persons and all matters within the jurisdiction of the New Jersey Racing Commission

Case Notes

Suspension of wife's license due to husband's criminal conviction upheld, rule not assailable on equal protection grounds, full constitutional safeguards observed in suspension Nigho v New Jersey Racing Commission, 158 N J Super 182, 385 A 2d 925 (App Div 1978)

13:70-1.2 Gender

The definitions and interpretations of racing terms, as well as the Foreword, are to be considered in connection with the rules and as part of them. Wherever "he" is used, it shall be construed to mean "he" or "she"

13:70-1.3 Scope; authority of Executive Director

(a) The rules, regulations and conditions under which all horse racing shall be conducted in the State of New Jersey are prescribed by the racing law (N J S A 5 5-22 et seq ) and by the New Jersey Racing Commission

(b) The Executive Director or his or her designee shall possess the same authority of the Racing Commission stewards and judges with respect to all provisions contained in the Administrative Code governing racing in New Jersey

Amended by R 1992 d 87, effective February 18, 1992  
See 23 N J R 3431(a), 24 N J R 646(a)  
Revised section





**13:70-1.4 Owners and trainers**

All owners and trainers of horses and their stable employees are subject to the laws of the State of New Jersey and the rules of the Racing Commission immediately upon acceptance and occupancy of stabling accommodations from or approved by an association or upon making entry to run on its track. Said owners, trainers and stable employees shall abide by the laws and rules and accept the decision of the stewards on any and all questions to which their authority extends, subject to their right of appeal to the Racing Commission.

**Case Notes**

Disciplinary regulation governing failure by licensed trainer to register suspended jockey as employee and employment of disqualified person did not violate equal protection. *Wendling v New Jersey Racing Com'n*, 279 N.J. Super. 477, 653 A.2d 582 (A.D. 1995).

**13:70-1.5 Race participants and patrons**

Every person participating in and every patron of a licensed race meeting shall abide by the said laws and rules, and accept the steward's decision on any and all questions to which their authority extends, subject to the right of appeal to the Racing Commission.

**13:70-1.6 Discharge of groom or attendant; notice**

When an owner or trainer discharges a groom or other attendant, or when a groom or other attendant voluntarily leaves the employ of an owner or trainer, the said owner or trainer shall immediately notify the track security of such discharge or resignation by such employee. Failure to so notify the track security shall subject the owner or trainer to disciplinary action.

Amended by R 1990 d 127, effective February 20, 1990.  
See 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Track "police" changed to track "security."

**13:70-1.7 Language**

No person shall use improper, profane or indecent language to a racing official.

**13:70-1.8 Disturbing the peace**

No person shall in any manner, or at any time, disturb the peace or make himself obnoxious on the grounds of an association.

**13:70-1.9 Handbooks**

No person shall make a handbook on the grounds of an association. No person shall solicit for or bet with a handbook on the grounds of an association.

**13:70-1.10 Suspended person or horse**

No person or horse ruled off by, or under suspension by, any recognized turf authority shall be admitted to the grounds of any association, except that the stewards may permit a

jockey under suspension for routine riding offenses to gallop horses during training hours, and to lodge on the grounds of an association.

Amended by R 1990 d 127, effective February 20, 1990.

See 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Reference to trotting association deleted.

**13:70-1.11 Narcotic or drug convictions**

No person who has been convicted of illegal possession, sale or distribution of narcotic or hallucinogenic drugs or other "controlled dangerous substance" as defined by Title 24 of the New Jersey Statutes shall be permitted on the grounds of any association.

**Case Notes**

Jockey's seven-day suspension for crossing and weaving upheld. *Diaz v New Jersey Racing Commission*, 97 N.J.A.R. 2d (RAC) 1.

**13:70-1.12 Crimes regarding moral turpitude**

No person shall be employed in any capacity whatsoever at any place, track or enclosure where a horse race meeting is permitted who has been convicted of a crime involving moral turpitude.

**13:70-1.13 Reinstatement of horses**

When a person is ruled off a course or suspended, every horse owned in whole or in part by such person, or under the care, management, training or supervision of such person shall not be qualified to be entered or to start in any race until said horse has been reinstated by the rescinding of said person's penalty, or by the transfer through bona fide sale to an owner acceptable to the stewards, or the placement of the horse in the hands of a licensed trainer approved by the stewards.

**13:70-1.14 Rescission of penalties**

When a person is ruled off a course or suspended, such person shall not be qualified, whether acting as agent or otherwise, to subscribe for or to enter or run any horse in any race either in his or her own name or in that of any other person until the rescinding of his or her penalty.

**13:70-1.15 Penalties; acts detrimental to racing**

The stewards may fine, suspend or rule off any person who in their opinion has acted to the detriment of racing or violated the rules.

**Case Notes**

While the Racing Commission approved in the main of the factual determinations of an ALJ who concluded that a registered horse trainer had violated numerous racing regulations by possessing 83 injectable vials and 36 needles, the Commission expressly rejected the ALJ's conclusion that certain counts were properly merged under the criminal law doctrine of merger for the purpose of determining the proper penalty because the merger doctrine did not apply to this proceeding. Specifically, the possession of impermissible substances and, separately, the possession of instruments of injection were each their own violation. Moreover, the

possession of each injectable bottle constituted a separate offense from the possession of prohibited liquids therein. Because each such violation was not a "lesser included offense" of the other violation, the ALJ erred in using the merger doctrine as a basis for a substantial reduction of the penalty. *Batula v N J Racing Comm'n*, OAL Docket No RAC 07184-20, 2021 N J AGEN LEXIS 147, Final Agency Determination (May 21, 2021)

### 13:70-1.16 Complaints in writing

Complaints against a racing official or his assistant shall be made to the stewards in writing and be signed by the complainant, a complaint against the stewards shall be made to the Racing Commission in writing, signed by the complainant.

### 13:70-1.17 Policing requirements

(a) An association conducting race meetings under license from the Racing Commission shall properly police its grounds, including the stable area and paddock, and shall eject therefrom all unauthorized persons, known undesirables, touts, persons believed to be bookmakers or connected with bookmakers, persons under suspension or ruled off, persons of lewd or immoral character, and persons guilty of boisterous or disorderly conduct or other conduct detrimental to racing or the public welfare.

(b) When the State Police in the normal performance of their duties at an association meeting observe an individual deemed to be undesirable within the meaning of this rule, they will so advise the director of security and the Executive Director of the Racing Commission. The director of security shall, in writing, advise the Racing Commission and State Police within 48 hours of the action taken thereon.

As amended, R 1977 d 331, eff August 29, 1977

See 9 N J R 345(b), 9 N J R 487(a)

Amended by R 1986 d 359, effective September 8, 1986

See 18 N J R 819(a), 18 N J R 1829(a)

Deleted sentence "Where practical, a of such persons "

#### Case Notes

Duty imposed on racing association to eject persons guilty of conduct detrimental to racing or the public welfare. *Marzocca v Ferone*, 93 N J 509, 461 A 2d 1133 (1983)

Commission's action in denying admission to racetrack of person convicted in Maryland race-fixing scheme proper as person was guilty of conduct detrimental to racing or the public welfare, regulation valid, Commission actions reviewable only by the Appellate Division of Superior Court. *Bishop v New Jersey Sports & Exhibition Authority*, 168 N J Super 533, 403 A 2d 934 (App Div 1979)

### 13:70-1.18 Police reports

The track security police and any other law enforcement agency acting in, on or about the licensed premises of any race track, or any approved farms or stabling facilities, shall furnish two copies of their daily police report to the State

Police Racetrack Unit, together with any additional pertinent information available to the said police agency, obtained either orally or in writing. The two copies shall be delivered to the New Jersey State Police detail assigned to the race track at the close of each racing day. One copy, with evaluation, comments and further action by the said State Police shall be delivered to the New Jersey Racing Commission.

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Reference to State Police Racetrack Unit added

### 13:70-1.19 Persons ejected; reports

Each association shall furnish to the commission and to the stewards the names and addresses of all persons ejected by the association from its grounds, together with the offense or offenses alleged against them, and any other material information relating thereto.

### 13:70-1.20 Attendance reports

Each association shall make daily reports to the commission of the total attendance showing number of paid admissions, established price of each class of admission together with number of free passes.

### 13:70-1.21 Badges of admission

No badge of admission shall be issued to any owner, trainer, assistant trainer, jockey, jockey agent, authorized agent, groom, exercise boy, stable employee, valet, vendor or plater, or other employees, unless such person has applied for and paid to the Racing Commission the license fee required by law. Applications for such licenses shall be made on forms supplied by the Racing Commission.

### 13:70-1.22 Offices and parking; Racing Commission use

Each association shall provide within its grounds, approved adequate offices and parking areas as required for use and to be at the disposal of the Racing Commission and all of its representatives. The commission shall have such employees or inspectors as provided by law, who shall perform such duties as may be assigned to them by the commission, such employees to have free access to all parts of the grounds while on duty.

### 13:70-1.23 (Reserved)

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Track "police" changed to track "security"

Repealed by R 1996 d 394, effective August 19, 1996

See 28 N J R 2793(a), 28 N J R 3969(a)

Section was "Restrictions on transmittal of information"

**13:70-1.24 Public broadcasts**

Approval of the New Jersey Racing Commission must be obtained before any race may be broadcast or televised from a race track in New Jersey. Only applications by radio or television stations authorized by the Federal Communication Commission will be considered for approval by the commission.

**13:70-1.25 Violations by track associations and penalties**

Notwithstanding any provision of subchapter 16, 23 and 31 of this chapter, any track association, licensed by the New Jersey Racing Commission, that violates a law, rule or regulation or directive of this commission and continues in deliberate violation for a period of 72 hours following notification from the commission office that such violation exists, shall be subject to a fine of not more than \$5,000 per day for each and every day said track association remains in violation of the law, rule or regulation or directive of this commission. Any association fined pursuant to this rule may, within three days after service of such notice of the imposition of a fine or fines, request a hearing by petition in writing, which hearing shall be held within four days after the petition has been served upon the chairman or executive director of the Racing Commission.

R 1976 d 292, effective September 16, 1976  
See 8 N J R 250(c), 8 N J R 483(a)

**13:70-1.26 Designation of commission agents**

In enforcing the racing laws and the rules and regulations of the commission, the commission may designate enforcement personnel assigned to it by the New Jersey Department of Law and Public Safety. Such personnel, while so acting shall be designated as agents of the commission.

R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

**13:70-1.27 State Police; reports**

When the State Police in the normal performance of their duties at an association meeting determine any defect in the administrative or operational security measures necessary to properly protect the grounds, they shall report the circumstances in writing to the Executive Director of the Racing Commission with a copy to the director of security. The director of security shall respond in writing to the Racing Commission with a copy to the State Police, without undue delay, of the action taken thereon.

R 1977 d 331, effective August 29, 1977  
See 9 N J R 345(b), 9 N J R 487(a)

**Case Notes**

Cited in examination of extent of State regulation of private trade activity *Marzocca v Ferone*, 186 N J Super 483, 453 A 2d 228 (App Div 1982) certification denied 91 N J 574, 453 A 2d 884, affirmed in part, reversed in part 93 N J 509, 461 A 2d 1133 (1983)

**13:70-1.28 Modification of penalties**

The Commission may modify on its own motion any penalty or decision imposed by a racing official pursuant to the rules and regulations as herein contained.

R 1981 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

**Case Notes**

Initial Decision (2008 N J AGEN LEXIS 756) adopted, which determined that the Racing Commission's authority to modify penalties is not absolute. *Synnefias v N J Racing Comm'n*, OAL Dkt No RAC 3520-06, 2008 N J AGEN LEXIS 1116, Final Decision (October 7, 2008)

**13:70-1.29 Reciprocity**

Full force and effect shall be given to the denial, revocation or suspension of any license by any other racing commission or turf governing body.

R 1981 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

**13:70-1.30 Horsemen associations**

(a) It shall be the intent of this rule to establish guidelines that ensure that funds allocated to the horsemen's organizations by statute (N J S A 5 5-66) are used to finance programs to benefit all New Jersey horsemen and that administrative and overhead costs are reasonably related to such programs.

(b) Funds allocated to the horsemen's organizations by statute must be used to benefit all New Jersey horsemen. Membership in the horsemen's organizations shall not be a condition for receiving benefits.

(c) Amounts collected as voluntary dues from members are excluded from this rule. However, funds acquired from sources other than the statutory allocation must be kept separate and apart from funds obtained from the statutory allocation.

(d) The horsemen's organizations shall maintain adequate records concerning receipt of and distribution of funds allocated to them by statute. The New Jersey Racing Commission shall have access to all records maintained by the horsemen's organizations which relate directly or indirectly to funds allocated by statute.

(e) The horsemen's organizations shall submit detailed budgets to the Racing Commission by December 15 of each year, identifying the source and use of funds, as well as any surplus or deficit that may result. The budget must also include the actual prior year's expenses in each category for comparison purposes. In addition, quarterly budget reports must be filed with the Commission 45 days after the close of each quarter. These reports must reflect actual income and expenses to date, as well as projected income and expenses for the remainder of the year. Prior approval must be obtained from the Commission for all expenditures that exceed the approved budget levels.

(f) The horsemen's organizations Audited financial statements, including balance sheet, income statement and source and use of funds, prepared by a certified public accountant of New Jersey, must be filed with the Commission by February 28 for the preceding calendar year

(g) Funding for benevolent programs, including but not limited to pension plans, health and life insurance plans, etc will be considered reasonable if such program funding on an annual basis is at least 70 percent of the total statutory allocation Whether or not a program will be considered a "benevolent program" will be decided upon application to the Racing Commission Annual benevolence program funding below 70 percent of the total statutory allocation requires justification satisfactory to the Commission The administrative costs and overhead expenses of administering the horsemen's organizations including benevolent programs may not exceed 30 percent of the total allocated by statute unless and to the extent specifically authorized in advance by the Racing Commission

(h) General administration and overhead expenses are considered reasonable if they are less than 30 percent of the statutory allocation Funding above 30 percent of the total statutory allocation requires justification satisfactory to the Commission Within this category, expenses for travel, entertainment, meals and lodging are considered reasonable if they conform to the horsemen's organizations' travel and expense reimbursement guidelines on file and approved by the Commission For expenses in excess of amounts allowed under these guidelines, the Racing Commission may require special justification and/or prior approval

(i) Payments to national programs are allowed only to the extent that the horsemen's organizations can clearly show that the payments benefit all New Jersey horsemen, not just members of these organizations

(j) If the accumulated surplus exceeds \$250,000 at the end of a calendar year, horsemen's organizations are required to utilize the amount in excess of the \$250,000 for new or expanded benevolent programs or justify to the Racing Commission why they do not intend to utilize the excess funds

(k) Violation of this rule may subject the organization to a fine not to exceed \$1,000 per violation

New Rule, R 1988 d 75, effective February 16, 1988  
See 19 N J R 1418(a), 20 N J R 404(b)  
Amended by R 1988 d 400, effective August 15, 1988  
See 20 N J R 1172(a), 20 N J R 2070(a)

Substantially amended  
Amended by R 1989 d 106, effective February 21, 1989  
See 20 N J R 2995(c), 21 N J R 451(a)

Old (j) deleted and new (j) added

#### Case Notes

Statute creating fund to aid horsemen imbued nonprofit horseman's organization with the discretion to act in whatever reasonable manner would "aid horsemen," and particular political contributions and lobbying and education expenses, which were approved by organization's board of directors, were reasonable manifestations of use of organization's discretion N J Horseman's Ass'n v State, 348 N J Super 125, 791 A 2d 320

Racing Commission does not have exclusive jurisdiction to adjudicate all legal and factual disputes involving control and disposition of fund allocated for horsemen's benevolence programs New Jersey Div, Horsemen's Benev Protective Ass'n v New Jersey Racing Com'n, 251 N J Super 589, 598 A 2d 1243 (A D 1991)

#### 13:70-1.31 Commission employees/appointees; prohibited affiliations with permitted racetracks

No employee or appointee of the New Jersey Racing Commission shall provide any services to a permitted racetrack facility in this State, whether or not for compensation, where those services are outside the scope of his or her duties on behalf of the Commission

New Rule, R 1993 d 684, effective December 20, 1993  
See 25 N J R 4458(b), 25 N J R 5938(b)

#### 13:70-1.32 Rules of practices and procedures

This section and N J A C 13 70-1 33 through 1 41 shall constitute rules governing the practices and procedures of the Commission These rules shall apply to all practices and procedures that are not otherwise addressed by the rules in this chapter When an appeal of a licensee is transmitted to the Office of Administrative Law, or the Commission elects to hear the appeal as a contested case, the provisions of the Administrative Procedure Act, N J S A 52 14B-1 et seq and 52 14F-1 et seq, and the Uniform Administrative Procedure Rules, N J A C 1 1 shall govern the proceedings

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

#### 13:70-1.33 Liberal construction of rules of practice and procedure

(a) The rules governing the practices and procedures of the Commission in this subchapter, N J A C 13 70-1 32 through 1 41, shall be liberally construed to permit the Commission and its Executive Director to discharge the Commission's statutory and regulatory functions and to secure just and expeditious determinations of matters before the Commission

(b) The Executive Director may, upon notice to all parties given the statutory right to participate in a proceeding before the Commission by N J S A 5 5-22 through 160 or 5 12-191 through 210, relax the application of these rules when, in his or her discretion, factors including, but not limited to, fundamental fairness, the need for expeditious action and party requests for more time would warrant doing so

(c) In any matter that arises, which is not governed by these rules of practices and procedures, the Executive Director shall have the authority to exercise his or her discretion in deciding whether to place the matter on the meeting agenda and present it to the Commission

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

**13:70-1.34 Notice of proceedings before the Commission**

When acting to carry out its statutory authority in matters that are not "contested cases," as defined in N J S A 52 14B-2(b), the Commission shall provide written notice to all interested parties informing them of the issues to be considered and the date upon which it is anticipated that the Commission will act. This notice shall be sent by the Commission, to the extent possible, at least 30 days prior to the anticipated date of action unless unforeseen or exigent circumstances necessitate otherwise. "Interested parties" shall be those persons or entities that are identified by statute and given the express authority to submit applications, comments or other information to the Commission for its consideration before or when reaching a decision at a scheduled meeting.

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

**13:70-1.35 Opportunity to submit information to the Commission**

(a) When providing notice pursuant to N J A C 13 70-1 34, the Commission shall inform the interested parties, as defined therein, that they shall have the opportunity to submit information regarding their position on the matter to the Commission for its consideration. To be considered, all such information shall be filed and received by the Commission within 15 days after the date of notice.

(b) At least 10 days prior to the date upon which it is anticipated that the Commission will act, the Commission shall provide copies by facsimile of all information received from interested parties, in accordance with (a) above, to all other interested parties. In the discretion of the Executive Director, the Commission may allow further written comment from the interested parties before the date upon which the Commission is scheduled to act. Under such circumstances all interested parties shall be notified in writing of their ability to do so.

(c) If the date upon which the Commission is scheduled to act is unavoidably delayed, the Commission shall notify the interested parties of the date upon which the Commission anticipates that it will act on the matter. At the rescheduled meeting, the Commission shall consider all information submitted to it pursuant to this rule.

(d) The Commission may, in its discretion, allow an interested party to comment verbally prior to Commission action at the scheduled public meeting. All requests to be heard verbally shall be filed with and received by the Commission at least seven days prior to the scheduled meeting. If the Commission grants the request of one interested party to be heard verbally at the meeting, it shall grant the requests of all of the other interested parties to be heard. The Commission may, in its discretion, limit the amount of time allotted for the verbal comments of each interested party.

(e) Any person or entity who has not been designated as an interested party by the Commission and does not have a statutory right to be heard on a specific matter before the Commission in accordance with N J A C 13 70-1 34, may, at least 14 days prior to the meeting upon which the specific matter is scheduled, request, in writing, the opportunity to be heard at the meeting. All such requests shall be considered by the Executive Director who shall, in the exercise of his or her discretion, determine whether this person or entity has a sufficient interest in, or possesses important information on, the matter before the Commission, which would warrant the opportunity to be heard. Alternatively, the Executive Director may, in his or her discretion, refer the request to be heard to the Commission for decision at the scheduled meeting.

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

**13:70-1.36 Requests to place issues on the meeting agenda for the Commission's consideration**

Other than petitions for rulemaking, which are governed by N J A C 13 1D-1 1, any person or entity with an identifiable interest in horse racing, or the parimutuel wagering attendant upon it, may request in writing that a specified issue be placed before the Commission at one of its meetings. All such requests are to be considered by the Executive Director who shall, in the exercise of his or her discretion, determine whether the matter should be placed upon the agenda of a Commission meeting. If the Executive Director determines that the matter should be heard by the Commission, he or she shall determine at which meeting it will be addressed. Alternatively, the Executive Director may, in his or her discretion, refer the request to the Commission for decision.

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

**13:70-1.37 Annual disbursement of Casino Simulcasting Special Fund monies**

(a) The rules of practices and procedures (N J A C 13 70-1 32 through 1 41) set forth in this subchapter shall be applicable to the annual disbursement of Casino Simulcasting Special Fund (CSSF) monies pursuant to N J S A 5 12-205. The disbursement of CSSF monies, which does not constitute a contested case as defined in N J S A 52 14B-2(b) or require a public hearing, shall be considered and decided at a public meeting of the Commission.

(b) "Interested parties" for the purpose of the disbursement of CSSF monies shall include all permitted New Jersey racetracks, the horsemen's organization, which represents a majority of the owners, breeders and trainers of standardbred horses in this State and the horsemen's organizations, which represent a majority of the owners, breeders and trainers of thoroughbred horses in this State.

(c) The written submissions of each permitted New Jersey racetrack shall, to the extent it wishes to present information

for the Commission's consideration, set forth detailed facts in support of any claim that

1 The racetrack's financial well-being has been negatively impacted by casino simulcasting, and

2 The racetrack is financially distressed

(d) The written submissions of each horsemen's organization shall, to the extent the organization wishes the Commission to consider it, set forth detailed facts as to how it will use the monies to fund a project that will be beneficial to the racing industry in New Jersey. The information submitted to the Commission shall detail clearly all aspects of the proposed project, how the project will benefit the horse racing industry in this State and how the requested funds will be used. Failure to submit such detailed information may result in a decision by the Commission that it is unable to disburse CSSF monies for the project.

(e) The amount of CSSF monies to be disbursed, pursuant to N.J.S.A. 5:12-205d, to permitted New Jersey racetracks and the horsemen's organizations shall lie within the Commission's discretion and be in such amounts as the Commission deems appropriate.

(f) The Commission's Order of Disbursement of CSSF monies shall constitute a final decision of the agency and any appeal of such Order shall be made to the Appellate Division of the Superior Court of New Jersey upon notice to the Commission and all other recipients of CSSF monies.

1 Because of the recipients' need to rely upon timely receipt of the monies disbursed and the statute's requirement of annual distributions, the Commission shall not grant any request to stay or escrow the amounts disbursed pending appeal.

2 In the event that the court alters the amount disbursed to an interested party on appeal, the Commission shall effectuate any such modification in the next annual disbursement of CSSF monies. No recipient shall be required to return a prior year's disbursement of CSSF monies unless the amount available in the next annual disbursement is insufficient to cover the modifications ordered by the court or unless exigent circumstances warrant otherwise.

(g) The Commission may order a recipient to return any or all of the CSSF monies disbursed to it if information comes to the attention of the Commission that the recipient is not using the monies for the purposes or projects intended or the recipient is otherwise misusing or unable to account for such monies.

New Rule, R. 2008 d 339, effective November 17, 2008  
See 40 N.J.R. 4295(a), 40 N.J.R. 6620(a)

### 13:70-1.38 Annual allocation of race dates

(a) The rules of practices and procedures, N.J.A.C. 13:70-1.32 through 1.41, set forth in this subchapter shall be applicable to the annual allocation of racing dates. The allocation of racing dates, which does not constitute a contested case as defined in N.J.S.A. 52:14B-2(b) or require a public hearing, shall be considered and decided at a public meeting of the Commission.

(b) "Interested parties" for the purpose of the allocation of racing dates shall include all permitted New Jersey racetracks.

(c) Applications for racing dates shall be made on the form prescribed by the Commission, which shall be mailed to all of the permitted racetracks on or before October 1 of each year.

(d) Applications for racing dates shall be filed with the Commission before October 15 of each year and shall be acted upon by the Commission at a meeting of the Commission to be held not later than December 1 of the same year.

(e) In the event that any such application is filed with the Commission on or after October 15 of any year, the Commission shall act upon the same at a meeting of the Commission to be held not later than 60 days following the filing of such application.

(f) All applicants for racing dates may be present in person or through an agent or counsel and be heard by the Commission with respect to such allotment at the Commission's scheduled meeting.

(g) In allocating racing dates, the Commission shall endeavor to allot to each applicant, subject to the restrictions set forth in N.J.S.A. 5:5-43 et seq., the dates requested in the respective applications, after giving due consideration to all of the factors involved and the interests of such respective applicants and the public.

(h) For the purposes of this section, the "public interest" shall include considerations related to the following factors:

1 Protecting the State's revenues from racing and generating additional revenues to the State, its agencies and subdivisions,

2 Providing for continuity of racing and year-round racing, so as to promote the racing industry and maintain and enhance the employment, which it provides in this State,

3 Providing a recreational opportunity for residents in the several areas of the State where licensed tracks are situated, and

4 Maintaining and improving this State's competitive position with regard to neighboring racing states

(i) A permitholder may reject any or all of the racing dates allotted by the Commission

1 If racing dates are rejected, any or all of the remaining permitholders may amend their applications to request the dates rejected

2 Should more than one permitholder seek to obtain the same rejected dates, the allocation of such shall lie within the Commission's discretion as most appropriate for providing continuity of racing in the State and furthering the public interest

3 The Commission shall not allocate any of the rejected racing dates to any permitholder, which has been determined to be in violation of the Racing Act, N J S A 5:5-22 et seq

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

#### 13:70-1.39 Waiver of the Commission's rules

(a) Any person or entity desiring a waiver or release from the express provisions of the Commission's rules in this chapter, N J A C 13 71, 13 72 and 13 74 shall submit a written request to the Commission, to the attention of the Executive Director, in accordance with the provisions below. Any such request shall set forth in detail all facts that support the necessity of the requested relief and identify all persons or entities who might be affected if the relief were granted

(b) The Commission may, within its discretion, grant a waiver from specific provisions of its rules if it determines

1 That such a waiver will benefit the horse racing industry in this State,

2 That such a waiver is consistent with the intent of, if not the letter of, its rules, or

3 Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes, the public interest or the integrity of the sport

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above

(d) The Commission shall not grant a waiver of its rules where to do so would be contrary to or inconsistent with an applicable statute

(e) All decisions on requests for waiver shall be made at a public meeting of the Commission

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

#### 13:70-1.40 Procedure for modification of penalties

(a) The Commission may modify any penalty or decision imposed by a racing official either on its own motion or when requested to do so by the Executive Director. The application of this rule applies to the modification of penalties prior to the transmittal of the matter to the Office of Administrative Law as a contested case. The Commission's modification of any penalty or decision recommended by the Administrative Law Judge in an initial decision shall continue to be governed by the applicable provision of the Administrative Procedure Act, N J S A 52 14B-1 et seq

(b) At least 15 days before the scheduled meeting at which the issue of modification will or may be addressed, the Commission shall notify the licensee involved and allow him or her to submit in writing any information he or she wishes the Commission to consider. All such submissions shall be filed with the Commission at least 5 days prior to the meeting

(c) In deciding whether to modify such penalty or decision, the Commission shall consider factors, which may include

1 Penalties imposed by the Commission in similar matters,

2 Whether the actions of the licensee placed the safety of other race participants at risk,

3 Whether the actions of the licensee had the potential to jeopardize the health of any race horse,

4 The extent to which the licensee's actions constituted conduct detrimental to the sport

5 The extent to which the licensee's actions had a negative impact on the integrity of the sport

6 Whether the actionable conduct of the licensee appears to be an isolated incident or a pattern of disregard of the Commission's rules

(d) In deciding whether to modify such penalty or decision, the Commission shall consider the evidence before the racing official and any information submitted by the licensee pursuant to (b) above. In considering such evidence, the Commission may rely upon a staff summary and analysis of the evidence below

(e) When modifying a penalty or decision, the Commission shall issue a written ruling setting forth the modification and the basis of its decision

(f) Nothing in this section shall be interpreted as meaning that the Commission's authority to impose penalties is limited to licensees. The Commission's regulatory authority to issue penalties extends to all persons or entities engaging in conduct that requires licensure

New Rule, R 2008 d 339, effective November 17, 2008  
See 40 N J R 4295(a), 40 N J R 6620(a)

**13:70-1.41 (Reserved)**

New Rule, R 2008 d 339, effective November 17, 2008  
 See 40 N J R. 4295(a), 40 N J R. 6620(a)  
 Repealed by R 2010 d 245, effective November 1, 2010  
 See 42 N J R. 1333(a), 42 N J R. 2635(b)  
 Section was "Representation by attorney"

**13:70-1.42 Continuation of certain race events in event of declared state of emergency**

(a) In the event that a state of emergency is declared due to the failure to enact a general appropriation law by the deadline prescribed by the New Jersey Constitution, which prevents employees of the Racing Commission from performing their normal duties, a holder of a permit to conduct a horse race meeting may continue to hold scheduled races and simulcast operations for a period not to exceed seven calendar days

(b) A permit holder wishing to be eligible to continue to hold scheduled races and simulcast operations pursuant to (a) above shall provide advance notice to the Racing Commission and shall present a list to the Commission on or before June 1st identifying all persons who will be hired pursuant to (d) and (e) below. Such notice shall be provided to the Racing Commission in writing in each and every calendar year in which the permit holder wishes to be considered eligible to continue to race in the event that a state of emergency may be declared. The permit holder shall identify in that notice which of the previously scheduled races will be held during the seven-day period.

(c) A permit holder conducting a horse race meeting pursuant to (a) above shall comply with all relevant provisions of the New Jersey Constitution and all relevant statutes and rules. In addition, the permit holder shall maintain detailed, written records of that compliance.

(d) A permit holder who chooses to race and continue simulcast operations shall ensure that qualified persons are hired to fill the necessary regulatory positions set forth in (e) below in order for racing to continue. Persons hired by the permit holder shall be able to serve in these positions without an impermissible conflict of interest or violation of the ethics laws. The permit holder shall specify the qualifications and experience of each person on the list and identify the regulatory position to be filled by each identified person.

(e) The permit holder shall ensure that the following positions shall be filled with qualified persons at each track that is racing pursuant to (a) above:

- 1 Three Stewards/Judges,
- 2 Four Veterinarians,
- 3 Two Mutuel Managers,
- 4 Eight Specimen Collectors, and
- 5 One Investigator

(f) All personnel hired to fill the positions set forth in (e) above shall be present at all races held by the permit holder and shall be responsible for insuring compliance with all applicable statutory and regulatory provisions.

(g) All samples collected for all race meetings held pursuant to (a) above shall be maintained at the track in a manner designed to insure their integrity and preservation. All samples shall be sent to the State Police Equine Testing Lab for analysis once the state of emergency has been terminated.

(h) Any application for a stay of any penalty previously imposed by the Racing Commission, or of a penalty that is imposed by the stewards or judges during the period covered by this section (which application is filed during the period covered by this section) shall be addressed directly to the Superior Court, Appellate Division.

New Rule, R 2011 d 017, effective January 3, 2011  
 See 42 N J R. 1849(a), 43 N J R. 56(c)

**13:70-1.43 Cancellation of racing to protect the health, safety, and welfare of racing participants**

In the event a permit holder decides to proceed with the conduct of races, the Executive Director shall have the authority to order the postponement or cancellation of racing for any reason determined to pose a serious risk to the health, safety, and welfare of the equine and human race participants, including, but not limited to, extreme weather conditions, such as high heat and humidity.

New Rule, R 2020 d 111, effective October 19, 2020  
 See 51 N J R. 1745(a), 52 N J R. 1933(a)

**SUBCHAPTER 2 DEFINITIONS****13:70-2.1 Definitions**

The following words and terms, when used in this chapter, and when used in N J A C 13:71 unless defined in N J A C 13:71-4 1(b), shall have the following meanings unless the context clearly indicates otherwise:

"Added money" means the money which in a stake race an association adds to the purse, the nominating and starting fees.

"Advance wagers" means any wager placed at least one race in advance of the current race.

"Age" of a horse means the time reckoned as beginning on the first of January in the year after the horse is foaled.

"Apprentice" means a jockey apprentice.

"Arrears" includes all money due for entrance forfeits, fees (including jockey fees), fines, subscriptions, purchase money in a claiming race and also any default in money incident to the rules.



“Assistant trainer” means a person who assumes the duties and responsibilities of a trainer while assisting the trainer or acting on behalf of the trainer in the training of the horses under his charge

“Association” means a person or persons, partnerships or corporate body licensed by the commission to conduct a meeting where horse racing shall be permitted for any stake, purse or reward

“Authorized agent” means a person appointed by a written instrument signed by the owner and filed in accordance with the rules

“Breeder” of a horse means the owner of its dam at the time of foaling

“Breeding place” means the place of a horse’s birth.

“Breeze” means a horse running for any distance in a timed workout while under the control or direction of an exercise rider, jockey, or other person

“Calendar day” means 24 hours ending at midnight

“Clocker” means a person charged with the responsibility of timing horses at a morning workout

“Corrupt” or “fraudulent practice” means any attempt to enrich oneself or associates, or gain any advantage, through unfair, unlawful or dishonest behavior in connection with the racing of horses

“Declaration” means the act of withdrawing an entered horse from a race before the closing of overnight entries

“Delay period” means the set period of time between the sounding of the bell to signal the end of wagering in each race and the time mutuel machines will not accept cancellations and are completely deactivated for the current race. This delay period can be adjusted at the discretion of the Commission from zero to 20 seconds and is available only for the protection of the mutuel clerks by permitting them to cancel wagers that patrons place and refuse to accept immediately before the beginning of the delay period



"Disciplinary action" means revocation of a license, suspension, ruling off, fine or reprimand or any combination thereof

"Driver" means a person who drives horses in any race at a track, matinee fair or other non-extended pari-mutuel meeting

"Driver-trainer" means a person who is licensed as a trainer of horses who also drives horses in any race at a track, matinee fair or other non-extended pari-mutuel meeting

"Drug" means

1 Articles recognized in the official U S Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them, and

2 Articles intended for use in the diagnosis, cure mitigation, treatment, or prevention of disease in man or other animals, and

3 Articles (other than food) intended to affect the structure or any function of the body or other animals, and

4 Articles intended for use as a component of any article specified in paragraphs 1, 2, or 3 but does not include devices or their components, parts or accessories

"Early bird wagering" means wagering that occurs on races in advance of the normal time racetracks open mutuel machines for their live racing program

"Entry" means

1 According to the requirement of the text, a horse made eligible to run in a race, or

2 Two or more horses which are entered or run in a race and are coupled because of common ties

"Equipment", as applied to a horse, means whips, blinkers, tongue straps, muzzles, hoods, nosebands, bits, shadow rolls, martingales, breast plates, bandages, boots, plates and so forth

"Exercise personnel" means any person who is conducting a jogging or a work-out of a horse for the purposes of conditioning during training hours

"Field" (or mutuel field) means the individual horses competing in a race exceed the numbering capacity of the tote, the highest numbered horse within the capacity of the tote and all horses of a higher number shall be grouped together for wagering purposes and called the "field" and a bet on one is a bet on all

"Forensic analysis" means when samples are analyzed by scientifically qualified personnel within the Forensic Science Bureau of the Division of State Police

"Forfeit" means money due because of an error, fault, neglect of duty, breach of contract or a penalty

"Foul or careless riding" means any and all acts of a jockey committed in the running of a race designed to gain unfair or unsportsmanlike advantage, to the end of improving his own chance or position in a race or of lessening the chance or position of another in the race

"Gross pool pricing" means the historic method of calculating pari-mutuel prices using the take-out and breakage rules of the host track's jurisdiction. Pari-mutuel prices calculated using the gross pool pricing method are the same for all jurisdictions in the pari-mutuel pool

"Horse" means filly, mare, colt, horse and gelding

"Jockey" means a race rider, whether jockey or apprentice

"Law" or "Laws" means chapter 17 of the General Laws of New Jersey, 1940, N J S A 5 5-22 et seq (being the general laws pertaining to horse racing), as further amended and supplemented

"Licensee" means any association receiving a license from the commission to conduct horse racing, and, in context, any person licensed by the commission to participate in horse racing in any capacity

"Locked in the gate" means that a horse is prevented from leaving the post at off-time because of the failure of the front door of the gate to open simultaneously with the other doors, thus preventing said horse from starting when the other horses officially start

"Maiden" means a horse which at the time of starting has never won a race on the flat in any country

"Maiden jumper" means a horse which has never won a race over hurdles or fences in any country. A maiden which has been disqualified after finishing first is still a maiden

"Month" means a calendar month

"Net pool pricing" means the method of calculating pari-mutuel prices established in 1995 that allow each jurisdiction to use their take-out and breakage rates to calculate a pari-mutuel price without jurisdictions altering their take-out rate and breakage rate to accommodate another racing jurisdiction's take-out and breakage rates. Pari-mutuel prices calculated using the net pool pricing method may differ slightly for each jurisdiction in the pari-mutuel pool

"Nominator" means the person in whose name a horse is entered for a race

"Off-time" means the moment at which, on signal of the starter, the horses break and start to run

"Owner" means sole owner, part owner or lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

"Place" in racing means first, second, third, fourth or fifth and in that order called "Win", "Place", "Show", "Fourth" and "Fifth".

"Positive analysis" means when the analyst has accumulated sufficient scientific data to specifically identify the suspected drug(s) or foreign substance(s) present in the biological test sample.

"Post-mortem necropsy" means a thorough examination of a horse's remains by a licensed veterinary practitioner to determine the cause of death and other information about the condition of a deceased horse.

"Post position" means the position assigned to the horse at the starting line of the race.

"Post time" means the time set for the arrival at the starting point of the horses in a race and must be prominently displayed at a reasonable time prior to the race.

"Race" means a contest for purse, stakes, premium or wager. It includes among others all races defined in the following paragraphs:

1 "Claiming race" means a race in which any horse entered therein may be claimed in conformity to the rules.

2 "Free" or "overnight handicap" means a handicap in which no liability for entrance money is incurred.

3 "Guaranteed race" means a race for which an association guarantees by its conditions a specified purse which shall be the limit of its liability. However, if in any such case there should be any surplus from entries and subscriptions over the sum guaranteed, it shall also be paid to the winner, unless by the conditions it is to be paid to other horses in the race.

4 "Handicap" means a race in which the weights to be carried by the entered horses are adjusted by the racing secretary for the purpose of equalizing their respective chances of winning.

5 "Highweight handicap" means a handicap in which the weight assigned to the top horse in the handicap is not less than 140 pounds.

6 "Match" means a private sweepstakes between two horses which are the property of two different owners, if either of the horses entered in the match dies, or if either owner dies the match is void. It remains a match even if money or another award is added to the stakes.

7 "Optional claiming race" means a race restricted to horses entered to be claimed for a stated price and those entered not to be claimed by the option designated in the conditions of the race. In case of horses which are entered

to be claimed, the race shall be considered a claiming race for the purpose of determining future penalties and allowances, and for horses entered not to be claimed, the race shall be considered an allowance or purse race.

8 "Overnight race" means any race other than a stake or added money race.

9 "Produce race" or "furity" means a race to be contested by the produce of horses which are named or identified before the closing of the entries.

10 "Purse race" means a race for money or any other prize to which the owners of the horses engaged do not contribute.

11 "Stake race" or "sweepstakes" means a race to which nominators of the engaged entries contribute to a purse, to which money, or any other award, may be added, but no overnight race, regardless of its conditions, shall be deemed a stake race.

12 "Starter race" means an overnight race under allowance or handicap conditions, restricted to horses which have previously started for a designated claiming price or less, as stated in the conditions of the race.

13 "Walkover" means when one and only one of the owners who has nominated for a race qualifies a horse or horses to start. Where only one horse or interest has qualified to start in a race, that horse shall be ridden past the judge's stand and go to the post and shall then be deemed the winner. It shall receive all entrance fees, forfeit, but no portion of any purse, stake or added money or any other prize.

14 "Weight for age race" means a race in which weights are assigned in keeping with the scale of weights adopted by these rules.

"Race day" means a day in which a numerical majority of scheduled races is conducted and shall be a part of the permit holder's allocated racing days.

"Race meeting" means a group of days, Sunday excepted, on which horse racing is conducted for any stake, purse or reward, at a race track.

"Recognized meeting" means any meeting wherever held under the sanction of a turf authority having reciprocal relations with the New Jersey Racing Commission and other turf authorities, for the mutual enforcement of rulings imposed on persons guilty of fraudulent turf practices of any kind.

"Respiratory bleeder" means a horse that shows evidence of hemorrhaging from the blood vessels of the nose, accessory nasal cavities, the pharynx, larynx and/or lung.

"Rule off" means the act of debarring from the grounds of an association and denying all racing privileges.

"Rules" means the rules and regulations therein prescribed and any amendments or additions thereto.

"Running meeting" means a meeting at which all horses entered to run in flat races must be registered in the American Stud Book maintained by the Jockey Club of New York, and all horses entered to be run in steeplechases must be registered in the Jockey Club or with the National Steeplechase and Hunt Association

"Scratch" means the act of withdrawing an entered horse from a race after the closing of overnight entries

"Scratch time" means the time set by any association for the closing of application for permission to withdraw from race of that day

"Stable employee" means a person who is employed by the trainer to perform duties such as hot walker or groom

"Starter" means a horse becomes a starter when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses

"Stewards" means the steward of the meeting or their duly appointed deputies

"Subscription" means the act of nominating a horse for a stake race

"Suspicious analysis" means when the biological sample being tested is suspected of containing any drug(s) or foreign chemical substance(s), however the presence of other foreign substance(s) interferes with the isolation, detection and identity of the suspected substance(s)

"Tote" or "tote board" means the totalizer

"Trainer" means a person licensed to condition horses for races

"Untried horse" means one whose produce are maidens

"Year" means a calendar year

Amended by R 1976 d 125, effective April 22, 1976

See 8 N.J.R. 47(b), 8 N.J.R. 308(a)

Amended by R 1979 d 497, effective January 1, 1980

See 11 N.J.R. 579(a), 12 N.J.R. 91(b)

As amended, R 1982 d 183, effective June 21, 1982

See 14 N.J.R. 91(a), 14 N.J.R. 661(a)

Amended by R 1990 d 127, effective February 20, 1990

See 21 N.J.R. 3856(b), 22 N.J.R. 663(b)

Corrections and stylistic changes

Amended by R 1991 d 546, effective November 4, 1991

See 23 N.J.R. 2266(a), 23 N.J.R. 3340(a)

Added definitions for "Advance wagers", "Delay period", "Early bird wagering"

Amended by R 2000 d 34, effective January 18, 2000

See 31 N.J.R. 3047(b), 32 N.J.R. 321(d)

Inserted references to N.J.A.C. 13 71 and N.J.A.C. 13 71-4 1(b) in the introductory paragraph, and inserted "Assistant trainer", "Driver", "Driver-trainer", "Exercise personnel", "Stable employee" and "Trainer"

Amended by R 2007 d 324, effective October 15, 2007

See 39 N.J.R. 2587(a), 39 N.J.R. 4409(a)

Added definitions "Gross pool pricing" and "Net pool pricing"

Amended by R 2018 d 096, effective May 7, 2018

See 49 N.J.R. 1005(a), 50 N.J.R. 1220(a)

Added definition "Breeze"

Amended by R 2021 d 098, effective September 7, 2021

See 52 N.J.R. 1746(a), 53 N.J.R. 1506(a)

Added definition "Post-mortem necropsy"

## SUBCHAPTER 3 RACING ASSOCIATIONS

### 13:70-3.1 Racing Days

No meeting shall race on days other than stipulated by the Racing Commission

#### Case Notes

Cited in examination of extent of State regulation of private trade activity *Marzocca v. Ferone*, 186 N.J. Super 483, 453 A.2d 228 (App. Div. 1982) certification denied 91 N.J. 574, 453 A.2d 884, affirmed in part, reversed in part 93 N.J. 509, 461 A.2d 1133 (1983)

### 13:70-3.2 License for running meeting

A license for a running meeting will be granted by the Racing Commission only for racing grounds affording a course of one mile or more in circumference

### 13:70-3.3 Names of officials; fingerprints; structure changes

(a) At least 30 days prior to the first day of a race meeting, the association shall submit in writing to the Racing Commission the names of all racing officials and department heads engaged for the meeting and all contractors working within the enclosure, and no racing official, department head or contractor shall be qualified to act until he shall have been approved by the Racing Commission

(b) All racing officials must be fingerprinted prior to the submission of their names by the track association

(c) In the event of incapacitation of any such approved racing official, the stewards may appoint a substitute temporarily, pending the approval of the Racing Commission

(d) Prior to the commencement of any construction, alteration, change or improvement by a permit holder of any building, structure or physical layout at, about or within its licensed premises or track enclosure by a permit holder, plans and specifications regarding such construction, alteration, change or improvement must be reviewed and approved by the Racing Commission. All costs and expenses incurred for the study and approval of plans and specifications and inspection of the construction, by a commission-appointed engineering firm, shall be borne by the permit holder (track association)

(e) All annual applications for renewal of racing permits shall include the name and resume of the experience and background of the general manager or chief operating officer of the applicant for the approval of the commission

Amended by R 1976 d 125, effective April 22, 1976

See 8 N.J.R. 46(b), 8 N.J.R. 308(a)

**13:70-3.4 Photographic system**

The Racing Commission shall require an association to install and maintain in good service a photographic system, approved by the commission, to record the complete finish of each and every race

**13:70-3.5 Ownership approval**

No person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in any association or corporation which has been or shall be granted a permit to hold or conduct a horse race meeting without first obtaining the approval of the New Jersey Racing Commission pursuant to these rules and regulations. For purposes of this section "person" shall be construed to include the spouse and/or children or any such applicant and compliance with this section shall be required of all such persons holding any interest whatsoever whenever the total interest held by such persons as an aggregate exceeds the five percent requirement. Failure to comply with this regulation shall subject the applicant to disqualification and the permit holder to the penalties and sanctions provided by law

As amended, R 1984 d 43, effective February 21, 1984  
See 15 N J R 1928(a), 16 N J R 377(a)  
Substantially amended

**Case Notes**

Stockbroker's violation of requirements for disclosure by stock transferee of proposed beneficial owner and owner's personal background was not proximate cause of premium which investor paid for subsequent private purchase of stock. In re Thomson McKinnon Securities Inc., 1992, 141 B R 559, affirmed 151 B R 324

Failure to list investor as beneficial owner of race track stock violated New Jersey State Racing Commission requirement. In re Thomson McKinnon Securities Inc., 1992, 141 B R 559, affirmed 151 B R 324

**13:70-3.6 Annual listing of shareholders**

Racing associations shall file on an annual basis with the Commission a list of all person possessing directly or indirectly any shares of stock or certificates or other evidence of ownership of any interest in any association or corporation. Said filing shall take place prior to June 1 of each calendar year

As amended R 1984 d 43, effective February 21, 1984  
See 15 N J R 1928(a), 16 N J R 377(a)  
Substantially amended

**Case Notes**

Stockbroker's violation of requirements for disclosure by stock transferee of proposed beneficial owner and owner's personal background was not proximate cause of premium which investor paid for subsequent private purchase of stock. In re Thomson McKinnon Securities Inc., 1992, 141 B R 559, affirmed 151 B R 324

Failure to list investor as beneficial owner of race track stock violated New Jersey State Racing Commission requirement. In re Thomson McKinnon Securities Inc., 1992, 141 B R 559, affirmed 151 B R 324

**13:70-3.7 Application forms; approval**

Approval may only be given to such persons who make application therefor on the form prescribed by the New Jersey Racing Commission and only when such application is filed with the Executive Director of the Racing Commission properly completed and executed in all respects

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Reference to "secretary" changed to "Executive Director"

**13:70-3.8 Investigation**

The commission may investigate the applicant or any person named in the application, with respect to such person's criminal record, subversive activities record and any other reports concerning such persons, in order to determine whether the applicant or a person for whom ownership is indirectly or beneficially to be held has not been convicted of a crime or moral turpitude, has not violated any rules and regulations previously or presently prescribed by the New Jersey Racing Commission, and who possesses sufficient moral responsibility so as not to be detrimental to the best interests of racing in New Jersey

**13:70-3.9 Review of application approval**

Applications may be approved, after due consideration by the Executive Director of the Racing Commission to whom such power is delegated, but the New Jersey Racing Commission may, in its discretion, review any such findings made by the Executive Director to determine whether any applicant merits approval

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
"secretary" changed to "Executive Director"  
Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Reference to "secretary" changed to "Executive Director"

**13:70-3.10 Application denials; notice**

When an applicant, after due consideration, cannot be approved for reasons expressed in N J S A 5 5-22 et seq, as amended and supplemented, or if, in the opinion of the New Jersey Racing Commission, approval of such person will be detrimental to the best interests of racing in New Jersey, or if an applicant will hold ownership for another whose interest is beneficial, indirect or otherwise and the indirect or beneficial owner could not qualify to hold direct ownership for reasons expressed herein, the commission may disapprove such applicant by notifying the secretary of the association or corporation licensed to conduct a horse race meeting by registered mail. Such disapproved person may request, and the commission shall hold, a hearing, which request and hearing shall be made and had as provided for in N J S A 5 5-22, et seq

**13:70-3.11 Video tape system**

An association shall install and be responsible for the proper operation of an accurate video tape system. The original tapes produced by this system shall be stored in a safe place for a period of at least one year from the date of the race.

**13:70-3.12 Starting gates**

An association shall provide and maintain in good working order two starting gates.

**13:70-3.13 Maintenance of grounds and facilities**

An association shall at all times maintain its grounds and facilities so as to be neat and clean, painted in good repair, with special consideration for the comfort and safety of patrons, employees and other persons whose business requires their attendance, and with special consideration for the health and safety of horses stabled, exercising or entered to race, and shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

**13:70-3.14 Barns and stalls**

An association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, in a clean and sanitary condition, each barn and each stall shall be numbered or lettered for identification, adequate drainage, sufficiently manned fire-fighting equipment, and the manure removal from the stable area shall be provided and maintained.

**13:70-3.15 Fire inspection stable area**

(a) The Racing Commission shall appoint annually a qualified engineer to inspect the stable area at all tracks licensed by the Commission to insure that said stable areas are adequately guarded against the hazards of fire.

(b) The engineer so appointed shall be paid by the track associations in an amount established by the Commission and shall conduct two such inspections of each stable area during the racing season and report thereon to the Commission.

(c) All recommendations of the engineer relating to fire conditions in the stable area shall be acted upon immediately by the permit holder.

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

Old text deleted and new text substituted therefor  
Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Engineering firm changed to engineer

**13:70-3.16 Smoking prohibited**

Smoking is prohibited under the shed row of any barn. Persons found violating this rule will be reported to the stewards and shall be subject to a fine of \$25.00 for the first

offense, \$50.00 for the second offense and to suspension for the third or subsequent violation.

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

"an indefinite" changed to "suspension"

**13:70-3.17 Storage of hay, straw or feed**

The storage of hay, straw or feed in the stall of any barn located on the premises licensed by this Commission will be allowed only with the express permission of the Racing Commission. Each track association shall be required to provide adequately protected detached sheds for the storage of hay, straw, feed and any other material that may be considered of a flammable nature, when the Commission deems it necessary. Any person or permit holder violating this rule shall be reported to the stewards and subject to a fine or to an indefinite suspension.

**13:70-3.18 Stable employees' facilities**

An association shall provide and maintain in good repair, adequate living quarters and conveniently located sanitary facilities, such as showers, toilets and wash basins for stable employees.

**13:70-3.19 Ambulances**

Each association shall maintain and furnish at least one adequate ambulance for the exclusive use of horses and a separate ambulance for the exclusive use of persons upon the plant grounds during the operation of its race meeting.

**13:70-3.20 First aid facilities**

An association shall equip and maintain adequate first aid facilities with not less than two beds and attendance of a competent physician and a registered nurse during racing hours.

**13:70-3.21 (Reserved)**

Repealed by R 1996 d 394, effective August 19, 1996  
See 28 N J R 2793(a), 28 N J R 3969(a)

Section was "Betting prohibited outside grounds"

**13:70-3.22 Handbooking prohibited on grounds**

Handbooking shall be prohibited on the grounds and its operator shall be excluded therefrom.

**13:70-3.23 Gambling devices**

No gambling device, other than permitted by law, shall be permitted on the grounds.

**13:70-3.24 Petty games of chance**

Petty games of chance are prohibited.

**13:70-3.25 Communication system**

An association shall install and maintain in good service, a communication system between the stewards stand, pari-

mutuel department, starting gate, clerk of scales, patrol judges and the State veterinarian

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(d)

"and the State veterinarian" added

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Punctuation

### 13:70-3.26 Disqualified personnel kept off grounds

During the term of disqualification of any participant in racing, it shall be the duty of the association to see to it that the privileges of his admission badge are revoked, and that he is kept out of the grounds, unless otherwise permitted to enter under certain conditions and at certain times as may be provided for elsewhere in these rules

### 13:70-3.27 Ejected personnel; readmission; notice

Any persons ejected from the grounds of an association shall be denied admission to said grounds until permission for his reentering has been obtained from the official issuing the ejection order. Notification of such permission for reentry shall be filed with the Racing Commission

### 13:70-3.28 Availability of purse money to winners

All portions of purse money shall be made available to the winners thereof 72 hours (Sundays excluded) following their winning

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

48 changed to 72 hours

### 13:70-3.29 Deductions from winnings

(a) No percentage of winnings shall be deducted by an association for itself or for another person, club or body, unless requested by the person to whom such winnings are payable, except that an association may deduct from winnings any money due it. The association shall also deduct the amount calculated by the New Jersey Horse Racing Injury Compensation Board, which shall not exceed three percent of gross overnight purses paid to owners, as assessments for the cost of workers' compensation insurance coverage pursuant to N J A C 13 70-3 46 and the rules of the New Jersey Horse Racing Injury Compensation Board set forth at N J A C 13 73

1 The horsemen's bookkeeper at each racetrack in New Jersey shall transmit on a weekly basis all assessments collected for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall deposit these monies in a separate account for the use of the New Jersey Horse Racing Injury Compensation Board

Amended by R 1997 d 51, effective February 3, 1997

See 28 N J R 4736(a), 29 N J R 447(b)

In (a), inserted text " , and may withhold an amount N J S A 34 15-129 et seq ", and added (a)1

Amended by R 2000 d 34, effective January 18, 2000

See 31 N J R 3047(b), 32 N J R 321(d)

Rewrote (a)

Amended by R 2002 d 71, effective March 4, 2002

See 33 N J R 3624(a), 34 N J R 1019(a)

In (a), substituted "13 73" for "13 70A-1 1 et seq "

### Case Notes

Regulation does not apply to a racetrack when deducting statutorily authorized payments from purse winnings for the New Jersey Horsemen's Benevolent and Protective Association. *Horsemen's Benevolent and Protective Ass'n, New Jersey Div v Atlantic City Racing Ass'n*, 98 N J 445, 487 A 2d 707 (1985)

### 13:70-3.30 Unredeemed mutuel tickets

(a) Every association shall carry on its books, an account which shows the total amount due on outstanding unredeemed mutuel tickets not presented for payment

(b) All sums held by an association for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within six months from the time such tickets are issued shall be paid to the Commission upon the expiration of such six month holding period

### 13:70-3.31 Financial statements

Each association shall file a complete financial statement with the Commission on or before February 15 of the calendar year following the association's last race meeting

### 13:70-3.32 Employment application blank

(a) Every person employed by any race track association or by any concessionaire must fill out an employment application blank thereof, which must contain a statement of permanent residence and the following question: Have you ever been convicted of a crime, ruled off, set down, suspended or otherwise debarred from participating in racing by any racing organization, commission or other recognized turf authority in the United States or elsewhere, or has an indictment or information been returned or complaint made against you by the United States or any state, charging sale, use or possession of narcotics. State full details.

(b) All such employment application records must be kept by any race association or by any concessionaire for a period of two years, and must be made available for inspection by the New Jersey Commission, if so requested

### 13:70-3.33 Weekly reports on employees

Each race track association and each concessionaire shall make weekly detailed reports and deliver such reports to the Racing Commission of all employees actually engaged during the past week, stating the name, department, license number (if license is required) and position therein, and YES and NO to indicate whether a resident of New Jersey, under columns so entitled. Such lists shall be compiled by departments, and, if any employee is engaged in two departments, a notation opposite his name shall so state



**13:70-3.34 Weekly report endorsement**

(a) The weekly reports of each department shall have the following endorsement signed by the department manager

1 The above list of employees and information contained therein is a complete report of all employees engaged in my department for the week ending \_\_\_\_\_, 19 \_\_\_\_ None of the above names appears on the Security Guide list for the year 19 \_\_\_\_

As indicated on the above list, the number of employees is as follows

Percent of residents	percent
Percent of nonresidents	percent
Total Employees	_____
Residents	_____
Nonresidents	_____
Exemptions requested	_____
Department Manager	_____

**13:70-3.35 Division of departments**

(a) The departments shall be divided and designated as follows

1 General manager and office department (including office help, auditing and bookkeeping department employees),

2 Racing secretary's office (including all employees under the control of the racing secretary and including jockey room employees and valets),

3 Mutuel department (including manager of the mutuel department and all employees under his control including calculators, sheet writers, supervisors, money room, messengers and runners, outbook clerks, program clerks, porters, information and change clerks, approximate odds board calculator clerks and boardmen, miscellaneous assistants, cashiers and sellers),

1. All of the individuals mentioned in (a)3 above, when assigned to work shall be prohibited from wagering Violation of the above may subject the individual to a fine, suspension or both, or to revocation of his or her license,

4 Track superintendent's office (including all track workers, mechanics, porters, janitors, gardeners, watchmen and employees who are under the control of the track superintendent),

5 Admissions department (including sellers, collectors, stile men, ushers and miscellaneous employees under the control of the manager of said department),

6 Concessions (including all employees engaged in the auto parking lots if the concession of parking is contracted to concessionaires and all employees of all concessions, whether operated by association or contracted to concessionaires),

7 Parking lot employees if not contracted to concessionaires,

8 Department of Security (including detectives, policemen watchmen and fire protection and miscellaneous employees under the control of the chief of security of the race track),

9 Publicity department,

10 Printing (including all printers and other employees employed on programs, turf sheets and other publications),

11 All independent contractors and their employees working within the licensed premises,

12 Miscellaneous employees department (including all employees not designated in any other department)

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

(a)3 "ticket checkers, ticket room" deleted (a)3<sub>1</sub> inserted

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Police" changed to "security"

**13:70-3.36 Nonresident defined**

Any person who has voted within two years in any state other than New Jersey since casting his last vote in New Jersey, or who has made representation within two years that he is a citizen or resident of a state other than New Jersey shall be considered not a resident of New Jersey

**13:70-3.37 Decisions on citizenship and residence**

The Commission shall make decision of the citizenship and residence of each employee under the laws of the State of New Jersey and the rules, regulations and conditions of the Commission which shall be binding upon the employees and the race track association

**13:70-3.38 False or misleading statements**

Any employee making any false, untrue or misleading statement with reference to his citizenship or residence in his application or additional written or oral examination may be suspended by the Racing Commission and may be ruled off the turf for life by the Racing Commission and may be refused all privileges of the race track under the jurisdiction of the Commission

**13:70-3.39 Compensation insurance**

Associations are required to carry adequate compensation insurance covering all persons in their employ

**13:70-3.40 Admission; age**

(a) Any child under 18 years of age must be accompanied by an adult, parent or guardian to be admitted to any racetrack enclosure as a spectator during the hours when the running of races is being conducted

(b) No person under the age of 18 shall be permitted to wager or in any manner participate in any pari-mutuel pool or system

Amended by R 1978 d 353, effective October 2, 1978  
 See 10 N J R 349(b), 10 N J R 510(b)  
 Amended by R 1989 d 547, effective November 6, 1989  
 See 21 N J R 1972(a), 21 N J R 3475(c)

Deleted old (b) regarding requirement that children (12-16) be accompanied by adult during nighttime races

Relettered (c) as (b)  
 Amended by R 1993 d 483, effective October 4, 1993  
 See 25 N J R 2647(a), 25 N J R 4600(b)

### 13:70-3.41 Employee compensation insurance

(a) Every owner shall establish a horsemen's bookkeeper account at each track association where horses he or she owns have been or will be entered to race

(b) No owner shall be allowed to enter a horse without first paying the cost of assessment into the horsemen's bookkeeper account. Any owner failing to comply with this rule shall be subject to suspension, fine or other penalty as determined by the Racing Commission

(c) All concessionaires shall carry workers' compensation insurance covering all employees and shall provide adequate proof of compliance which shall be in the form of

1 A certificate of insurance, valid for the year through December 31 (for which licensing is sought), issued by an insurance company authorized to do business in the State of New Jersey, or

1 A certificate, if offered and found not to be valid, may result in penalties provided in N J A C 13 70-23 up to and including revocation of license of the person who submitted the certificate, or

2 Proof of payment of the required premium entitling an individual or entity to participate in a workmen's compensation insurance group program

1 Any group or organization sponsoring such a program shall guarantee worker's compensation coverage for those eligible individuals or entities which pay the required premium. A copy of the worker's compensation insurance group program and eligibility requirements shall be filed by the sponsoring group or organization with the New Jersey Racing Commission each year

Amended by R 1990 d 574, effective November 19, 1990  
 See 22 N J R 1716(a), 22 N J R 3499(c)

New (b) added provision requiring proof of compliance with worker compensation rules

Amended by R 2000 d 34, effective January 18, 2000  
 See 31 N J R 3047(b), 32 N J R 321(d)

Rewrote the section  
 Amended by R 2002 d 71, effective March 4, 2002  
 See 33 N J R 3624(a), 34 N J R 1019(a)

Rewrote (a), in (b), deleted "or trainer" preceding "failing to comply", deleted (d)

### 13:70-3.42 Certificate of compliance on file

Effective January 1, 1969, a certificate of compliance with section N J A C 13 70-3 41, issued by an insurance company authorized to do business in the State of New Jersey, must be on file with the racing secretary

Amended by R 1987 d 42, effective January 5, 1987  
 See 18 N J R 2116(b), 19 N J R 138(a)  
 Cross reference changed from section 43 to 41

### 13:70-3.43 Certificate of veterinary examination

(a) All horses, including ponies, entering the grounds of any race track in New Jersey, must be accompanied by a current, valid certificate of veterinary examination

(b) A current certificate is one which has been issued within a ten-day period immediately preceding date of entry

(c) To be considered valid, the certificate must contain

1 Adequate identification and/or description of the subject animal,

2 A declaration that said animal is free of apparent symptoms of an infectious or communicable disease,

3 A record of the horse's body temperature at the time that the examination is conducted,

4 The signature of an accredited, licensed veterinarian who has conducted the examination

(d) Any horse accompanied by a current certificate of examination which records a body temperature reading of more than 102 degrees Fahrenheit will be denied access to the grounds of the racing association. The racing association will be responsible for compliance with this rule, and will determine that each horse entering the grounds is properly certified in accordance with the provisions of this rule. The racing secretary will maintain adequate records to substantiate the certification of all horses on the grounds

(e) Nothing herein contained is to be construed as a limitation on the movement of horses from one New Jersey race track to another

### 13:70-3.44 Telephone

All public telephones at the race track may remain open during the race day, with the approval of the Commission

Repeal and New Rule, R 1990 d 533, effective November 5, 1990  
 See 22 N J R 2402(a), 22 N J R 3385(a)

Former rule closed telephones and telegraphs with the opening of the pari-mutuel window for the first race of the day

### 13:70-3.45 (Reserved)

As amended, R 1982 d 183, eff June 21, 1982  
 See 14 N J R 91(a), 14 N J R 661(a)  
 Repealed

### 13:70-3.46 Horsemen's bookkeeper account

(a) Each track association shall establish a horsemen's bookkeeper account to hold monies deposited by thoroughbred owners. The horsemen's bookkeeper shall maintain a record of each account crediting such account, as applicable, with all earnings, awards or deposits. The horsemen's bookkeeper shall also deduct payments as directed by the account holder or his or her authorized agent and collect assessments for the cost of workers' compensation insurance coverage pursuant to this chapter and the rules promulgated by the New Jersey Horse Racing Injury Compensation Board as set forth at N J A C 13 73

(b) The horsemen's bookkeeper at each racetrack in New Jersey shall transmit on a weekly basis all monies collected for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall deposit these monies in a separate account for the use of the New Jersey Horse Racing Injury Compensation Board

(c) All thoroughbred track associations shall be required to invest in either New Jersey business savings accounts, bank certificates of deposit or United States Treasury notes, the sums deposited by the owners of thoroughbred horses with the horsemen's bookkeeper. Such investments are to be held in the name of the track association's horsemen's bookkeeper account. No more than 80 percent of said funds shall be invested at any time. No less than 20 percent of all the funds shall, at all times, be available for use by the track association's horsemen's bookkeeper. The funds not invested shall be deposited in a separate trust account and shall, at no time, be commingled with any other funds of the track association.

(d) The income realized from the invested funds shall be used firstly, to reimburse the track association for one-half of the cost and expense of operating the horsemen's bookkeeper's account, with the remainder of the income being used for programs managed by the Horsemen's Benevolent and Protective Association, and designed to benefit the racing industry.

(e) The specific programs and anticipated budget for the Horsemen's Benevolent and Protective Association for any calendar year shall be submitted to the New Jersey Racing Commission for its approval no later than December 1 of the preceding calendar year. The programs and budget may be amended during said calendar year with prior approval of the New Jersey Racing Commission.

R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

Amended by R 1985 d 204, effective May 6, 1985

See 17 N J R 173(a), 17 N J R 1135(a)

(c) deleted text "with the remainder of thoroughbred horses" and substituted "with the remainder New Jersey Racing Commission"

Amended by R 2000 d 34, effective January 18, 2000

See 31 N J R 3047(b), 32 N J R 321(d)

Rewrote (a), inserted new (b) through (d), and recodified former (b) through (d) as (e) through (g)

Amended by R 2002 d 71, effective March 4, 2002

See 33 N J R 3624(a), 34 N J R 1019(a)

In (a), substituted "13 73" for "13 70A-1 1 et seq", deleted (b) and (c), and recodified existing (d) through (g) as (b) through (e)

**13:70-3.47 Track entrance; Coggins test requirements for horses, ponies or equine mascot**

(a) No horse shall enter the grounds of any track association absent presentation of a valid certificate of a negative Coggins test. Said certificate shall

- 1 Identify the horse by tattoo number,
- 2 Indicate said test was performed within one year prior to the date of presentation to the racing secretary,



3 Indicate said test was conducted by a laboratory approved by the United States Department of Agriculture, and

4 Be attached to the appropriate foal certificate

(b) In the event that a horse arrives at a track association without a valid certificate of a negative Coggins test, the horse will be permitted to be stabled in an area designated by the State Veterinarian. A certificate must be presented to the Racing Secretary within 12 hours or a new certificate must be obtained as soon as possible. The State Veterinarian shall be notified immediately if any horse enters the grounds under these conditions

(c) In the case of any pony or equine mascot, evidence of a negative Coggins test, together with a photograph of the animal, must be filed with the Racing Secretary

(d) The Racing Secretary shall be responsible for ensuring compliance with this rule. Violation of this rule may subject the Racing Secretary and/or track association to penalties, provided for in these rules

(e) This rule does not affect eligibility to race or claims. However, the trainer of a horse which races in violation of this rule without evidence of a negative Coggins test and/or a vaccination for equine encephalitis, is subject to penalties provided for in these rules

R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)  
Amended by R 1983 d 14, effective February 7, 1983  
See 14 N J R 1146(b), 15 N J R 158(b)

Deleted old text and added new text  
Amended by R 1986 d 416, effective October 6, 1986  
See 18 N J R 401(a), 18 N J R 1448(b), 18 N J R 2054(a)

This New Rule was proposed at 18 N J R 401(a). Amendments to the rule were proposed at 18 N J R 1448(b) and adopted at 18 N J R 2054(a)

### 13:70-3.48 Violations by track associations and penalties

Notwithstanding any provisions of subchapters 16, 23 and 31 of this chapter, any track association, licensed by the New Jersey Racing Commission, that violates a law, rule or regulation or directive of this commission and continues in deliberate violation for a period of 72 hours following notification from the commission office that such violation exists shall be subject to a fine of not more than \$5,000 per day for each and every day said track association remains in violation of the law, rule or regulation or directive of this commission. Any association fined pursuant to this rule may, within three days after service of such notice of the imposition of a fine or fines, request a hearing by petition in writing, which hearing shall be held within four days after the petition has been served upon the chairman or executive director of the racing commission

New Rule, R 1976 d 292, effective September 16, 1976  
See 8 N J R 250(c), 8 N J R 438(a)

## SUBCHAPTER 4 LICENSING

### 13:70-4.1 Persons required to have licenses

(a) The following persons are required to take out a license from the Racing Commission and the annual fee will be as follows

1	Assistant starter	\$10 00
2	Assistant trainer	\$30 00
3	Authorized agent	\$50 00
4	Clocker	\$10 00
5	Certificate of identification	\$10 00
6	Jockey	\$50 00
7	Jockey agent	\$50 00
8	Jockey apprentice	\$30 00
9	Owner	\$50 00
10	Pari-mutuel employee	\$25 00
11	Plater	\$20 00
12	Stable employee	\$ 5 00
13	Starter	\$10 00
14	Trainer	\$50 00
15	Valet	\$20 00
16	Vendor	\$50 00
17	Veterinarians	\$50 00

(b) All persons licensed by the Commission and all employees of the racing associations and/or employees of contractors doing work for the track associations will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprint card checks. The Commission will direct the fee, which will be consistent with the charge set by the reviewing agency for the type of inquiry requested, for example, State, Federal or State and Federal, name check. Owners who, because of extenuating circumstances, cannot come into New Jersey to be fingerprinted and photographed during a racing year, will be issued conditional licenses only and will not be permitted access to the stable area or paddock at any New Jersey track until photographed and fingerprinted by the Racing Commission. Holders of a conditional license will not be eligible for passes at any of the tracks in New Jersey

Amended by R 1977 d 8, effective January 17, 1977  
See 8 N J R 531(c), 9 N J R 94(d)  
Amended by R 1979 d 144, effective April 12, 1979  
See 11 N J R 21(b), 11 N J R 258(a)  
Amended by R 1983 d 103, effective April 4, 1983  
See 14 N J R 1444(a), 15 N J R 553(b) (operative January 1, 1984)  
Fees increased and (b) added  
Amended by R 1985 d 639, effective December 16, 1985 (operative January 1, 1986)  
See 17 N J R 2362(b), 17 N J R 2994(a)  
(a)17 added, (b) amended  
Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
At (a)5 Change to "certificate of identification", stylistic corrections  
Amended by R 1993 d 43, effective January 19, 1993  
See 24 N J R 4021(a), 25 N J R 314(a)  
Revised (a)

#### Case Notes

Cited in examination of extent of State regulation of private trade activity *Marzocca v Ferone*, 186 N J Super 483, 453 A 2d 228 (App

Div 1982) certification denied 91 N J 574, 453 A 2d 884, affirmed in part, reversed in part 93 N J 509, 461 A 2d 1133 (1983)

"Disqualification" definition, suspension of wife's license due to husband's criminal conviction upheld, rule not assailable on equal protection grounds, full constitutional safeguards observed in suspension *Niglio v New Jersey Racing Commission*, 158 N J Super 182, 385 A 2d 925 (App Div 1978)

### 13:70-4.2 Items requiring registration

(a) The following must be registered with the Racing Commission annually and the fee payable for such registration shall be as follows

- 1 Stable name—\$50 00,
- 2 Corporate stable name—\$50 00,
- 3 Multiple ownership—\$50 00,
- 4 Partnership

Amended by R 1979 d 144, effective April 12, 1979

See 11 N J R 21(b), 11 N J R 258(a)

Amended by R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

(a)3 and 4, added

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Established all fees payable annually

Amended by R 1993 d 43, effective January 19, 1993

See 24 N J R 4021(a), 25 N J R 314(a)

Added new (a)4

Amended by R 1998 d 170, effective April 6, 1998 (operative January 1, 1999)

See 30 N J R 24(a), 30 N J R 1298(b)

In (a)4, deleted a \$25 annual fee

### 13:70-4.3 Corporations

(a) No license as an owner shall be granted to a corporation or to the lessee or lessees of any corporation unless all corporate officers, members of the Board of Directors, managers and stockholders owning directly or indirectly five percent or more of said corporation's issued stock have been licensed

(b) Each such person must file an application for an owner's license

(c) Any and all changes in either the corporate structure or the respective interest of stockholders as described in (a) above must be promptly filed with the Commission

(d) All corporations shall race under a stable name approved by the Commission and shall be required to file application for same on a form prescribed by the Commission

Amended by R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

Section substantially amended

### 13:70-4.4 Fees

The fee shall accompany each application for license or registration. All licenses and/or registrations expire December 31 of the year issued

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Stylistic changes only

### 13:70-4.5 Registration of agreements

The Racing Commission requires the registration of any other agreements between participants in racing

### 13:70-4.6 Examination of applications

(a) A board of examiners composed of the State Steward and two associate stewards shall examine each of the following applications for and on behalf of the New Jersey Racing Commission

- 1 Assistant trainer,
- 2 Authorized agent,
- 3 Corporate stable name,
- 4 Jockey,
- 5 Jockey agent,
- 6 Jockey apprentice,
- 7 Multiple ownership,
- 8 Owner,
- 9 Plater,
- 10 Stable employee,
- 11 Stable name, and
- 12 Trainer

Amended by R 1979 d 144, effective April 12, 1979

See 11 N J R 21(b), 11 N J R 258(a)

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Rearranged and increased titles

### 13:70-4.7 Qualifications

The stewards shall, during the course of examination of the applicants for a license, ascertain if the applicant is qualified as to ability, integrity, and financial responsibility, and shall report to the New Jersey Racing Commission their findings

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Board of examiners" changed to "stewards"

#### Case Notes

Commission concluded that jockey applicant lacked the degree of integrity necessary for licensure, finding of entrapment and dismissal of criminal proceedings against applicant did not prevent use of incriminating evidence at licensure hearing *Delguidice v New Jersey Racing Commission*, 100 N J 79, 494 A 2d 1007 (1985)

Drug conspiracy conviction justifies denial of application for mutuel clerk license *Overton v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 2

Race-fixing convictions precluded grant of assistant trainer license *Verrone v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 16

Race-fixing conviction, jockey license application denied and suspension continued *Plomchok v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 13

### 13:70-4.8 Burden of proving qualifications

(a) In considering each application for a license, the stewards may require the applicant, as well as the applicant's endorsers, to appear before them

(b) The burden shall be upon the applicant to show that he, she or it is qualified in every respect to receive the license applied for

(c) Ability as well as integrity must be clearly shown by the applicant in order to receive the stewards' recommendation to the New Jersey Racing Commission for the granting of the license

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

"Board of examiners" changed to "stewards"

#### Case Notes

Initial Decision (2009 N J AGEN LEXIS 307) adopted, which found that, although N J A C 13 70-4 9 used the permissive language of "may" in allowing the Commission to deny licensure for prior violations of any law with respect to racing, N J A C 13 70-4 8 placed the burden on the applicant to show that he was qualified in every respect to receive the license for which he applied, petitioner was properly denied licensure as a trainer of thoroughbred horses where he failed to acknowledge his guilt or express remorse for his prior violations, demonstrating a disregard for the rules and regulations of racing and a lack of rehabilitation *Monaci v NJ Racing Comm'n*, OAL Dkt No RAC 08991-08, 2009 N J AGEN LEXIS 855, Final Decision (August 26, 2009)

Suspended jockey failed to demonstrate rehabilitation, thus warranting denial of stable employee license application *Quinones v New Jersey Racing Commission* 93 N J A R 2d (RAC) 31

### 13:70-4.9 Refusal to issue or renew license

The Commission may refuse to issue or renew a license or may suspend or revoke a license issued pursuant to this section if it shall find that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with, or has consorted with bookmakers, touts or persons of similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the Commission, or shall have violated any rule of racing which shall have been approved or adopted by the Commission, or has been guilty of or engaged in similar related or like practices

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Administrative corrections

#### Case Notes

General rules express concern for an affinity between any applicant for licensure and another person convicted of a crime, entirely apart from the person's marital relationship *Niglio v New Jersey Racing Commission*, 158 N J Super 182, 385 A 2d 925 (App Div 1978)

Initial Decision (2009 N J AGEN LEXIS 307) adopted, which found that, although N J A C 13 70-4 9 used the permissive language of "may" in allowing the Commission to deny licensure for prior violations of any law with respect to racing, N J A C 13 70-4 8 placed the burden on the applicant to show that he was qualified in every respect to receive the license for which he applied, petitioner was properly denied licensure as a trainer of thoroughbred horses where he failed to acknowledge his guilt or express remorse for his prior violations, demonstrating a disregard for the rules and regulations of racing and a lack of rehabilitation *Monaci v NJ Racing Comm'n*, OAL Dkt No RAC 08991-08, 2009 N J AGEN LEXIS 855, Final Decision (August 26, 2009)

Race-fixing convictions precluded grant of assistant trainer license *Verrone v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 16

Race-fixing conviction, jockey license application denied and suspension continued *Plomchok v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 13

### 13:70-4.10 Age requirement

No application for a license will be considered for or granted to a person under 16 years of age

Amended by R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

"boy" changed to "person"

### 13:70-4.11 False or misleading statements

Any person making any false, untrue or misleading statement on an application for license or registration or in a written or oral examination in connection with such an application may be disciplined as provided for in these rules and regulations

Amended by R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

Section substantially amended

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

"or" corrected to "on"

### 13:70-4.12 Financial irresponsibility

The Commission may refuse to issue or renew the license of any owner, trainer or other licensee, or may suspend or revoke such license if it shall find that the owner, trainer or other licensee has accumulated unpaid obligations relating to racing, or in connection therewith has issued drafts or checks which are dishonored, or payment refused, or otherwise displayed financial irresponsibility reflecting on the sport

### 13:70-4.13 Disqualification of spouses; exception

Disqualification of either husband or wife applies equally to both, unless the spouse of the disqualified person shows to the satisfaction of the Commission that ownership and racing of his or her horses is independent of and not under the control or influence of the disqualified spouse

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Grammar correction

#### Case Notes

Suspension of wife's license due to husband's criminal conviction upheld, rule not assailable on equal protection grounds, full constitutional safeguards observed in suspension *Niglio v New Jersey Racing Commission*, 158 N J Super 182, 385 A 2d 925 (App Div 1978)

#### 13:70-4.14 Temporary application

Where in the case of extenuating circumstances an owner may be unavailable to complete the license application, permission may be granted by the Racing Commission for the horses of said owner to start. The trainer or assistant trainer for the owner in question will be required to promptly complete a temporary application and pay all license fees.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

"To be entered" changed to "to start" and assistant trainer added, "fill out" changed to "complete"

#### 13:70-4.15 Requirements; farms or licensed tracks

(a) No horse may start in any race wherein pari-mutuel wagering is conducted unless stabled on the grounds of a racing association licensed by the Commission or at a farm or training facility licensed by the Commission. Nothing in this rule shall prohibit any horse stabled outside the State of New Jersey from vaning to any racing association to start.

(b) A license shall not be issued to any farm or training center not in compliance with the following requirements:

1 All box stalls shall be properly ventilated and measure approximately 10 feet by 10 feet or larger.

2 Arrangements for the disposal of manure and other refuse shall be made in compliance with appropriate State and municipal health codes and/or ordinances.

3 Adequate spraying and/or fogging equipment must be available.

4 Any farm or training center that is placed under quarantine by the New Jersey Department of Agriculture shall have their license immediately suspended. Any facility whose license is so suspended, shall be afforded the right of appeal as provided for in N J A C 13 70-13A.

(c) Any farm or training center making application for licensure as an off-track stabling facility shall pay a \$50.00 annual license fee and be liable to inspection by the employees of the Commission, and shall be required to provide unrestricted access to all stabling facilities to the employees and agent of the Commission upon demand.

(d) Any horse in training or entered to start stabled on such a farm or training center must be under the care and custody of a licensed trainer. It shall be the responsibility for the trainer to insure that only individuals licensed by the Com-

missioner are employed in any capacity of caretaker, groom or other attendant with respect to the care, custody and training of such a horse. Nothing in this section shall be deemed to apply to brood mares, foals, weanlings, yearlings, stallions or other horses not in training.

(e) It shall be the responsibility of the farm manager or training center manager to complete and file all reports required of him by the Commission. It shall similarly be the responsibility of the trainer to complete and file all reports required of him by the Commission, including, but not limited to, the Equine Fatality Report (see N J A C 13 70-14 16).

(f) Failure to comply with the requirements in this section shall subject the offending party to the penalties provided for in N J A C 13 70-23. Further, violation of this section may subject the offending party to suspension, revocation or denial of the farm license and/or declaration of ineligibility for stables or horses involved.

New Rule, R 1985 d 635, effective December 16, 1985 (operative January 1, 1986)

See 17 N J R 1393(a), 17 N J R 2995(a)

Old section "Specifications, forms or licensed tracks"

Amended by R 1993 d 43, effective January 19, 1993

See 24 N J R 4021(a), 25 N J R 314(a)

Revised (c)

#### Case Notes

Disciplinary regulation governing failure by licensed trainer to register suspended jockey as employee and employment of disqualified person did not violate equal protection. *Wendling v New Jersey Racing Com'n*, 279 N J Super 477, 653 A 2d 582 (A D 1995)

State racing commission had authority to discipline licensed trainer despite claimed applications of exemption. *Wendling v New Jersey Racing Com'n*, 279 N J Super 477, 653 A 2d 582 (A D 1995)

#### 13:70-4.16 Certificate of compliance

Effective January 1, 1969, a certificate of compliance with N J A C 13 70-3 43, issued by an insurance company authorized to do business in the State of New Jersey, must be on file with the racing secretary before a license is issued.

#### 13:70-4.17 (Reserved)

Repealed by R 1985 d 639, effective December 16, 1985 (operative January 1, 1986)

See 17 N J R 2362(b), 17 N J R 2994(a)

Section was "Fingerprinting"

#### 13:70-4.18 Badges

(a) All licensed personnel who enter the stable area of any track under the jurisdiction of the New Jersey Racing Commission in any capacity whatsoever, shall wear upon their outside apparel, in a prominent position, the authorized badges containing picture identification supplied by the Commission. This rule shall also apply to State, track, veterinarian personnel, as well as the vendors and suppliers authorized in the stable area, and the badges shall be readily available and produced by such personnel upon request of



track security, county and city police, State police, TRPB operatives, Commission inspectors, and stewards at said request Failure to comply with this rule will result in a \$5 00 fine for the first offense, \$10 00 fine for the second, \$25 00 for the third and ejection from the grounds upon the fourth offense

(b) Any person losing his identification license will be subject to a fine of not less than \$2 00 or more than \$10 00 The amount of the fine to be determined by the New Jersey Racing Commission

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Punctuation and "police" changed to "security"

**13:70-4.19 (Reserved)**

Amended by R 1979 d 144, effective April 12, 1979  
See 11 N J R 21(b), 11 N J R 258(a)  
Repealed by R 1985 d 639, effective December 16, 1985 (operative January 1, 1985)  
See 17 N J R 2362(b), 17 N J R 2994(a)



Section was "Fingerprinting and photographs of licensees and employees"

**13:70-4.20 (Reserved)**

Amended by R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

Repealed by R 1985 d 639, effective December 16, 1985 (operative January 1, 1985)

See 17 N J R 2362(b), 17 N J R 2994(a)

**13:70-4.21 (Reserved)**

R 1976 d 125, eff April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

Repealed by R 1985 d 639, effective December 16, 1985 (operative January 1, 1985)

See 17 N J R 2362(b), 17 N J R 2994(a)

Was "Licenses required"

**13:70-4.22 Collection and dissemination of Social Security numbers**

(a) The Racing Commission may request Social Security numbers to be furnished for use in determining an applicant's eligibility for licensure especially as it relates to credit checks, background checks or other such investigations, including those relative to open claiming. No application shall be denied for failure to comply with such request provided that a person may be required to submit such other information as the Commission may require in order to determine an applicant's eligibility for licensure.

(b) Any form used by the Commission to request submission of a Social Security number shall include the following

1 A statement as to whether provision of a Social Security number is mandatory or voluntary,

2 A citation of the rule (which in the case of a request for voluntary submission shall be this section) that authorizes the Commission to request the Social Security number, and

3 A statement that the Commission will use Social Security numbers as a secondary internal identifier for the following purposes: Credit checks, background checks and other such investigations

(c) Any Social Security number submitted to the Commission shall be concealed or removed from the document before it is made available to any agency or person outside the Racing Commission. No Social Security number shall be disclosed to any outside party, orally or in writing, except as provided by law

New Rule, R 1995 d 163, effective March 20, 1995

See 27 N J R 44(a), 27 N J R 1192(b)

**13:70-4.23 Multi-year license**

(a) The Racing Commission may issue a multi-year license which expires on December 31 of the final year. The fee is a multiple of the annual fee and in the Commission's discretion may be offered, on an optional basis, to license categories it deems appropriate

(b) The Commission may require the multiple year licensee to complete an annual questionnaire updating certain data on the original application, or provide such other supplemental information as it determines appropriate

(c) A multi-year license may be suspended for violations of this chapter, and the holder thereof shall be subject to such penalties and orders for relief consistent therewith. If a multi-year license is suspended, the holder thereof in the Commission's discretion may forfeit the option to obtain a multi-year license

New Rule, R 1995 d 519, effective September 18, 1995

See 27 N J R 2371(a), 27 N J R 3621(a)

## SUBCHAPTER 5 STABLE NAMES, CORPORATIONS AND MULTIPLE OWNERSHIPS

**13:70-5.1 (Reserved)**

Repealed by R 1989 d 74, effective February 6, 1989

See 20 N J R 2536(a), 21 N J R 344(a)

Section was "registering racing colors"

**13:70-5.2 Disputes concerning colors**

Any dispute between persons to the right of particular racing colors shall be decided by the stewards

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Claimants" changed to "persons"

**13:70-5.3 Temporary changes in colors**

No person shall start a horse in racing colors other than those registered in his or her own stable name, but a temporary change from the recorded racing colors may be approved by the stewards

**13:70-5.4 Improper colors**

The Racing Commission will not permit the use of colors which in its opinion are not neat and clean and proper in all other respects

**13:70-5.5 Registering stable name; fee**

Each stable name must be registered with the Commission, the fee shall be \$50.00 annually

**13:70-5.6 Identities**

In applying to race under a stable name, the applicant must disclose the identity or identities behind the name. If a partnership is involved, the rules covering partnerships must be complied with and the usual fees paid therefor, in addition to the fee for a registration of the stable name

**13:70-5.7 (Reserved)**

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
Repealed

**13:70-5.8 Existing stable name**

A person cannot register as his stable name, one which has been registered by any other person with any racing commission or turf authority

**13:70-5.9 Names; limitation**

A person may not register as a stable name one which is the real name of any owner of race horses, nor one which is the name of any prominent person not owning race horses

**13:70-5.10 Distinguishable name**

A stable name shall be plainly distinguishable from that of another duly registered stable name

**13:70-5.11 Prohibition on advertising names**

No stable name shall be used, if in the judgment of the stewards, it is being used for advertising purposes

**13:70-5.12 Changes in identities**

Changes in identities of partners or shareholders in a stable name must be reported immediately to, and approval obtained from, the Commission

**13:70-5.13 Cancelling name**

Any person who has registered under a stable name may at any time cancel it after giving notice to the Commission

**13:70-5.14 Registering new name**

A stable name may be changed at any time by registering a new name and by paying the fee required as above

**13:70-5.15 Transfer of name**

With the consent of the Commission, a stable name may be transferred. The fee shall be \$50.00 and a new application must be made

**13:70-5.16 Corporate name**

A corporate name shall be considered a stable name for the purpose of these rules, but the Commission reserves the right to refuse any corporation the right of registering a stable name

**13:70-5.17 Deviation from legal name of licensee**

For the purpose of these rules, any deviation from the proper legal name of the licensee (for example, a married woman wishing to race under her maiden name) shall be considered as a stable name, and the proper registration and fee shall be forthcoming

**13:70-5.18 Name used by trainer**

A trainer who is a licensed owner, may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name

**13:70-5.19 Multiple ownership**

Each and every multiple ownership must be registered with the Commission. All multiple ownerships with the exception of partnerships wherein no more than two persons are involved shall race in a multiple ownership stable name. No license shall be granted to any partnership, syndicate or other form of multiple ownership or to the lessee of any such entity excluding corporations wherein the number of persons having a beneficial interest therein exceeds 35

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

Section substantially amended

**13:70-5.20 Contents of multiple ownership papers**

(a) Multiple ownership papers shall, among other things, set forth the following

- 1 The name and address of each and every person having any interest in the horse or horses involved,
- 2 The relative proportions of such interests,
- 3 To whom the winnings are payable,
- 4 In whose name the horse or horses shall run,
- 5 With whom the power of entry and declaration rests,
- 6 The terms of any contingency, lease or any other arrangement,
- 7 The names of the horse or horses involved

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

(a) Substantially amended

**13:70-5.21 Partner ownership**

Any partner transacting business on behalf of a partnership must own an interest in the partnership at least equal to that of any other partner, and when authorizing any person to act as agent for a partnership, an interest of at least 50 percent must be represented

**13:70-5.22 Partnership papers; signatures**

All partnership papers must be signed by all of the parties or by their authorized agent

**13:70-5.23 Alterations in recorded partnership**

Any alteration in a recorded partnership, to be effective, must be reported in writing to the Commission and signed by all the partners, or their authorized agents

**13:70-5.24 Liability**

All the parties in any multiple ownership and each of them shall be jointly and severally liable for all stakes, forfeits and other obligations

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

"a partnership" deleted and "any multiple ownership" substituted

**SUBCHAPTER 6 ENTRIES AND SUBSCRIPTIONS****13:70-6.1 Qualified to start**

A horse shall not be qualified to start in any race unless it has been and continues properly entered therein

**Case Notes**

Racing Commission has not regulated the right of a licensed horse owner to race his horse at a given track. Commission not proper forum for owner's dispute with racetrack for barring his horse, as the action was not taken under color of State law or regulation *Marzocca v Ferone*, 186 N J Super 483, 453 A 2d 228 (App Div 1982) certification denied 91 N J 574, 453 A 2d 884, affirmed in part, reversed in part 93 N J 509, 461 A 2d 1133 (1985)

**13:70-6.2 Application for license**

No horse shall be qualified in any race unless its owner, trainer and jockey have submitted application for license to the Racing Commission except as heretofore stated in N J A C 13 70-4 14

**13:70-6.3 Racing secretary**

For all races, the racing secretary is the person authorized to receive entries and declarations

**13:70-6.4 Written entries and declarations**

Entries and declarations shall be made in writing, and signed by the owner of the horse, or by his authorized agent or some person deputed by him, and each association shall provide blank forms on which entries and declarations are to be made

**13:70-6.5 Coupled horses**

All horses owned wholly or in part by the same owner or the spouse of any such owner, or trained by the same trainer, must be coupled and run as an entry. For the purpose of this section, "ownership" shall be construed to mean any person required to be licensed as an owner pursuant to these rules and in the instance of multiple ownerships, persons possessing at least a five percent commonality of interest in each of the respective horses. Provided, however, that when a trainer enters two or more horses in a race under bona fide separate ownerships the Commission may, on application by the association conducting the race permit the horses to race as separate wagering entities. The Commission shall consider

such requests on a case by case basis in the best interest of racing, considering the facts and circumstances concerning the race meet that is the subject of the association's application for approval. For races worth \$500,000 or more, or in races sponsored by and conducted in conjunction with the Breeders' Cup days, all horses entered to race in such races, regardless of common trainers or ownership interest, shall race as individual betting interests. If the race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions insofar as possible but the divisions in which they compete and their post positions shall be drawn by lot

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

Section substantially amended

Petition for Rulemaking

See 34 N J R 3030(b), 3545(a)

Amended by R 2004 d 153, effective April 19, 2004

See 35 N J R 4180(b), 36 N J R 1951(a)

Inserted the fourth sentence

Petition for Rulemaking

See 38 N J R 2746(a), 38 N J R 2893(a)

Amended by R 2007 d 325, effective October 15, 2007

See 39 N J R 2589(a), 39 N J R 4410(a)

Inserted "or in races sponsored by and conducted in conjunction with the Breeders' Cup days,"

Amended by R 2007 d 327, effective October 15, 2007

See 39 N J R 2590(a), 39 N J R 4410(a)

Incorporated the amendment by R 2007 d 325, and inserted "the" preceding the first occurrence of "purpose"; substituted "race" for "stake, handicap, futurity or other special event"; "Commission may, on application by" for "horse may, at the request of" and "conducting the race permit the horses" for "and with the approval of the Commission, be permitted"; and inserted the fourth sentence

**13:70-6.6 Entries or scratches**

(a) Entries or scratches may be made by telephone, but must be confirmed promptly in writing should the stewards, racing secretary, or his assistants so request

(b) Entries made by telegraph must be confirmed in writing

(c) In case of omission, through error, of the name or weight of a horse entered, the omission shall be rectified by the racing secretary

**13:70-6.7 Persons with recorded interest**

Any person having a recorded interest in a horse may enter that horse, unless prohibited by the terms of partnership papers registered with the Commission

**13:70-6.8 Joint subscriptions and entries**

Joint subscription and entries may be made by any one or more of the owners, however all partners and each of them shall be jointly and severally liable for all fees and forfeits

**13:70-6.9 Horse entered for first time**

If entered for the first time at a meeting, a horse shall be identified by stating its name, color, sex, age and the name of its sire and dam, as registered

**13:70-6.10 Unreported racing starts**

A horse during the past calendar year that has started in a race which is not reported in the daily racing form monthly chart books, or a maiden which at any time has started in such a race, shall not be entered at a New Jersey track until all pertinent data relating to such race is available to the racing secretary

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Grammar and punctuation

**13:70-6.11 Denial of nominations or entries**

The nominations or entries of any person, or the transfer of any nomination or entry, may be cancelled or refused provided that notice and reason therefore is given to any affected person or persons

As amended, R 1979 d 250, effective June 20, 1979  
See 10 N J R 509(a), 11 N J R 400(a)

**13:70-6.12 Registered horses**

No horse shall be allowed to enter or start in any flat race unless duly registered and named at the registry office of the New York Jockey Club, and no horse shall be allowed to enter or start in a steeplechase unless duly registered and named at the Jockey Club, or with the National Steeplechase and Hunt Association

**13:70-6.13 Certificate and tattooing requirements**

No horse shall be allowed to start unless a Jockey Club registration certificate is on file with the horse identifier, and unless it has been lptattooed, with the exception that the stewards may, in their discretion and for good cause, waive these requirements if the horse is otherwise properly identified. However, said horse shall be tattooed thereafter within a period of time that is reasonably practical

**13:70-6.14 Licensed trainer**

No horse shall be permitted to enter or start unless it is in the care of and is saddled by a licensed trainer

**13:70-6.15 Horse to be fully identified**

No horse shall be permitted to start that has not been fully identified

**13:70-6.16 Maiden horses; six years or older**

No maiden over six years of age shall be permitted to enter a race at any thoroughbred track in the State of New Jersey without the express approval of the stewards, except in steeplechase or hunt races

As amended, R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)  
As amended, R 1981 d 489, effective December 21, 1981  
See 13 N J R 520(c), 13 N J R 946(d)  
Added "without stewards,"

**13:70-6.17 Person attempting establishment of horse's identity**

Any person attempting to establish the identity of a horse or its ownership shall be held to account, the same as the owner, and shall be subject to the same penalty in case of fraud or attempted fraud

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Grammar

**13:70-6.18 Stabling**

No horse shall be permitted to enter or start unless stabled on the grounds of the association or at a farm approved by the Commission, except with the permission of the racing secretary

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
"or at Commission" added, "in stabling association" deleted

**13:70-6.19 Ownership registered; true ownership**

No horse shall be permitted to start whose name and true ownership is not registered with the racing secretary, and the entry of a horse must be in the name of its true ownership

**13:70-6.20 Filing of interests or changes in interests**

All interests in a horse, except a trainer's percentage of its winnings, shall be filed with the racing secretary before the horse shall start, as also shall every change in interest thereafter during the meeting

**13:70-6.21 Limit on number of races per day**

No horse may be entered for two races on a single day

**13:70-6.22 Partnerships**

No horse involved in a partnership shall be permitted to enter or to start until the rules for the registration of partnerships have been complied with

**13:70-6.23 Eligibility**

To compete in a race, a horse must be eligible at the time of starting that race

**13:70-6.24 Disqualified persons**

A horse shall not be qualified to be entered, or to start in any race, if owned in whole or part, or if under the management, directly or indirectly, of a disqualified person

**13:70-6.25 Return of money; disqualified persons**

If any entry from any disqualified person or of a disqualified horse is received, such entry shall be void and any money

paid for such entry shall be returned if the disqualification is disclosed 45 minutes before post time for the race. Otherwise, any such money shall be paid to the winner

**13:70-6.26 Entering or starting disqualified horse**

No horse, disqualified in any jurisdiction, shall be allowed to be entered or to start in any race without permission of the stewards





**13:70-6.27 Spouses**

No entry shall be accepted from husband or wife, while either is disqualified, however, if a jockey is under suspension for a routine riding offense, his or her spouse may be permitted to continue to exercise the functions of whatever type of license he or she may have been granted

**13:70-6.28 Horses on starters, veterinarians or stewards lists**

No horse on the starters, veterinarians, or stewards list in any racing jurisdiction shall be qualified to be entered or to start

**13:70-6.29 Sale of horse to disqualified person**

If a horse is sold to a disqualified person, said horse's racing engagements shall be void as of the date of the sale

**13:70-6.30 Owner in arrears**

No horse shall be allowed to enter or to start in any race if the owner of that horse is in arrears, except with the approval of the racing secretary

**13:70-6.31 Limitation on double entries; same owner**

Not more than two horses of the same ownership or interest shall start in any race (except stakes) When making a double entry in the same ownership the owner or trainer must express a preference, and in no case may two horses start in the same ownership to the exclusion of a single entry

**13:70-6.32 Divided races**

In divided races, the starters in the separate divisions shall be determined by lot, except that stable couplings may be separated, at the discretion of the racing secretary

**13:70-6.33 Unclosed races**

The association shall have the right to withdraw or change any unclosed race

**13:70-6.34 Insufficient entries**

If a race is declared off because of insufficient entries, the association may split any overnight race which may have closed and cause a new drawing for post position

**13:70-6.35 Sweepstakes entries**

An entry in a sweepstakes is a subscription, and cannot be withdrawn

**13:70-6.36 Return of fees**

If a horse is excused from the race before the off-time, the starting fees shall be refunded, if a horse is locked in the gate, any fees of any kind, including jockey fees, shall be returned to the owner

**13:70-6.37 Nominator liability**

The nominator is liable for the entrance money or stake, and the death of an entered horse or a mistake in its entry shall not release the nominator or transferees from such liability, nor shall the entrance money or stake of an eligible horse to any race which is run off be returnable for the entry's failure to start, for any cause

**13:70-6.38 Death of nominator**

Except in a match race, no entry or subscription shall become void on the death of the nominator

**13:70-6.39 Closing of entries**

Entries shall be closed at the advertised time, and no entry accepted thereafter The racing secretary, however, may postpone closing of overnight races

**13:70-6.40 Overnight race entries**

In the absence of conditions or notice to the contrary, entries to overnight races shall be considered closed not later than 10 30 A M on the day preceding that on which the race is to be run

**13:70-6.41 Closing places for entries**

In the absence of notice to the contrary, entrances and declarations for sweepstakes which close during or on the eve of a race meeting, close at the office of the racing secretary Closing at all other times for sweepstakes shall be at the office of the association

**13:70-6.42 Closing time implied**

Except in overnight races, if the hour of closing of entries or for declarations is not stated, it is understood to be midnight at the close of the day specified

**13:70-6.43 Nomination for stake races**

Nomination for stake races received and post-marked before midnight of the day of closing shall be valid if received 24 hours in advance of the publication of the weights, if a handicap, or 24 hours in advance of the closing of overnight entries, if any other type of race

**13:70-6.44 Miscarriage of stake race nomination or declaration**

If a miscarriage of any nomination or declaration in a stake race is claimed, satisfactory proof that it was mailed or telegraphed must be presented within a reasonable time, or such evidence will not be considered

**13:70-6.45 Posting of closed entries**

Entries which have closed shall be compiled without delay by the racing secretary, and conspicuously posted

**13:70-6.46 Number of horses; stake races**

In a stake race, the number of horses to compete will be limited only by the number of horses duly nominated and entered

**13:70-6.47 Number of starters; overnight race**

The number of starters in any overnight race shall be limited by the width of the track at the starting post, the maximum number to be determined by the stewards

**13:70-6.48 Alteration in entry after closing**

No alteration shall be made in any entry after the closing of entries, but an error may be corrected

**13:70-6.49 Naming of jockey; changes**

Jockeys shall be named at time of entry Any subsequent change of a jockey must be sanctioned by the stewards and must be promptly and publicly posted and announced

**13:70-6.50 Postponement and cancellation of races**

If the whole, or part of a racing program is abandoned, any purse race involved must be declared off

**13:70-6.51 Closed entries; declared off**

No race, which has closed with sufficient entries, shall be declared off except by the stewards

**13:70-6.52 Post position**

Post positions shall be determined publicly by lot in the presence of the racing secretary or his deputy, one or more stewards or their deputies, and at least one trainer licensed by the Racing Commission

**13:70-6.53 Eligibility; registration required**

(a) In order to be eligible to enter and start in races exclusively for New Jersey bred foals, each New Jersey bred "accredited" and/or "non-accredited" foal must be registered with the Thoroughbred Breeders' Association of New Jersey

(b) To qualify for such registration, the said horse must have been foaled in the State of New Jersey by a resident New Jersey mare or a non-resident New Jersey mare or conceived by a resident "New Jersey stallion"

1 A resident New Jersey mare is a mare that resides in New Jersey continuously from November 1 of the year prior to the foaling through the date of foaling A mare purchased at public auction subsequent to October 17th of the year prior to foaling, is considered a resident New Jersey mare provided that she commences residence in New Jersey within two weeks of her purchase and continuously resides in New Jersey through the date of foaling For the purpose of this paragraph, public auction is defined as an auction generally regarded as a public auction in the thoroughbred

horse industry and recognized as same by the Thoroughbred Breeders' Association of New Jersey

2 A non-resident New Jersey mare is a mare that has not been returned to New Jersey by November 1 of the year prior to foaling The resulting foal may still be registered as a New Jersey-bred provided the mare is bred to a registered New Jersey stallion the season of the birth of said foal and remain in New Jersey for a continuous period of 90 days after foaling

3 "New Jersey stallion" is a stallion resident and standing in the State of New Jersey the full breeding season, commonly understood to be the period from February 1 through July 1 of the subject year If a stallion is brought into New Jersey subsequent to the start of the breeding season, he may be approved as a "New Jersey stallion" by the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey provided that he stands and is resident in New Jersey for the remainder of the breeding season For those stallions brought into New Jersey subsequent to the commencement of the breeding season, approval by the Thoroughbred Breeders' Association of New Jersey as a "New Jersey stallion" is only for the period from the date of approval through the end of the breeding season All "New Jersey stallions" must be registered with the Thoroughbred Breeders' Association of New Jersey and all appropriate annual fees paid prior to February 1 of the breeding season or, in the case of a stallion entering the State subsequent to the start of the breeding season, prior to serving the first mare Failure to meet the above criteria solely by reason of the death of the stallion does not disqualify said stallion as a "New Jersey stallion"

(c) Only New Jersey bred foals as defined below are eligible to enter and start in races exclusively for New Jersey bred foals New Jersey bred foals are placed in two categories which are defined as follows

1 An "accredited" New Jersey bred foal is a horse that is

1 Registered with the Jockey Club,

11 Foaled in New Jersey during a period in which the mare is considered a resident "New Jersey mare" as defined in (b)1 above, and

111 Registered with the Thoroughbred Breeders' Association of New Jersey with all applicable fees paid prior to one year after the foaling date by the "breeder" of the foal

2 A "non-accredited" New Jersey bred foal is a horse that is born between 2005 and 2010 and is

1 Registered with the Jockey Club,

11 Foaled in New Jersey during a period in which the mare is considered a non-resident "New Jersey mare" as defined in (b)2 above,

iii Conceived in New Jersey by a "New Jersey stallion" as defined in (b)3 above but not foaled in New Jersey, and

iv Registered with the Thoroughbred Breeders' Association of New Jersey with all applicable fees paid

(d) Awards, if any, for "horse owners," "breeders," and/or "stallion owners" from races exclusively for New Jersey bred foals may differ between "accredited" New Jersey bred horses and "non-accredited" New Jersey bred horses in accordance with rules established and changed from time to time by the Thoroughbred Breeders' Association of New Jersey

1 "Horse owner" is owner or lessee of record of a horse with the Jockey Club and Race Secretary at the time of the race

2 "Breeder" of a foal is owner of the dam at the time of foaling as stated on the foal's Jockey Club certificate of registration

3 "Stallion owner" is the owner of record of the stallion at the time of conception of the subject foal. In order to be eligible for "stallion owner" awards, the subject foal must have been conceived in New Jersey

(e) The breeder is responsible for the registering of the foal as an "accredited" or "non-accredited" New Jersey bred foal

(f) A breeder who registers or attempts to register a foal based upon false or fraudulent information may be subject to any or all of the following sanctions by the Thoroughbred Breeders' Association

1 The horse may no longer be considered a New Jersey bred foal,

2 Any New Jersey breeder awards earned by an ineligible horse shall be forfeited to the Thoroughbred Breeders' Association of New Jersey,

3 The breeder may be denied the privilege of registering any horses as New Jersey bred foals or as New Jersey stallions for a time period determined by the Thoroughbred Breeders' Association,

4 The breeder may be denied the benefit of any and all breeder awards in New Jersey for a time period determined by the Thoroughbred Breeders' Association

(g) Any owner or breeder may appeal the decision of the Thoroughbred Breeders' Association of New Jersey concerning the registration of a horse under this rule to the New Jersey Racing Commission

(h) All fees for registration of foals, horses of racing age and stallions as established by the Thoroughbred Breeders' Association of New Jersey shall be subject to the approval of the Commission, which approval shall be based upon the Commission's review of a full accounting of fees received and the disposition and purposes for which the revenue collected by the Association is utilized in order to comply with the rules of racing and the terms of New Jersey statutes, the

purposes of which are to improve and develop the thoroughbred breeding industry in the State

R 1976 d 125, eff April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

As amended, R 1984 d 45, eff February 21, 1984

See 15 N J R 2147(a), N J R 378(a)

(a)3 changed July to July 1st, (a)3 1 and 11 added

New Rule R 1985 d 203, effective May 6, 1985

See 17 N J R 271(a), 17 N J R 1135(b)

Repealed old rule and adopted this new rule

Amended by R 1995 d 617, effective December 4, 1995

See 27 N J R 3304(b), 27 N J R 4904(a)

Petition for Rulemaking

See 35 N J R 4332(b), 4921(b)

Amended by R 2004 d 358, effective September 20, 2004

See 36 N J R 2157(a), 36 N J R 4319(b)

Rewrote the section

Petition for Rulemaking New Jersey Racing Commission eligibility, registration required

See 38 N J R 1609(a)

Petition for Rulemaking New Jersey Racing Commission, Notice of

Action on Petition for Rulemaking Eligibility, Registration Required

See 38 N J R 1880(b)

Amended by R 2007 d 121, effective May 7, 2007

See 39 N J R 23(a), 39 N J R 1765(a)

In the introductory paragraph of (b), inserted "a non-resident New Jersey mare or", added new (b)2, recodified former (b)2 as (b)3, added new (c)2ii, recodified former (c)2ii and (c)2iii as (c)2iii and (c)2iv, and updated internal reference at (c)2iii

Petition for Rulemaking

See 40 N J R 6236(a), 40 N J R 6659(a)

Petition for Rulemaking

See 41 N J R 2734(a), 2806(a)

Amended by R 2009 d 285, effective September 21, 2009

See 41 N J R 2441(a), 41 N J R 3460(b)

In (b)1 and (b)2, substituted "November" for "September", in (b)1, substituted "October" for "August", and in (b)2, inserted "been"

Amended by R 2010 d 264, effective November 15, 2010

See 42 N J R 1136(a), 42 N J R 2807(a)

In the introductory paragraph of (c)2, inserted "born between 2005 and 2010 and is"

### 13:70-6.54 First time starters

(a) No first time starters will be allowed to enter without two published workouts within 45 days of racing

(b) It shall be the trainers responsibility to see that all first time starters in their care have published workouts

R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

Amended by R 2005 d 125, effective April 18, 2005

See 36 N J R 4374(a), 37 N J R 1212(a)

In (a), substituted "without two published workouts within 45 days of racing" for "without a published workout", in (b), substituted "have published workouts" for "have a published workout"

### 13:70-6.55 (Reserved)

R 1976 d 125, eff April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

As amended, R 1982 d 183, eff June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

As amended, R 1983 d 14, eff February 7, 1983

See 14 N J R 1146(b), 15 N J R 158(b)

Decreased non-racing period from 25 to 14 days for first time bleeders and added three month prohibition for second time bleeders  
Also added last sentence

Repealed by R 1988 d 245, effective June 6, 1988

See 20 N J R 506(a), 20 N J R 1207(a)

This rule appears at N J A C 13 70-14A 9(d)

**13:70-6.56 Starters; published workouts**

A horse which has not started for 30 days or more shall be ineligible to race unless it has a published timed workout at a racetrack within 30 days prior to entry. Workouts following the entry of a horse shall appear on the official daily program.

R 1983 d 14, eff February 7, 1983  
See 14 NJR 1146(b), 15 NJR 158(b)

**13:70-6.57 Workout program**

(a) Each track association shall establish and maintain a workout program meeting the following requirements, as well as such other requirements and conditions as established from time to time by the Commission:

1 Training and workout hours for the main track and/or training track shall be designated by the racing association.

2 No horse shall be permitted onto either track for training or a workout except during the designated hours unless with the express permission of the Racing Secretary and Board of Stewards.

3 Access to the training track and/or main track during such hours shall be limited to such gaps as directed by the Board of Stewards where the association shall have at least one workout coordinator per gap.

4 The workout coordinator shall obtain the identity of all horses to workout at the time the horse enters through the appropriate gap. The workout coordinator shall also obtain from the trainer, custodian or rider of any such horse, the distance which the horse will workout and at what point on the track the workout is intended to begin. All such information shall then be promptly transmitted to the clockers who are responsible for timing and reporting all workouts.

5 The racing association shall maintain a communication system between the workout coordinators and clockers.

6 The trainer shall be responsible for insuring that horses in his care and custody comply with all provisions of this workout program.

7 The Board of Stewards shall have overall jurisdiction of this program, and may fine and/or suspend any persons who violate or attempt to violate the workout program requirements. The stewards may also fine and/or suspend any person who reports or submits inaccurate or false information concerning the identity of any horse and the particulars of any workout.

New Rule, R 1985 d 663, effective January 6, 1986  
See 17 NJR 2529(a), 18 NJR 92(b)

**SUBCHAPTER 7 DECLARATIONS AND SCRATCHES****13:70-7.1 Purse races**

Declaration and scratches from purse races shall be made to the racing secretary by the owner, his authorized agent, or some person deputed by him, at a time which shall be set by the racing secretary and so posted conspicuously.

**13:70-7.2 Notice of declarations and scratches**

No horse shall be considered scratched or declared out of an engagement until the owner or his authorized agent, or some person deputed by him shall have given due notice in writing to the racing secretary.

**13:70-7.3 Scratches from overnight races**

No horse shall be scratched from an overnight race without the approval of the stewards.

**13:70-7.4 Irrevocability**

The declaration or scratch of a horse out of an engagement is irrevocable.

**13:70-7.5 Stakes Races**

For stakes races, if a horse is not named through the entry box at the time appointed by the racing secretary, the horse is automatically out.

**13:70-7.6 Time for scratches; stakes races**

Scratches from stakes races will close 45 minutes before post time.

**13:70-7.7 Miscarriage of declaration**

If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of such miscarriage shall be required of the complainant, otherwise, the declaration shall not be accepted as of the time alleged.

**SUBCHAPTER 8 WEIGHTS****13:70-8.1 Obligatory penalties**

Weight penalties are obligatory.

**13:70-8.2 Weight allowances**

Weight allowances must be claimed at time of entry, and shall not be abandoned after the posting of entries except by consent of the stewards.

**13:70-8.3 Noncumulative penalties and allowances**

Penalties and allowance of weight are not cumulative, unless so declared by the conditions of a race.

**13:70-8.4 Entitled allowance of weight**

A horse shall start with only the allowance of weight to which it is entitled at the time of starting, regardless of its allowance at the time of entry

**13:70-8.5 Weight penalties; effect on allowances**

Horses incurring weight penalties for a race shall not be entitled to any of the weight allowances for that race

**13:70-8.6 Subsequent weight allowances**

Horses not entitled to the first weight allowance in a race shall not be entitled to the second, and so on

**13:70-8.7 Claim of unentitled weight allowance**

Claim of weight allowance to which a horse is not entitled shall not disqualify unless protest is made in writing and lodged with the stewards at least 60 minutes before post time

**13:70-8.8 Placing second or lower**

No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race

**13:70-8.9 Failure to finish second or lower**

No horse shall be given a weight allowance for failure to finish second or any lower place in any race

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"In" to "or"

**13:70-8.10 Steeplechase or hurdle race penalties**

Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat or vice versa

**13:70-8.11 Horses beaten in one or more races**

No horse shall receive allowance of weight, or be relieved of extra weight, for having been beaten in one or more races, provided this rule shall not prohibit maiden allowances or

allowances to a horse which has not won within a specified period or which has not won a race of specified value

**13:70-8.12 Decision in dispute**

When the decision of a race is in dispute, all horses involved in the dispute with respect to the winner's credit shall be liable to all weight penalties attached to the winning of that race until a winner has been adjusted

**13:70-8.13 Disqualification penalties**

No horse shall incur a weight penalty for a placement from which it is disqualified, but a horse placed through the disqualification of another horse shall incur the weight penalties of that placement

**13:70-8.14 Dead heats**

A horse involved in a dead heat for first place shall be liable to the weight penalty for the amount received

**13:70-8.15 Determine eligibility, penalties and allowances**

(a) Eligibility, penalties and allowance of weight for all races will be determined after considering the reports, records and statistics published by the daily racing form

(b) A race not reported in the daily racing form will not be considered unless otherwise stated in the conditions of the race, except that, in the case of an imported horse, the racing record of such horse must be available to the racing secretary prior to the time entry is made to qualify for eligibility (This rule shall not apply in the classification of maidens )

**13:70-8.16 Weights, scale of**

(a) The following is the scale of weights for age, and shall be carried when not otherwise specified in the condition of the race



WEIGHTS

Distance	Age	Weights by Month											
		January and February	March and April	May	June	July	August	September	October	November and December			
One-half Mile	2	—	—	—	—	—	105	108	111	114			
	3	117	119	121	123	125	126	127	128	129			
	4	130	130	130	130	130	130	130	130	130			
	5 and up	130	130	130	130	130	130	130	130	130			
Six Furlongs	2	—	—	—	—	—	102	105	108	111			
	3	114	117	119	121	123	125	126	127	128			
	4	129	130	130	130	130	130	130	130	130			
	5 and up	130	130	130	130	130	130	130	130	130			
One Mile	2	—	—	—	—	—	—	96	99	102			
	3	107	111	113	115	117	119	121	122	123			
	4	127	128	127	126	126	126	126	126	126			
	5 and up	128	128	127	126	126	126	126	126	126			
One Mile and a Quarter	2	—	—	—	—	—	—	—	—	—			
	3	101	107	111	113	116	118	120	121	122			
	4	125	127	127	126	126	126	126	126	126			
	5 and up	127	127	127	126	126	126	126	126	126			
One Mile and a Half	2	—	—	—	—	—	—	—	—	—			
	3	98	104	108	111	114	117	119	121	122			
	4	124	126	126	126	126	126	126	126	126			
	5 and up	126	126	126	126	126	126	126	126	126			
Two Miles	3	96	102	106	109	112	114	117	119	120			
	4	124	126	126	126	126	125	125	124	124			
	5 and up	126	126	126	126	126	125	125	124	124			

Footnotes

- a In races of intermediate distances the weights for the shorter distance are carried
- b In races exclusively for three-year olds or four-year olds the weight is 126 lbs , and in races exclusively for two-year olds, it is 122 lbs
- c In all races except handicaps and races where the conditions expressly state to the contrary, the scale of weights is less by the following for fillies two years old, 3 lbs , for mares three years old and upwards, 5 lbs before September 1st and 3 lbs thereafter
- d Welter weights are 28 lbs added to the weight for age
- e In all overnight races except handicaps, not more than six pounds may be deducted from the scale of weights for age, except for allowances, but in no case shall the total allowance of any type reduce the lowest weight below 101 lbs , except that this minimum weight need not apply to two-year olds or three-year olds when racing older horses
- f In all overnight handicaps and in all claiming handicaps, the top weight shall not be less than 122 lbs

13:70-8.17 Weighing of jockeys

Jockeys shall be weighed out for their respective mounts by the clerk of the scales not less than 20 minutes before the time fixed for the race

13:70-8.18 Items included in jockey's weight; safety vest requirement

(a) A jockey's weight shall include his or her clothing, boots, saddle and its attachments, or any other equipment, except as specified None of the following items shall be included in a jockey's weight

- 1 Whip,
- 2 Bridle,

- 3 Bit or reins,
- 4 Safety helmet,
- 5 Blinkers,
- 6 Goggles,
- 7 Number cloth, and
- 8 Safety vest

(b) A safety vest shall be worn by all jockeys competing in race events The safety vest shall weigh no more than two pounds and shall comply with one of the following minimum standards, incorporated by reference, as may be amended and supplemented

1 British Equestrian Trade Association (BETA) 2000 Level 1, available from [www.beta-uk.org](http://www.beta-uk.org),

2 Euro Norm (EN) 13158 2000 Level 1, available from [www.cen.eu](http://www.cen.eu),

3 American Society for Testing and Materials (ASTM) F2681-08, available from [www.astm.org](http://www.astm.org),

4 Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3, available from [www.satraco.uk](http://www.satraco.uk), or

5 Australian Racing Board (ARB) Standard 1 1998, available from [www.standards.org.au](http://www.standards.org.au)

(c) A safety vest shall be worn by all exercise riders, pony people and outriders during the performance of their duties of working out or otherwise training a horse while on the race-track, training track or general stable area. The vest shall comply with one of the following minimum standards, incorporated by reference, as may be amended and supplemented

1 British Equestrian Trade Association (BETA) 2000 Level 1, available from [www.beta-uk.org](http://www.beta-uk.org),

2 Euro Norm (EN) 13158 2000 Level 1, available from [www.cen.eu](http://www.cen.eu),

3 American Society for Testing and Materials (ASTM) F2681-08, available from [www.astm.org](http://www.astm.org),

4 Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3 or available from [www.satraco.uk](http://www.satraco.uk), or

5 Australian Racing Board (ARB) Standard 1 1998 available from [www.standards.org.au](http://www.standards.org.au)

Amended by R 1994 d 554, effective November 7, 1994

See 26 N J R 3130(a), 26 N J R 4420(a)

Petition for Rulemaking

See 42 N J R 1092(b), 1634(b)

Amended by R 2011 d 117, effective April 18, 2011

See 42 N J R 2747(a), 43 N J R 1036(a)

In the introductory paragraph of (b) and of (c), substituted "comply with one of the following minimum standards, incorporated by reference, as may be amended and supplemented" for "be designed to provide shock absorbing protection to the upper body of at least a rating of five, as defined by the British Equestrian Trade Association (BETA)", added (b)1 through (b)5 and (c)1 through (c)5, and in the introductory paragraph of (c), deleted a comma following "people"

### 13:70-8.19 Weight of bridle or whip

No bridle shall exceed two pounds in weight, and no whip shall exceed one pound in weight. No whip shall be longer than 30 inches, including the "popper"

### 13:70-8.20 Overweight limit

Five pounds is the limit of the overweight any horse is permitted to carry

### 13:70-8.21 Attendants for jockeys

(a) The association shall provide the only attendants who will be permitted to assist jockeys in weighing out

(b) Such attendants shall be paid for their services by the association

(c) A system of rotation of attendants shall be maintained

### 13:70-8.22 Weighing after race

After a race has been run, the jockey shall ride promptly to the proper designated area and there dismount and present himself to the clerk of the scales to be weighed in

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Finish line" changed to "proper designated area"

### 13:70-8.23 Assistance after race

If a jockey is prevented from riding his mount to the proper designated area because of an accident or illness either to himself or his horse, he may walk or be carried to the scales, or he may be excused by the stewards from weighing in

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Finish line" changed to "proper designated area"

### 13:70-8.24 Touching horse after race

Except by permission of the stewards, every jockey must, on returning to the proper designated area, unsaddle the horse he has ridden and no person shall touch said horse except by its bridle

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

"Finish line" changed to "proper designated area"

### 13:70-8.25 Removal of equipment from horse

No person shall assist a jockey in removing from his horse the equipment that is to be included in the jockey's weight, except by permission of the stewards, and no person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his weight

### 13:70-8.26 Jockey carries equipment to scales

Each jockey shall, in weighing in, carry over to the scales all pieces of equipment with which he weighed out

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)

Over "to" scale added to

### 13:70-8.27 Weight of jockey after race; short weight

Each jockey shall weigh in at the same weight as that at which he weighed out, and if short of it by more than two pounds his mount shall be disqualified

### 13:70-8.28 Overweight of jockey after race

No jockey shall weigh in at more than four pounds over the weight at which he or she weighed out, except insofar as said weight may have been affected by the elements



Amended by R 1994 d 555, effective November 7, 1994  
See 26 N J R 3130(b), 26 N J R 4420(b)

## SUBCHAPTER 9 JOCKEYS, JOCKEY APPRENTICES AND JOCKEY AGENTS

### 13:70-9.1 Jockey license

Each jockey must obtain a license from the Racing Commission

#### Case Notes

Cited in examination of extent of State regulation of private trade activity *Marzocca v Ferone*, 186 N J Super 483, 453 A 2d 228 (App Div 1982) certification denied 91 N J 574, 453 A 2d 884, affirmed in part, reversed in part 93 N J 509, 461 A 2d 1133 (1983)

### 13:70-9.2 Jockey's name

Every Jockey shall ride under his or her legal name

### 13:70-9.3 Age of jockey

No person under 16 years of age shall be granted a jockey's license

### 13:70-9.4 New riders

Persons never having ridden in a race may be allowed to ride twice before applying for a license, but licenses shall not be granted to persons who have never ridden in a race

### 13:70-9.5 Pending application

The stewards may permit a jockey to ride pending action on his or her application

### 13:70-9.6 Jockey's interest in horses

If a jockey owns wholly or in part a race horse in training at a meeting or has an interest in the winnings of such a horse, he or she shall not be permitted to ride any other horse at the meeting

### 13:70-9.7 Owner or trainer consent to ride

A jockey shall not ride or agree to ride in any race without the consent of an owner or trainer to whom he or she is under contract

### 13:70-9.8 Jockey under contract

No jockey under contract of employment shall ride against his or her contract employer

### 13:70-9.9 Jockey's appearance

In riding, a jockey must be neat in appearance. He or she must wear conventional attire and the racing colors of the owner for whom he or she is riding

### 13:70-9.10 Smoking

A jockey shall not be allowed to smoke in public while wearing racing colors

### 13:70-9.11 Protective skull cap

A jockey must wear a suitable reinforced protective skull cap

### 13:70-9.12 Safety helmet

(a) All jockeys, whether riding in a race or exercising horses, or any person exercising horses, shall wear a safety helmet that meets one of the following safety standards

- 1 American Society for Testing and Materials (ASTM) 1163-04A, available from [www.astm.org](http://www.astm.org),
- 2 UK Standards (EN) 1384 and PAS-015, available from [www.cen.eu](http://www.cen.eu), or
- 3 Australian/New Zealand Standard (AS/NZ) 3838-2003 available from [www.standards.org.au](http://www.standards.org.au)

(b) It shall be the joint responsibility of the trainer, jockey or any person exercising horses to comply with his rule

Petition for Rulemaking

See 42 N J R 1092(b), 1634(b)

Amended by R 2011 d 117, effective April 18, 2011

See 42 N J R 2747(a), 43 N J R 1036(a)

In the introductory paragraph of (a), substituted "that meets one of the following safety standards" for "of a type approved, in writing, by the stewards, and no change shall be made in any such helmet without the written approval of the stewards", and added (a)1 through (a)3

### 13:70-9.13 Jockey's number

A jockey shall wear on his or her right arm a number corresponding to the number of the horse in the official program

### 13:70-9.14 Reporting to jockey room

Every jockey who is engaged to ride in a race shall report to the jockey room at the time required by the clerk of the scales. He or she shall then report any over-weight to the clerk of the scales and thereafter shall not leave the jockey room until all his or her engagements have been fulfilled, except with the permission of the stewards

### 13:70-9.15 Reporting to jockey room; stake race

Every jockey who has an engagement in a stake race must report to the jockey room not later than one hour before post time of that race, unless obtaining specific permission from the stewards to the contrary

### 13:70-9.16 Betting by jockeys

No jockey shall bet on any race except through the owner of and on the horse which he rides

**13:70-9.17 Touting information; jockey**

A jockey shall not give to anyone directly or indirectly any information or advice, or engaged in the practice commonly known as "touting", for the purpose of influencing any person in the making of a wager on any race

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"On" corrected to "in"

**13:70-9.18 Jockey fees**

Jockey's fees in the absence of a contract shall be as follows

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$ 2,000—	10% of	\$45 00	\$35 00	\$33 00
3,400	Win Purse			
3,500—	10% of	55 00	45 00	35 00
4,900	Win Purse			
5,000—	10% of	65 00	50 00	40 00
9,900	Win Purse			
10,000—	10% of	75 00	60 00	45 00
14,900	Win Purse			
15,000—	10% of	5% of	5% of	50 00
24,900	Win Purse	Place Purse	Show Purse	
25,000—	10% of	5% of	5% of	60 00
49,900	Win Purse	Place Purse	Show Purse	
50,000	10% of	5% of	5% of	75 00
& Up	Win Purse	Place Purse	Show Purse	

As amended, R 1983 d 512, effective November 7, 1983, operative January 2, 1984

See 15 N J R 518(a), 15 N J R 1866(c)  
Deleted old fee schedule and added new fee schedule  
As amended, R 1984 d 444, effective October 1, 1984  
See 16 N J R 2068(a), 16 N J R 2680(a)  
Petition for Rulemaking  
See 40 N J R 6868(b)  
Petition for Rulemaking  
See 41 N J R 319(c)

**13:70-9.19 Dead heats**

In a dead heat for first place, the jockeys involved shall each receive 10 percent of the purse money awarded to the owner by whom he is engaged. In all other dead heats, the jockeys involved shall divide equally the sum total of the fees they would have received individually had one beaten the other

As amended, R 1978 d 132, effective April 19, 1978  
See 9 N J R 540(a), 10 N J R 295(b)

**13:70-9.20 Forfeiture of winning purse; jockey's fees**

In the event that a winning purse is forfeited through subsequent ruling of the stewards and/or Racing Commission, after the result has originally been made official, the winning fee shall be paid to the jockey whose mount is ultimately adjudged the winner, and the original winner shall be credited only with a losing mount

**13:70-9.21 Proof of physical and mental capacity**

A jockey may be required to submit adequate proof, in the form of a medical affidavit, that he or she is physically and mentally capable of performing the duties of a jockey

**13:70-9.22 Start of suspension/designated race**

(a) The suspension of a jockey for an offense not involving fraud shall begin on the second day after imposition of the ruling, unless otherwise ordered by the stewards. A suspension for fraud shall begin immediately on imposition of the ruling

(b) The board of stewards may permit a jockey serving a suspension of 10 days or less to ride in a designated race during the period of the suspension if

1 The race has been specified as a designated race by the racing secretary of the association before the inception of the race meeting at the association,

2 The race has been approved as a designated race by the stewards officiating at the meeting,

3 The jockey or the jockey's agent, before the beginning of the suspension, satisfactorily demonstrates to the stewards that the jockey has given a call on a horse that may participate in the designated race, and

4 The jockey agrees to serve an additional racing day of suspension in place of the day on which the jockey rides in the designated race

Amended by R 1998 d 171, effective April 6, 1998  
See 29 N J R 4396(b), 30 N J R 1299(a)  
Added (b)

**13:70-9.23 Fines**

A fine must be paid by the jockey, him or herself. Any other person paying it shall be subject to disciplinary action

**13:70-9.24 Agents**

Every jockey may have one agent, and no more. All engagements to ride, other than those for a contract employer, shall be made by the jockey, his or her agent or employer, or by the clerk of the scales

**13:70-9.25 Jockey's attendants; restriction**

No jockey shall have an attendant other than those provided by the association

**13:70-9.26 Jockey apprentices; rules**

Jockey apprentices shall be bound by all the rules for jockeys

**13:70-9.27 Application for apprentice license**

An application for a license as apprentice jockey shall be accompanied by proof of at least one year's service with a

racing stable, and, if the apprentice has not previously ridden in races, by a certificate of proficiency from the starter. A birth certificate or satisfactory evidence of date of birth may be required if deemed necessary.

### 13:70-9.28 Riding pending application decision

The stewards may permit an applicant to ride pending decision on his application.

### 13:70-9.29 Weight allowances

(a) Any person who has never previously been licensed as a jockey in any country, and who has complied with the conditions set forth in N J A C 13 70-9 27, may claim in all overnight races except stakes and handicaps the following allowance:

1 A 10-pound allowance until the apprentice has ridden five winners,

2 A seven-pound allowance until the apprentice has ridden an additional 35 winners,

3 If an apprentice has ridden a total of 40 winners, prior to the end of a period of one year from the date of riding his or her fifth winner, he or she shall have an allowance of five pounds until the end of that year; and

4 If, after one year from the date of the fifth winning mount, the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year from the date of the fifth winning mount, or until the 40th winner, whichever comes first. In no event may a weight allowance be claimed for more than two years from

the date of the fifth winning mount, unless an extension has been granted pursuant to N J A C 13 70-9 32.

Amended by R 1989 d 108, effective February 21, 1989  
See 20 N J R 2996(a), 21 N J R 451(b)

Substantially amended

Amended by R 1995 d 479, effective September 5, 1995.

See 27 N J R 643(a), 27 N J R 3374(a)

Amended by R 1996 d 395, effective August 19, 1996.

See 28 N J R 2794(a), 28 N J R 3969(b)

For a seven pound allowance reduced the number of additional winners from 35 to 30

Amended by R 1999 d 96, effective April 5, 1999

See 30 N J R 4332(a), 31 N J R 886(b)

In (a), inserted an exception for stakes races in the introductory paragraph, increased the number of winners required from 30 to 35 in 2, increased the number of winners required from 35 to 40 in 3, and added 4.

### 13:70-9.30 Apprentice contracts

(a) An apprentice jockey must be at least 16 years of age to enter into a contract with a racing stable for a period not to exceed three years. Such contracts must be filed with the Racing Commission, and submitted to the stewards for their approval, and are binding in all respects on the signatories thereof.

(b) In lieu of a contract, an apprentice jockey certificate may be issued by the stewards and must be filed with the Racing Commission.

Amended by R 1989 d 107, effective February 21, 1989

See 20 N J R 2996(b), 21 N J R 451(c)

Substantially amended

Amended by R.1999 d 97, effective April 5, 1999

See 30 N J R 4333(a), 31 N J R 887(a).

In (b), deleted a former second sentence



**13:70-9.31 Allowances for contracted apprentices**

In addition to the weight allowances specified in N J A C 13 70-9 29, a contracted apprentice may claim an allowance of three pounds for an additional year when riding horses owned or trained by the original contract employer, provided that his or her contract has not been permanently transferred, since his or her fifth winner. The holder of the contract at the time the apprentice rides his or her fifth winner shall be considered the original contract holder.

Amended by R 1995 d 479, effective September 5, 1995  
See 27 N J R 643(a), 27 N J R 3374(a)

**13:70-9.32 Extension of time period**

Under exceptional circumstances which would prevent an apprentice jockey from riding during the full periods specified above, such as service in the armed forces of the United States, personal injuries suffered in the course of his or her occupation or otherwise, a disabling illness, restrictions on racing, or any other valid reason, the Commission may extend such period to compensate therefor.

**13:70-9.33 Earnings**

No contract employer shall have any interest in the earnings of a jockey.

**13:70-9.34 Filing of jockey contracts**

All contracts, or a copy of the same, between jockeys and their employers shall be filed with the Racing Commission.

**13:70-9.35 Written contracts required**

An owner or trainer employing a jockey for a period of more than 31 days shall make a contract in writing with such jockey.

**13:70-9.36 Weighing out**

The specified jockeys shall be weighed out for their respective mounts in each race by the clerk of the scales not less than 20 minutes before the time fixed for the race. In case of a substitution of riders after the original rider has been weighed out, the substitute rider shall be weighed out as promptly as possible and the name of the substitute and his weight publicly announced and posted.

**13:70-9.37 Jockey agent license**

Each jockey agent must obtain a license from the Racing Commission, which entitles him to represent not more than two jockeys.

**13:70-9.38 Engagements**

No jockey agent shall make or assist in making of any engagement for any rider other than those he is licensed to represent.

**13:70-9.39 Dismissed agent; transfer of license**

(a) An agent who is dismissed by his employer must make available a complete list of the engagements he has contracted for.

(b) With the permission of the stewards, he may transfer his license in order to represent a different jockey.

**13:70-9.40 Agent's records**

An agent shall maintain separate and accurate records of all engagements contracted for riders he represents, and at all times have such records available for examination by the stewards. Failure to maintain such records constitutes neglect, and is subject to disciplinary action.

**13:70-9.41 Jockey agent license fee**

Each jockey agent must obtain a license from the Racing Commission, and the fee therefor shall be \$50 00.

Amended by R 1993 d 43, effective January 19, 1993  
See 24 N J R 4021(a), 25 N J R 314(a)  
Revised fee

**13:70-9.42 Actions pending application decision**

The stewards may permit an applicant to act pending decision on his application for a license.

**13:70-9.43 Engagements for other jockeys**

If, for good reason, a jockey agent is short of his permissible quota of jockeys and wishes to take on the task of making engagements for a rider not named in his license he must obtain permission from the stewards and the Racing Commission before making any such engagements.

**13:70-9.44 Termination of contract; notice**

If any jockey agent gives up the making of engagements for any rider, he shall immediately notify the stewards, the Racing Commission and the clerk of the scales, and he shall also turn over to the stewards a list of any unfilled engagements he may have made for that rider.

**13:70-9.45 Agent's fees**

A jockey agent may charge a jockey or apprentice \$2 00 for each winning mount obtained by him and \$1 00 for each other mount obtained by him, but shall receive no recompense for engagements made by the rider himself or by his contract employer, or clerk of the scales.

**13:70-9.46 Record of engagements**

(a) Each jockey agent shall keep, on a form provided by the association, a record by races of all engagements made by him, for the jockeys he is handling.

(b) This record shall include the day and the hour of making each engagement and the calls shall be numbered in the order of their priority whenever more than one is given for any rider in any race

(c) This record must be kept up to date and held ready at all times for inspection by the stewards or the clerk of the scales

#### 13:70-9.47 Rival claims for rider's services

All rival claims for the services of a rider will be adjudged by the stewards in the light of the records submitted by the jockey agents

#### 13:70-9.48 Touting information; agent

A jockey agent shall not give to anyone, directly or indirectly, any information or advice, or engage in the practice commonly known as "touting" for the purpose of influencing any person, or that would tend so to do, in the making of a wager on the result of any race

#### 13:70-9.49 Falsification of records

Any agent who falsifies his record shall be penalized by the revocation of his license and any agent so penalized shall be ineligible for another license for a term of 12 months from the day of the revocation

#### 13:70-9.50 Agent's assistance; rival claims

Jockey agents will be called to explain rival claims for any amount or for any rider and inability to satisfy the stewards that the rival claims arose through honest bona fide error shall be considered a falsification of records, and his license revoked

#### 13:70-9.51 Requirement concerning the wearing of advertisement material

(a) A permitholder may impose restrictions on advertising on jockey apparel provided the permitholder submits any such restrictions by way of application to the New Jersey Racing Commission for approval. The restrictions must be implemented for one of the following purposes

1 To preserve the traditions of the turf. Traditions of the turf means those traditions which preserve a genteel, pristine appearance and atmosphere at the racetracks and that do not lend themselves to over commercialization, or

2 To promote the safety of race participants

New Rule, R 2007 d 326, effective October 15, 2007  
See 39 N.J.R. 2591(a), 39 N.J.R. 4411(a)

### SUBCHAPTER 10 PADDOCK TO POST

#### 13:70-10.1 Saddled horses in paddock

Every horse must be saddled in the paddock

#### 13:70-10.2 Time schedule

Horses must be in the paddock 20 minutes before post time, time schedule permitting

#### 13:70-10.3 Saddle number

In a race, each horse shall carry a conspicuous saddle cloth number, corresponding with its number on the official program. Each horse making up an entry shall carry the same number, with distinguishing letter, for example, 1, 1A, 2, 2X and so forth. In the case of a mutuel field, horses comprising the field shall carry an individual number, for example, 12, 13, 14 and so on

#### 13:70-10.4 Full parade

All horses shall make a full parade, unless excused from doing so by the stewards

#### 13:70-10.5 Weights

All horses shall carry their respective weights from paddock to post. If a jockey is thrown in the parade, the horse must be returned to be remounted at the point where the jockey was thrown, and must complete its parade with its assigned weight up

#### 13:70-10.6 Time period

After entering the track, not more than 12 minutes shall be consumed in the parade to the post, except in cases of unavoidable delay. After passing the stands once, the horses will be allowed to canter, warmup or go as they please to the post. When horses have reached the post, they shall be started without unnecessary delay

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N.J.R. 3856(b), 22 N.J.R. 663(b)  
Pluralized "horses"

#### 13:70-10.7 Equipment changes

Permission for any change of equipment from that which a horse carried in his last previous race can be obtained only from the stewards and must be obtained before scratch time on the day when the horse is to run with changed equipment

#### 13:70-10.8 Blinkers

Permission for a horse to add blinkers to his equipment or to discontinue the use of them must be approved by the starter before being granted by the stewards

## SUBCHAPTER 11 POST TO FINISH

**13:70-11.1 Crossing or weaving**

When clear, a horse may be taken to any part of the course but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference or intimidation

**Case Notes**

Initial Decision (2006 N J AGEN LEXIS 466) adopted, which concluded that there was a foul where chief steward of Racing Commission acknowledged that distance between hooves of petitioner's horse and first-place horse, at the time of the incident, could have been inches, however, foul did not affect outcome of race and steward's determination upholding the order of finish in race was not clearly wrong *Drazin v N J Racing Comm'n*, OAL Dkt No RAC 6729-05, Final Decision (July 26, 2006).

Jockey's lack of due care in controlling horse warrants suspension *Lopez v New Jersey Racing Commission*, 97 N J A R 2d (RAC) 16

Jockey's crossing and weaving during three races justified week-long suspension *Black v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 15

Jockey's suspension for careless riding upheld when tapes showed his horse had changed lanes and come into contact with another horse *Lopez v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 5

Horse brushing or bumping another horse in stretch interfering with the progress of that horse warranted disqualification *Bonaventura v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 33

Winning horse's unintentional bumping of another horse, disqualification *Levy v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 11

Failure to control horse resulting in collision, regulation violated, suspension ordered *New Jersey Racing Commission v Martinez*, 93 N J A R 2d (RAC) 1

**13:70-11.2 Jostling**

No horse or jockey shall willfully jostle another horse

**13:70-11.3 Touching or striking**

No jockey shall willfully strike or touch another jockey's horse or equipment for the purpose of interfering with that horse or jockey

**13:70-11.4 Shortening stride**

No jockey shall unnecessarily cause his horse to shorten its stride with a view to complaint

**13:70-11.5 Frivolous complaints**

No owner, trainer or jockey shall complain frivolously that his horse was crossed or jostled

**13:70-11.6 Complaints**

The stewards shall take cognizance of foul or careless riding and may entertain reports from other racing officials of the meeting whether or not formal complaint is made, but no complaint shall be considered which comes from any person other than the jockey, owner or trainer of the horse alleged to have been interfered with

**13:70-11.7 Disqualifications; fouls**

If a horse is disqualified for a foul under these rules, any other horse in the race owned wholly or in part by the same interest, or coupled in the betting through a mutuality of interest, may also be disqualified

**13:70-11.8 Extent of disqualification**

The stewards are vested with power to determine the extent of disqualification in cases of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last

**Case Notes**

Initial Decision (2006 N J AGEN LEXIS 466) adopted, which concluded that there was a foul where chief steward of Racing Commission acknowledged that distance between hooves of petitioner's horse and first-place horse, at the time of the incident, could have been inches, however, foul did not affect outcome of race and steward's determination upholding the order of finish in race was not clearly wrong *Drazin v N J Racing Comm'n*, OAL Dkt No RAC 6729-05, Final Decision (July 26, 2006)

Initial Decision (2006 N J AGEN LEXIS 466) adopted, which concluded that in disputes involving fouls and order of placement in a race, it is proper and reasonable for the ALJ to give considerable weight to the findings of the stewards, rulings of stewards should only be set aside when they are clearly wrong *Drazin v N J Racing Comm'n*, OAL Dkt No RAC 6729-05, Final Decision (July 26, 2006)

**13:70-11.9 Horses' best effort**

(a) All horses shall be ridden out in every race

(b) If two or more horses run in one interest in any race, each shall give its best effort

(c) The practice of declaring to win with one of the other of such horses will not be allowed

**13:70-11.10 Jockey's best effort**

A jockey shall put forth every reasonable effort and exercise the greatest diligence in riding a race. If, in the opinion of the stewards, a jockey does not put forth every reasonable effort or use proper diligence in the riding of the race, such jockey shall be penalized by the stewards according to the gravity of the offense

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Administrative correction

**13:70-11.11 Automatic disqualification; purse**

A horse which leaves the course or loses its jockey during the running of a race is automatically disqualified and placed last. Any portion of a purse that would normally accrue to such horse shall revert to the association

**13:70-11.12 Riding crop prohibited**

(a) No jockey or exercise rider may use a riding crop at any time, or for any reason, except when necessary to control the horse for the safety of the horse or rider

(b) If a jockey or exercise rider uses the riding crop in a manner contrary to this section

1 The jockey or exercise rider may be suspended and/or fined by the stewards, and

2 The jockey's share of the purse shall be forfeited if, in the opinion of the stewards, the unauthorized use of the crop caused the horse to achieve a better placing

New rule, R 1988 d 559, effective December 5, 1988

See 20 N J R 2038(a), 20 N J R 3025(a)

Repeal and New Rule, R 2020 d 112, effective October 19, 2020

See 51 N J R 1748(a), 52 N J R 1934(a)

Section was "Abusive whipping by a jockey"

### 13:70-11.12A Emergency use of riding crop

(a) Only riding crops, as permitted, and as defined at N J A C 13 70-11 12B, shall be allowed. The riding crop shall only be used when necessary to control the horse to avoid injury to the horse or rider

(b) In all races where a jockey will not ride with a riding crop, an announcement shall be made over the public address system

(c) The riding crop shall never be used on the head, flanks, or on any other part of the horse other than the shoulders or hind quarters

(d) A jockey or exercise rider shall not contact the horse with anything except the soft tube of the riding crop

(e) A jockey or exercise rider shall not strike a horse in a manner that causes any visible sign, mark, welt, or break in the skin of the horse, or that is otherwise excessive

(f) The riding crop should be shown to the horse before use, whenever possible

(g) If the riding crop is used, under the supervision of the stewards, there shall be a visual inspection of each horse following each race for evidence of excessive or brutal use of the riding crop

(h) If a jockey or exercise rider uses the riding crop in a manner contrary to this section

1 The jockey or exercise rider may be suspended and/or fined by the stewards, and

2 The jockey's share of the purse shall be forfeited if, in the opinion of the stewards, the unauthorized use of the crop caused the horse to achieve a better placing

New Rule, R 2020 d 112, effective October 19, 2020

See 51 N J R 1748(a), 52 N J R 1934(a)

### 13:70-11.12B Riding crops

(a) All riding crops must be soft-padded

(b) Riding crops shall have a shaft and a soft tube and must conform to the following dimensions and construction

1 The maximum allowable weight shall be eight ounces,

2 The maximum allowable length, including the soft tube attachment, shall be 30 inches,

3 The minimum diameter of the shaft shall be three-eighths of one inch, and

4 The shaft, beyond the grip, must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one millimeter throughout its circumference

(c) The soft tube is the only allowable attachment to the shaft and must meet the following specifications

1. Shall have a maximum length beyond the shaft of one inch,

2 Shall have a minimum width of 0.8 inches and a maximum width of 1.6 inches,

3. There shall be no reinforcements or additions beyond the end of the shaft,

4 There shall be no binding within seven inches of the end of the shaft,

5 The soft tube shall be made of shock absorbing material with a compression factor of at least five millimeters throughout its circumference,

6 The soft tube shall be made of a waterproof, ultraviolet, and chemical resistant foam material that is durable and preserves its shock absorption in use under all conditions, and

7 The soft tube shall be replaced after reasonable wear and tear is visibly evident

(d) The riding crops are subject to inspection and approval by the stewards and the clerk of the scales, based upon (c) above

New Rule, R 2020 d 112, effective October 19, 2020

See 51 N J R 1748(a), 52 N J R 1934(a)

## SUBCHAPTER 12 CLAIMING

### Subchapter Historical Note

Petition for Rulemaking See 46 N J R 1754(a), 2125(a)

### 13:70-12.1 Claiming races on the flat

Except as exempted pursuant to N J A C 13 70-12 1A, any horse entered into a claiming race on the flat is subject to claim for its entered price by any person who possesses a current New Jersey owner's license or who has utilized the open claiming provisions pursuant to N J A C 13 70-12 37



Amended by R 1980 d 95, effective February 27, 1980

See 11 N J R 463(a), 12 N J R 208(c)

Amended by R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

"Any licensed individually" added

Amended by R 1986 d 215, effective June 16, 1986

See 18 N J R 546(a), 18 N J R 1308(a)

Deleted text "Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually" Added text "and who also of New Jersey"

Amended by R 1987 d 420, effective October 19, 1987 (operative December 26, 1987)

See 19 N J R 1419(a), 19 N J R 1911(a)

Added text "other than open claiming pursuant to N J A C 13 71-14 36"

Petition for Rulemaking

See 40 N J R 4247(a), 4633(a)

Amended by R 2016 d 178, effective December 19, 2016

See 48 N J R 1590(a), 48 N J R 2826(a)

Rewrote the section

### 13:70-12.1A Exemption from claim

(a) A horse that is entered into any claiming race governed by this subchapter shall be exempted from any claim of title, if

1 Said horse has not started in any race for a period of 180 days from the date of the last claiming race in which the horse was a starter,

2 The horse is entered for a claiming price equal to or greater than the claiming price at which it last started, and

3 The owner entering a qualified horse pursuant to (a)1 and 2 above into a qualifying claims race governed by this section makes known to the stewards or their appointed deputy, at the time of entry, that the horse being entered is qualified for exemption from being claimed and that the owner wishes to exercise his or her right to exempt the qualified horse from claiming

(b) If a horse has been exempted from claim pursuant to this section, a conspicuous notification shall be indicated in the race program

New Rule, R 2016 d 178, effective December 19, 2016

See 48 N J R 1590(a), 48 N J R 2826(a)

Amended by R 2018 d 155, effective August 20, 2018

See 50 N J R 936(a), 50 N J R 1899(b)

In the introductory paragraph of (a), inserted "that is", and in (a)1, substituted the second occurrence of "the" for "its", and inserted "in which the horse was a starter"

### 13:70-12.2 (Reserved)

Amended by R.1980 d 95, effective February 27, 1980

See 11 N J R 463(a), 12 N J R 208(c)

Amended by R 1986 d 215, effective June 16, 1986

See 18 N J R 546(a), 18 N J R 1308(c)

Added text "even though the N J A C 13 70-12 1"

Repealed by R 2016 d 178, effective December 19, 2016

See 48 N J R 1590(a), 48 N J R 2826(a)

Section was "Restrictions, claiming privileges"

### 13:70-12.3 Claiming races over jumps or hurdles

In claiming races over jumps or hurdles any horse is subject to claim for its entered price by any owner who has started a horse in a steeplechase or hurdle race at the meeting at which the claim is made

### 13:70-12.4 Claimed horse

For a period of 20 days after the claim, any claimed horse shall not race for a claiming price of less than the price for which it was claimed

Amended by R 1980 d 95, effective February 27, 1980

See 11 N J R 463(a), 12 N J R 208(c)

Amended by R.1984 d 524, effective November 19, 1984 (operative January 1, 1985)

See 16 N J R 2348(a), 16 N J R 3215(a)

(b) Delete "in which the weight to be carried is assigned by the handicapper"

Amended by R 1994 d 134, effective March 21, 1994

See 25 N J R 1059(a), 26 N J R 1354(b)

Repeal and New Rule, R 1996 d 539, effective November 18, 1996 (operative January 1, 1997)

See 28 N J R 3889(a), 28 N J R 4897(a)

Emergency adoption and concurrent proposal, R 2001 d 216, effective June 8, 2001 (operative June 13, 2001)

See 33 N J R 2342(a)

Substituted "20" for "30" and deleted "which finishes first or second in the race from which it was claimed," following "any claimed horse" Adopted concurrent amendment, R 2001 d 319, effective September 4, 2001

See 33 N J R 2342(a), 33 N J R 3031(a)

Adopted provisions of R 2001 d 216 without change

Amended by R 2007 d 328, effective October 15, 2007

See 39 N J R 2592(a), 39 N J R 4411(b)

Deleted the second sentence

Amended by R 2016 d 178, effective December 19, 2016

See 48 N J R 1590(a), 48 N J R 2826(a)

Deleted "25 percent more than" following "than"

### 13:70-12.5 Claimed horse racing elsewhere

A claimed horse shall not race elsewhere until after the close of the meeting at which it was claimed Nothing in this rule shall preclude any claimed horse from entering any stake race



Amended by R 1980 d 95, effective February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)

### 13:70-12.6 Agents

A claim may be made by a licensed authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent

Amended by R 1980 d 95, effective February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)

### 13:70-12.7 Claiming own horse

No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account

### 13:70-12.8 Claimed horse; stabled

No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed

### 13:70-12.9 Number of claims

No person shall claim more than one horse in any one race. No authorized agent, although representing several owners, shall submit more than one claim in any one race. No person shall place or cause to be placed more than one claim form in the claim box under any circumstances

Amended by R 1980 d 95, effective February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)

### 13:70-12.10 Stable claims

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

### 13:70-12.11 Agreements

No person shall offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race, and no owner or trainer shall make any agreement for the protection of each other's horses in a claiming race

### 13:70-12.12 Intimidation

No person shall attempt by intimidation or threat of bodily harm to coerce any person to enter a horse into a claiming race, to prevent any person from entering a horse into a claiming race, to prevent anyone from racing a horse in any claiming race for which it is entered, or to interfere with any claiming race or its entrants in any way

As amended, R.1980 d 95, eff February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)  
Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.13 Affidavits

The stewards may, at any time, at their discretion, require any person who has filed a claim to make an affidavit in writ-

ing that he or she is claiming in accordance with the rules. Failure to make an affidavit in writing or the filing of a claim, which is not made in keeping with this subchapter shall result in the claiming being deemed void

As amended, R 1980 d 95, eff February 27, 1980  
See 11 N J R 436(a), 12 N J R 208(c)  
Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.14 Form of claims

All claims must be made in writing, on forms and in envelopes furnished by the association. Both forms and envelopes must be filled out completely, and must be substantially accurate in the judgment of the stewards, otherwise, the claim may be voided at the discretion of the stewards. For purpose of compliance with this rule, the name of the horse as appearing in the program and/or Daily Racing Form shall govern

As amended, R 1980 d 95, eff February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)  
Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.15 No money in claim box

No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have a credit balance in his or her account with the horsemen's bookkeeper of not less than the amount of the claim, plus the applicable post-race testing fee pursuant to N J A C 13 70-12 36, if elected, and New Jersey sales tax. No claimant shall deplete his or her account after entering a claim for any horse for a period of two hours from the time the said claim was entered. For purposes of this section, a claim shall be deemed entered at the time the stewards, or their appointed deputy, open the claim envelopes pursuant to N J A C 13 70-12 18

As amended, R 1980 d 95, eff February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)  
Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.16 Time; claims

Claims must be deposited in the claim box at least 10 minutes before post time of each race

Amended by R 1986 d 171, effective May 19, 1986  
See 18 N J R 402(a), 18 N J R 1104(c)  
Claims deposited changed from 15 to 10 minutes

### 13:70-12.17 Irrevocability

Claims are irrevocable and at the risk of the claimant

Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Inserted "and at the risk of the claimant"

### 13:70-12.18 Opening claim envelopes

Prior to off-time, the stewards, or their appointed deputy, shall open the claim envelopes for each race, and thereafter

check with the horse's accountant to ascertain whether the proper credit balance has been established with the association. The association shall provide an agent who shall deliver the claim box to the Steward's stand.

As amended, R 1980 d 95, eff February 27 1980  
See 11 N J R 463(a), 12 N J R 208(c)

### 13:70-12.19 Title in claimed horse

Title in a claimed horse shall be vested in a successful claimant from the time said horse is a starter, and said claimant shall then become the owner of the horse, unless title in the claimed horse is void pursuant to this subchapter.

Amended by R 2016 d.178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.20 Void claims

(a) A claim shall be void if

1 A claimed horse is excused by the stewards before it is a starter,

2 The claimed horse dies during the race or, at the direction of the State Veterinarian, has to be euthanized,

3 The claim is made by an owner in violation of N J A C 13 70-12 7,

4 Claims are made by any person in violation of N J A C 13 70-12 9,

5 Claims are made on behalf of a stable in violation of N J A C 13 70-12 10,

6 Any person making a claim, when required to do so by the stewards, refuses to make an affidavit in writing pursuant to N J A C 13 70-12 13,

7 The claim is voided at the discretion of the stewards pursuant to N J A C 13 70-12 14,

8 The claimant's account with the horse's bookkeeper is insufficient to cover the cost of the claim, the cost of testing, if applicable, and the applicable New Jersey sales tax at the time the claimed horse becomes a starter,

9 The claimant has elected to void the claim pursuant to N J A C 13 70-12 36, or

10 A claim is not otherwise made in accordance with this subchapter.

Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

### 13:70-12.20A Voidable claims

(a) A claim is voidable at the discretion of the successful claimant if

1 A post-race test of the claimed horse pursuant to N J A C 13 70-12 36 returns a positive finding for any

drug and/or substance foreign to the natural horse. However, if the successful claimant races the horse prior to receiving the results of the post-race test, the claimant waives his or her right to void the claim. Further, if the claimant races the horse prior to receiving the results of the post-race test and the horse tests positive for any substance, including the substance that the horse tested positive for in connection with the race in which it was claimed, the claimant's trainer shall be liable for the positive post-race test in accordance with the rules of the Commission, or

2 A claimed horse, after starting in the race from which it was claimed, and at the direction of the State Veterinarian, is ordered transported or "vanned off" via race-track equine ambulance from the track. In such an instance, the claimant or his or her trainer shall have one hour from off-time of the race in which the horse was claimed, to inform the stewards of his or her decision to void the claim. Should the claimant, or his or her trainer or representative, take possession of the horse and remove it from the detention barn or should the claimant or his or her trainer fail to communicate to the stewards his or her decision to void the claim within one hour from off-time, the claim shall be considered valid and the right to void the claim shall expire. Communication of the claimant's decision to void the claim may be made to the State Veterinarian who shall then log the time the decision was communicated and immediately contact the stewards.

New Rule, R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Amended by R 2018 d 155, effective August 20, 2018  
See 50 N J R 936(a), 50 N J R 1899(b)

In (a)1, substituted a period for a semicolon, and added the second and third sentences, and in (a)2, substituted "off-time" for "post time" twice, and inserted ", or his or her trainer or representative."

### 13:70-12.21 Delivery to claimant

Any horse that has been claimed shall, after the race has been run, be taken to the detention barn for delivery to the claimant.

As amended, R 1980 d.95, eff February 27, 1980  
See 11 N J R 463(a), 12 N J R 298(c)

### 13:70-12.22 Delivery; written authorization

A claimed horse shall not be delivered to the successful claimant until written authorization is given by the racing secretary, or his deputy.

### 13:70-12.23 Cooling the horse

A trainer whose horse has been claimed is responsible for cooling his or her horse out until after the collection of any blood and/or urine specimen, should the horse be tested, and he or she shall sign for the witnessing thereof. Failure to comply shall be subject to penalty.

As amended, R 1980 d 95, eff February 27, 1980  
See 11 N J R 463(a), 12 N J R 208(c)  
Amended by R 2016 d 178, effective December 19, 2016  
See 48 N J R 1590(a), 48 N J R 2826(a)  
Rewrote the section

**13:70-12.24 Required delivery**

No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore, the horse in question is disqualified until delivery is made.

As amended, R.1980 d.95, eff. February 27, 1980.  
See: 11 N.J.R. 463(a), 12 N.J.R. 208(c).

**13:70-12.25 Title; more than one claim**

If more than one claim is filed for the same horse, title to the horse shall be determined by lot under the direction or supervision of the stewards, or their appointed deputy.

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.26 Engagements**

When a horse is claimed, the horse's engagements are included

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c).

**13:70-12.27 Liens**

No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder of the claim shall be filed with the racing secretary of the association conducting such claiming race

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.28 (Reserved)**

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c)  
Repealed by R.2016 d.178, effective December 19, 2016  
See 48 N.J.R. 1590(a), 48 N.J.R. 2826(a)  
Section was "Eliminated stables".

**13:70-12.29 (Reserved)**

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c).  
Repealed by R.2016 d.178, effective December 19, 2016  
See 48 N.J.R. 1590(a), 48 N.J.R. 2826(a)  
Section was "Right to claim"

**13:70-12.30 Claiming price**

The claiming price of each horse in a claiming race shall be printed in the official program, and all claims for said horse shall be for the amount so designated.

As amended, R.1980 d.95, eff. February 27, 1980  
See. 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.31 Sale of claimed horse**

No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within 30 days after the

day the horse was claimed except via a successful claim in a subsequent claiming race

As amended, R.1980 d.95, eff. February 27, 1980.  
See. 11 N.J.R. 463(a), 12 N.J.R. 208(c)  
Amended by R.2016 d.178, effective December 19, 2016.  
See 48 N.J.R. 1590(a), 48 N.J.R. 2826(a).  
Rewrote the section.

**13:70-12.32 Conflict of rules**

A horse claimed at a recognized meeting under rules at variance with those contained in this subchapter, shall while racing in New Jersey, serve any additional penalty imposed by the rules of the state wherein claimed.

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.33 (Reserved)**

As amended, R.1980 d.95, eff. February 27, 1980  
See. 11 N.J.R. 463(a), 12 N.J.R. 208(c)  
Repealed by R.2016 d.178, effective December 19, 2016  
See 48 N.J.R. 1590(a), 48 N.J.R. 2826(a)  
Section was "Circumvention of rules"

**13:70-12.34 Sex of horse claimed**

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

As amended, R.1980 d.95, eff. February 27, 1980  
See. 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.35 Protests**

A protest to the claim of a horse must be filed with the stewards within 48 hours of the claim. No protest will be accepted after that time.

As amended, R.1980 d.95, eff. February 27, 1980  
See 11 N.J.R. 463(a), 12 N.J.R. 208(c)

**13:70-12.36 Testing**

A claimant may request, via indication on the claim form, a post-race blood and urine test be taken in full compliance with N.J.A.C. 13:70-14A from any horse claimed in a race. The cost of testing pursuant to this section shall be set by the New Jersey Racing Commission and shall be paid by the claimant along with the claiming fee and applicable New Jersey sales tax. Should the test result in a positive finding, the claimant has the right to void the claim within 24 hours from the time notification of the positive finding was communicated to the claimant. The trainer at the time of entry into the claiming race shall be responsible for a positive finding of any drug and/or substance foreign to the natural horse. A claimant's election to conduct post-race testing shall not affect the transfer of ownership title pursuant to N.J.A.C. 13:70-12.19. Should the claimant not elect to conduct post-race testing, the former trainer shall conduct the horse to the

detention barn after the race and the transfer of possession will occur as soon as is practicable. Should the claimed horse be selected for testing by the Commission, the cost of testing will remain the responsibility of the Commission regardless of the claimant's indication that he or she wished to have the horse tested. The claimant shall have the right to void his or her claim should the forensic analysis of the sample so taken be positive for any drug and/or substance foreign to the natural horse.

New Rule, R.1980 d.95, effective February 27, 1980.  
See: 11 N.J.R. 463(a), 12 N.J.R. 208(c).  
Amended by R.2016 d.178, effective December 19, 2016.  
See: 48 N.J.R. 1590(a), 48 N.J.R. 2826(a).  
Rewrote the section

### 13:70-12.37 Open claiming

(a) This section is not applicable to any licensed owner that has claiming privileges pursuant to N.J.A.C. 13:70-12.1.

(b) Any individual or entity may claim a horse by obtaining an open claiming license pursuant to (c) below.

(c) An applicant may obtain an open claiming license by complying with the following procedures.

1. The applicant shall file a completed license application on the form prescribed by the New Jersey Racing Commission and will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprint card checks consistent with the charge set by the reviewing agency which provides the fingerprint card checks according to the type of investigation requested.

2. The applicant shall deposit, with the horsemen's bookkeeper, an amount no less than the minimum claiming price, plus the applicable post-race testing fee pursuant to N.J.A.C. 13:70-12.36, if elected, New Jersey sales tax, and any other applicable charges required at that race meet. Such amount shall remain on account until a claim is made. In the event the funds are withdrawn or withdrawn prior to completion of a claim, any license issued will be automatically revoked and terminated.

3. The applicant shall declare a trainer, currently licensed by the New Jersey Racing Commission, who will represent the new owner once a claim is made.

(d) Claiming privileges executed under this section shall be limited to one time during a race meet.

(e) Unless approval has been granted by the stewards to the contrary, the claimed horse must race back at that race meet.

New Rule, R.1987 d.420, effective October 19, 1987 (operative December 26, 1987).

See: 19 N.J.R. 1419(a), 19 N.J.R. 1411(a).  
Amended by R.1991 d.313, effective June 17, 1991.  
See: 23 N.J.R. 1068(a), 23 N.J.R. 1960(b).

Added new (a).

Reconstructed existing (a) by deleting "A new owner who does not have claiming privileges pursuant to N.J.A.C. 13:70-12.37" and adding "Any individual or entity" for a redesignated (b).

Deleted (a)1.

Reconstructed existing (b) by deleting "A new owner" and adding "An applicant" for a redesignated (c).

Recodified existing (c) and (d) as (d) and (e).

Amended by R.2016 d.178, effective December 19, 2016.  
See: 48 N.J.R. 1590(a), 48 N.J.R. 2826(a).

Rewrote (c)2.

### 13:70-12.38 Delivery of corticosteroid records

The previous trainer of a claimed horse shall, within 48 hours after the race from which the horse was claimed is made official, provide accurate treatment records of all corticosteroid joint injections that were administered to the horse within 30 days before the race took place to the new trainer. The previous trainer shall also deliver a copy of the records to the State Veterinarian within the same 48 hour timeframe.

New Rule, R.2016 d.178, effective December 19, 2016  
See: 48 N.J.R. 1590(a), 48 N.J.R. 2826(a)

## SUBCHAPTER 13. OBJECTIONS AND PROTESTS

### 13:70-13.1 Who can protest; generally

A protest, except a protest involving fraud, may be filed only by the owner (or his authorized agent), trainer or jockey of a horse engaged in the race over which the protest is made, or by a racing official of the meeting.

### 13:70-13.2 Protest involving fraud

A protest involving fraud may be made by any person

### 13:70-13.3 Protest procedure

A protest, except a claim growing out of happenings in a race, must be made in writing, signed by the complainant, and filed with the stewards at least 60 minutes before post time of the race in question.

### 13:70-13.4 Protest; maiden status

To merit consideration, a protest over the status of an alleged maiden must be made in writing, signed by the complainant and filed with the stewards at least two hours before the programmed post time of the race in which the protested maiden is scheduled to run.

## Case Notes

Hearing procedure under jockey breathalyzer and urine test regulations, regulations valid *Shoemaker v Handel*, 619 F Supp 1089 (D N J 1985), affirmed 795 F 2d 1136 (3rd Cir 1986) certiorari denied 107 S Ct 577, 479 U S 986, 93 L Ed 2d 580

**13:70-13.5 Immediate consideration; disqualification**

A protest against a horse engaged in a race, and filed with the stewards not less than 60 minutes before post time, shall receive immediate consideration, and in default of proof within 30 minutes of post time that the horse is qualified to start, the horse may be disqualified from starting

**13:70-13.6 Protest; programmed distance**

To merit consideration, a protest against the programmed distance of a race must be made at least 15 minutes before post time for that race

**13:70-13.7 Happening in race**

To merit consideration, a protest against a horse based on a happening in a race must be made to the stewards before the race has been made official

**13:70-13.8 Protest by jockey**

If a jockey wishes to protest a happening in a race, he or she must so notify an outrider that is equipped with a two-way radio for communication with the stewards. The jockey shall then proceed to the clerk of scales and contact the stewards upon dismounting

Repeal and New Rule, R 1990 d 532, effective November 5, 1990  
See 22 N J R 2402(b), 22 N J R 3385(b)  
Former rule had no provision for "fast official"

**13:70-13.9 Costs**

A person lodging a protest must pay all the costs and expenses incurred in determining the objection, unless his objection is upheld

**13:70-13.10 Disposition of moneys**

Pending the determination of a protest, any money or prize won by a protested horse, or any other money affected by the outcome of the protest shall be paid to and held by the racing secretary until the protest is determined

**13:70-13.11 Weight penalties**

When the decision of a race is in dispute, all horses involved in the dispute with respect to the winner's credit shall be liable to all weight penalties attached to the winning of that race until a winner has been adjudged

**13:70-13.12 Records of protest**

The stewards shall keep a record of all protests and complaints, and of any action taken thereon, and shall report both promptly to the Racing Commission

**13:70-13.13 Frivolous protests**

No person shall make frivolous protests

**13:70-13.14 Withdrawing protests**

A protest may not be withdrawn without permission of the stewards

**13:70-13.15 through 13:70-13.20 (Reserved)**

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

## SUBCHAPTER 13A APPEALS

**13:70-13A.1 Right of Appeal**

Any person disciplined by the stewards or any official representing the Commission pursuant to the laws of New Jersey or rules of the Commission may appeal said penalty to the Commission and request a hearing

Amended by R 1991 d 379, effective August 5, 1991  
See 23 N J R 1281(a), 23 N J R 2318(a)  
Stylistic revisions

**13:70-13A.2 Imposition of penalty; Commission**

The Commission may directly impose any disciplinary action provided for in its rules

Amended by R 1991 d 379, effective August 5, 1991  
See 23 N J R 1281(a), 23 N J R 2318(a)  
Deleted "and regulations"

**13:70-13A.3 Nature of proceedings**

All hearings before the Stewards will be de novo proceedings and shall be accompanied by notice and an opportunity to be heard

Amended by R 1991 d 379, effective August 5, 1991  
See 23 N J R 1281(a), 23 N J R 2318(a)  
Deleted "and Commission"

**13:70-13A.4 Appeal procedure**

In the event that an appeal is taken to the Commission, said appeal must be filed in writing at the office of the Commission within three days of the date of imposition of the penalty by the Commission or the Stewards

**13:70-13A.5 Hearings**

(a) Hearings in any appeal to the Commission shall be conducted pursuant to the Administrative Procedure Act, N J S A 52 14B and 52 14F, and the Uniform Administrative Procedure Rules, N J A C 1 1

(b) If a license has been suspended pending hearing, the hearing shall be expedited

Repeal and New Rule, R 1991 d 379, effective August 5, 1991  
See 23 N J R 1281(a), 23 N J R 2318(a)  
Former section "Acting on appeals"

### 13:70-13A.6 Frivolous appeals

Withdrawal by the appellant of a notice of appeal filed with the Commission whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the Commission shall be deemed a frivolous appeal and referred to the Stewards for further disciplinary action in the event the appellant fails to show good cause to the Stewards why such withdrawal should not be deemed frivolous

### 13:70-13A.7 Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to this subchapter

Amended by R 1991 d 379, effective August 5, 1991  
See 23 N J R 1281(a), 23 N J R 2318(a)

Deleted "the right of appeal contained in" and "and the laws of the State of New Jersey"

### 13:70-13A.8 Stay pending appeal

(a) A notice of appeal filed with the Commission pursuant to this subchapter may be accompanied by a request for a stay pending a final decision by the Commission. Such a request for a stay shall be made on a form prescribed by the Commission. The Executive Director of the Commission may approve such stay requests in matters involving

- 1 The loss of an owner of purse money of \$500 00 or more,
- 2 A fine of \$200 00 or more,
- 3 Suspension from one or more racing activities for seven days or more

(b) Such a request for stay may be denied by the Executive Director of the Commission where to grant the same would be adverse to the best interests of racing or inimical to the integrity of the sport

Amended by R 1992 d 265, effective July 6, 1992  
See 24 N J R 555(a), 24 N J R 2461(a)  
Revised (a)

## SUBCHAPTER 14 ILLEGAL PRACTICES

### 13:70-14.1 Bribes, gifts and gratuities

No person shall give, offer or promise directly or indirectly, either in his own behalf or in behalf of another, any bribe, gift or gratuity in any form, for the purpose of influencing the result of a race, or which would tend to do so, to any person

### 13:70-14.2 Offers of bribes

No person shall accept, or offer to accept on his own behalf or on behalf of another a bribe, gift or gratuity in any form, to influence the result of a race or which would tend to do so. Failure to report such offer of a bribe is a misdemeanor punishable by a fine not exceeding \$1,000, imprisonment for three years, or both

#### Case Notes

Commission concluded jockey applicant had accepted a bribe to influence a race result, finding of entrapment and dismissal of criminal proceedings against applicant did not prevent use of incriminating evidence at licensing hearing. *Delguidice v New Jersey Racing Commission*, 100 N J 79, 494 A 2d 1007, (1985)

### 13:70-14.3 Knowledge of violations

Any person employed or engaged in racing who shall come into possession of knowledge concerning any violation of the rules of racing or any violation of law in connection with the running of a race shall immediately report the information to the stewards of the meeting for investigation and such action as the case may warrant

### 13:70-14.4 False or misleading statements

No person shall make false or misleading statements to the stewards, in the course of an investigation

### 13:70-14.5 Illegal devices

(a) No electrical, mechanical, or other appliance or device, other than the ordinary whip, shall be applied to a horse at any time, anywhere on the grounds of any licensed racetrack. Any person so offending shall be suspended by the stewards and referred to the Commission for license revocation. Possession of any such device at any time, anywhere on the grounds of any licensed racetrack, may be punished by fine and/or suspension

(b) Any licensee at any licensed racetrack may be subjected to a non-invasive test for illegal electrical, mechanical, or other appliances or devices through the use of a metal detector. Any person who refuses to submit to a metal detection test when requested to do so by the New Jersey Racing Commission, a steward or both may be subject to the penalties provided in N J A C 13 70-31

(c) If the metal detector records a positive reading on a person, that individual will be asked to remove the metal object which caused the positive reading and then be retested in the manner described in (b) above. Any licensee who refuses to remove a metallic object causing a positive reading may be subject to the penalties provided in N J A C 13 70-31

(d) Should any licensee be found to be in possession of illegal electrical, mechanical, or other appliances or devices, or should a licensee refuse to submit to a test for such devices as outlined in (b) and (c) above, he or she will be requested to appear before the stewards on the following day for a hearing on the matter



(e) Should any jockey be found to be in possession of illegal electrical, mechanical, or other appliances or devices, or should a jockey refuse to submit to a test for such devices as outlined in (b) and (c) above, that jockey will be taken off of any remaining mounts and he or she will be requested to appear before the stewards on the following day for a hearing on the matter

As amended, R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)  
Amended by R 1989 d 155, effective March 20, 1989  
See 20 N J R 3114(b), 21 N J R 774(a)

(b)-(e) added, allowing non-invasive testing for illegal devices and imposition of penalties

### 13:70-14.6 Tampering

No person shall tamper or attempt to tamper with any horse in such a way as to affect its speed in a race, nor shall he counsel or in any way aid or abet any such tampering. Should the stewards have reason to believe any horse entered to start has been tampered with, the horse may be ordered scratched and a special test conducted. The stewards may fine and/or suspend any person for tampering or attempting to tamper with any horse on the grounds of any racetrack enclosure and may recommend license denial or revocation for such person to the Commission.

As amended, R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.7 Disqualified persons or horses

If any person willfully enters or causes to be entered or to start for any race, a horse which he knows to be disqualified, or if any person fraudulently offers or receives any amount of money for declaring an entry out of a purse or stakes race, or if any person, without making it known to the officials, is a part owner or acts as trainer of any horse in which a jockey possesses any interest, or makes any bet with or on behalf of any jockey, unless on a horse he is riding, or offers or gives, except through his employers, or the owner or trainer of the horse ridden, a jockey any present, money or other reward in connection with his riding of any race, or if any person be guilty of any other corrupt or fraudulent practices on the turf, in this or any other country, then such person shall be ruled off the course.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"Stakes" changed to stakes "race"

#### Case Notes

Owner's license suspended for "fronting" New Jersey Racing Commission v Barclay and Saracco, Jr., 97 N J A R 2d (RAC) 7

### 13:70-14.8 Conspiracies

No person shall conspire with any other person for the Commission of, or connive with any other person in any corrupt or fraudulent practice in relation to racing, nor shall he commit such an act on his own behalf.

#### Case Notes

Commission concluded that jockey applicant had conspired to commit a fraudulent practice in relation to racing, finding of entrapment and dismissal of criminal proceedings against applicant did not prevent use of incriminating evidence at licensing hearing *Delguidice v New Jersey Racing Commission*, 100 N J 79, 494 A 2d 1007 (1985)

Race-fixing convictions precluded grant of assistant trainer license *Verrone v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 16

Race-fixing conviction, jockey license application denied and suspension continued *Plomchok v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 13

### 13:70-14.9 Soliciting bets

No person shall solicit bets on the grounds of an association.

### 13:70-14.10 Betting; jockey's attendant

No jockey's attendant shall make a bet on any race nor shall he place a bet for anyone else.

### 13:70-14.11 Betting own horse

No owner, trainer or jockey of a horse entered in a race shall bet or cause any person to bet on his behalf on any horse other than his own horse. In the case of exotic pools, all tickets purchased either directly or indirectly by an owner, trainer or jockey must include his horse entered to race.

As amended, R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.12 Narcotics conviction; denial of license

Any person who has been convicted of possession or use of narcotics by any court in the land may be denied a license or ruled off or both as the Commission may decide.

Amended by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.13 Cooperation with other agencies; violations of law

Every association, all officials and employees thereof, and all persons licensed in any capacity by the Commission shall give every possible cooperation, aid and assistance to any department, bureau, division, officer, agent or inspector, or any other person connected with the United States Government, or with the State of New Jersey, who may be investigating or prosecuting any matter involving a violation of any law, or any rules or regulations of the Commission. Failure to cooperate will subject the person or persons involved to a fine, suspension or both.

Amended by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.14 Fraud; disqualification

When a horse is disqualified and there is evidence of fraud or attempted fraud, any other horse in the race owned or con-

trolled by the same interest or trained by the same trainer also may be disqualified

Amended by R 1979 d 497, effective January 1, 1980  
Sec 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.15 State Police; responsibilities

The enforcement of N J S A 5 5-71 and other criminal laws of the State of New Jersey shall be the responsibility of the State Police. Investigations pursuant to the enforcement of N J S A 5 5-71 or other criminal laws of the State shall take precedence over any action taken by the association or the Racing Commission concerning an incident arising from an alleged violation of the provisions of subchapter 14A of this chapter. Every association and Racing Commission official and employee shall render full cooperation, aid and assistance in any investigation undertaken for a reasonably apparent violation of N J S A 5 5-71 or other criminal statutes of the State. Further, every association and Racing Commission official and employee, on becoming aware of a reasonably apparent violation of N J S A 5 5-71 or other criminal laws of the State of New Jersey, shall communicate in writing the circumstances of such immediately to the New Jersey Racing Commission and the State Police who shall evaluate same and take whatever further action is deemed necessary.

Amended by R 1979 d 497, effective January 1, 1980  
Sec 11 N J R 579(a), 12 N J R 91(b)

### 13:70-14.16 Equine fatality report; post-mortem necropsy

(a) Upon the death of a horse on any part of the grounds of a New Jersey racetrack or off-track training facility, an equine fatality report shall be submitted to the New Jersey Racing Commission within 48 hours. It shall be the responsibility of the trainer of the deceased animal to file the equine fatality report with the State Steward or Chief State Veterinarian.

(b) The equine fatality report shall be on forms prescribed and furnished by the Commission and shall be filled out entirely, legibly and specifically, and include the following information and any other information deemed necessary by the Commission:

- 1 Name and tattoo number or other registration identification of deceased equine,
- 2 Trainer of record,
- 3 Owner of record and fiscal records regarding purchase of equine,
- 4 Particulars as to time, date and place of death,
- 5 Disclosure of any post-mortem examination,
- 6 Attending veterinarian,
- 7 Cause of death,
- 8 Particulars as to removal of carcass, and

9 Pertinent information regarding existing insurance coverage

(c) The attending veterinarian shall certify the cause of death and shall submit treatment records describing all veterinarian treatments administered to the horse within the 30-day period preceding the time of death. These records shall be submitted to the State Steward within 48 hours of the time of death. Failure to produce these records may result in the immediate suspension of the trainer and/or veterinarian.

(d) Upon the death of any horse on the track during racing or training, or upon the death of a horse within one hour after racing or training on any racetrack:

1 Verbal notice of the death of the horse shall be given by the trainer or the trainer's designee to the State Steward or to a New Jersey Racing Commission veterinarian within one hour of the horse's death. Said notice shall not negate the obligation to submit an equine fatality report within 48 hours of the time of death, and

2 An appropriate post-mortem necropsy shall be conducted, by a qualified veterinarian at a facility designated by the Commission, to determine the cause of death and other relevant information about the condition of the deceased horse. The cost of the necropsy, including related transportation and other costs, shall be borne by the owner of the deceased horse.

(e) Upon the death of any horse on the racetrack during racing or training, or upon the death of a horse within one hour after racing or training on any racetrack, the remains of the deceased horse shall not be removed without the written consent of the State Steward, or the State Steward's designee, or the Chief State Veterinarian, or the Chief State Veterinarian's designee. It shall be the joint responsibility of the racetrack and the owner of the horse to prevent the unauthorized removal of the remains of a deceased horse.

(f) Failure to file the equine fatality report or the required veterinary records in a timely fashion or filing in an incomplete fashion may subject the owner, trainer, and/or veterinarian to disciplinary action.

1 Any falsification or misstatement submitted in connection with an equine fatality report may also subject the owner, trainer, and/or veterinarian to disciplinary action.

(g) An equine fatality report shall not be required in connection with any pony or mascot.

Adopted R 1984 d 104, effective April 2, 1984  
See 16 N J R 222(a), 16 N J R 743(a)  
Amended by R 1990 d 127, effective February 20, 1990  
Sec 21 N J R 3856(b), 22 N J R 663(b)  
Corrected N J A C cite in (d)1  
Amended by R 2021 d 098, effective September 7, 2021  
See 52 N J R 1746(a), 53 N J R 1506(a)  
Section was "Equine fatality report" Rewrote the section

**13:70-14.17 Suspension pending outcome of indictment**

(a) A licensee may be suspended immediately when the licensee is indicted in this State for a crime of the first, second, third or fourth degree or is indicted for a similar crime under Federal law or the law of another state, or Province of Canada law if

1 The charge or charges arise from activity or activities occurring on the grounds of a race association or a licensed farm or,

2 The charge or charges are directly related to the racing industry whether in this State or another jurisdiction

(b) Prior to a suspension under (a) above becoming effective, the licensee must first be apprised in writing of why an immediate suspension is sought, the charges and the general evidence in support of the charges. This notice may be given by personal service or by regular mail or by certified mail,

return receipt requested, to the last address for the licensee on record with the Commission

(c) The licensee may request a hearing with a representative of the Commission within 10 days of the date of the written notice of suspension. If no request is made within this time, or such additional time as agreed to by a representative of the Commission or as provided in a negotiated agreement, the suspension issued pursuant to this section shall continue until disposition of the criminal indictment

(d) A suspension pursuant to this section shall not extend beyond the disposition of the criminal complaint or indictment, provided, that where a licensee is convicted of a charge described in (a) above, such suspension shall remain in effect pending further disciplinary action by the Commission



(e) Where any licensee is suspended pursuant to this section, said penalty may be appealed to the Commission and a hearing requested

(f) The hearings before both the Commission's representative and the Commission itself shall be de novo proceedings

(g) Where the suspension is immediate under (a) above, the licensee may seek a stay of said suspension pending a resolution of the charge or charges and/or the Final Decision of the Commission. Any such request shall be in writing and shall be addressed to the Executive Director (or his or her designee) and the Commission

1 Such a request may be denied by the Commission, Executive Director, or his or her designee, where to grant the same would be adverse to the best interests of racing or inimical to the public in preserving the integrity of the sport and in preserving public confidence in the sport

Amended by R 1978 d 275, effective August 9, 1978  
See 10 N J R 169(b), 10 N J R 404(b)

Added text concerning the administration of medication to control bleeding for thoroughbred and harness racing  
Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Administering medication" recodified to N J A C 13 70-14A 2

New Rule, R 1991 d 266, effective May 20, 1991  
See 23 N J R 673(a), 23 N J R 1683(c)

#### 13:70-14.18 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Medication, specimens" recodified to N J A C 13 70-14A 6

#### 13:70-14.19 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Protecting horses against drug administering" recodified to N J A C 13 70-14A 7

#### 13:70-14.20 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section recodified to N J A C 13 70-14A 3

#### 13:70-14.21 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Procedure following positive chemical analysis" recodified to N J A C 13 70-14A 12

#### 13:70-14.22 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Second offense" recodified to N J A C 13 70-14A 8

#### 13:70-14.23 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Suspensions, eligibility of horses" recodified to N J A C 13 70-14A 9

#### 13:70-14.24 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section was "Suspension, personnel"

#### 13:70-14.25 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Narcotics conviction, denial of license" recodified to N J A C 13 70-14 26

#### 13:70-14.26 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Cooperation with other agencies, violation of law" recodified to N J A C 13 70-14 13

#### 13:70-14.27 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Fraud, disqualification" recodified to N J A C 13 70-14 14

#### 13:70-14.28 (Reserved)

Repealed by R 1979 d 497, effective January 1, 1980  
See 11 N J R 579(a), 12 N J R 91(b)

Section "Post-race blood tests" recodified to N J A C 13 70-14 11

#### 13:70-14.29 (Reserved)

Repealed by R 1977 d 331, effective August 29, 1977  
See 9 N J R 345(b), 9 N J R 487(a)

Section "State Police, responsibilities" recodified to N J A C 13 71-23 21

### SUBCHAPTER 14A MEDICATION AND TESTING PROCEDURES

#### 13:70-14A.1 Intent of medication rules; general provisions

(a) It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and racing participants through the prohibition and/or control of all drugs and/or substances foreign to the natural horse. For the purpose of these rules, a drug and/or substance administered to a horse is foreign to the natural horse irrespective of whether the said drug and/or substance is also naturally occurring to the horse

(b) On the day of the race, irrespective of the date, time, and method of administration, no horse entered to start in or participating in any race shall carry in its body any drug and/or substance foreign to the natural horse, excepting external rubs and innocuous compounds as defined in this section and as otherwise provided for in this chapter. Examples

of drugs and/or substances foreign to the natural horse, and thus prohibited pursuant to this section, are as follows

- 1 Articles meeting the definition of drug as set forth in N J A C 13.70-2 1,
- 2 Chemical substances,
- 3 Stimulants,
- 4 Depressants,
- 5 Anesthetics,
- 6 Tranquilizers,
- 7 Anti-inflammatories,
- 8 Erythropietin (epogen, EPO),
- 9 Pain killers,
- 10 Sodium bicarbonate (baking soda),
- 11 Confectionery sugar,
- 12 Stamina builders,
- 13 Mixtures, compounds, or solutions commonly referred to as "milkshakes," which contain any prohibited drug and/or substance, and
- 14 Controlled therapeutic medications equal to or in excess of the threshold levels set in the Association of Racing Commissioners International (RCI) Controlled Therapeutic Medication Schedule (Schedule), version 2 1 (Revised April 17, 2014), which is incorporated herein by reference, as amended and supplemented The Schedule can be accessed at <http://arccom.businesscatalyst.com/assets/arci-controlled-therapeutic-medication-schedule---version-2 1.pdf>

(c) Nothing contained in this section, however, shall be construed to prohibit the horse from carrying in its body on the day of the race food products resulting from the normal and proper diet of a horse not containing prohibited drugs and/or substances

(d) On the day of the race, except as otherwise provided for in these rules, no horse entered to start in or participating in any race shall have administered to it any such drug and/or substance foreign to the natural horse, including as a result of administration of an otherwise permissible external rub or what would otherwise constitute an innocuous compound. In no event, except for the intravenous administration of furosemide (Lasix) pursuant to N J A C 13 70-14A 9, or as may otherwise specifically be authorized by or pursuant to these rules, shall the administration of said excepted items be accomplished intravenously, by injection, by jugging or drenching, or through the use of a syringe or sharp, dose syringe, or tube apparatus. A non-prohibited external rub or innocuous compound as defined in this section shall on the day of the

race be administered only by application on the exterior of the horse, except that food constituting the normal and proper diet of a horse not containing prohibited drugs and/or substances may be ingested by means limited to the natural intake of a horse without aid or the assistance of any device or apparatus

(e) An external rub or innocuous compound is a single substance, mixture of substances, or compound that does not contain any of the examples of prohibited items as set forth in (b) above, or additionally, any other substance foreign to the natural horse that alters its normal physiological state

Amended by R 1994 d 125, effective March 7, 1994

See 25 N J R 3099(a), 26 N J R 136(a)

Amended by R 1995 d 295, effective June 5, 1995

See 26 N J R 1955(a), 27 N J R 2243(a)

Amended by R 2014 d.163, effective November 3, 2014

See 46 N J R 1414(a), 46 N J R 2161(a)

In the introductory paragraph of (b), inserted a comma following "time", and substituted "this chapter" for "these rules", in (b)12, deleted "and" from the end, in (b)13, substituted "'milkshakes,'" for "'milkshakes'", and substituted ", and" for a period at the end, added (b)14, and rewrote (e)

#### Case Notes

Violation by presence of Butazolidin in blood noted (also cited as former N J A C 13 70-14 17) *State v Dolce*, 178 N J Super 275, 428 A 2d 947 (App Div 1981)

The existence of numerous errors, inconsistencies and alleged "typographical" errors in test results that purportedly established the existence of prohibited substances in the bloodstream of a race horse cast doubt on the reliability of the test results and afforded grounds for reversal of a suspension, fine and loss of purse that had been imposed on the horse's trainer under the absolute liability rules governing racing. *Woodhouse v NJ Racing Comm'n*, OAL DKT NO RAC 10441-18, 2019 N J AGEN LEXIS 572, Initial Decision (September 5, 2019)

ALJ rejected the determination of the New Jersey Racing Commission imposing absolute liability on a horse trainer who was responsible for a horse whose blood and urine were found in standard testing to have tested positive for methamphetamine. The circumstances were unique: the laboratory that first tested the samples later admitted that the control samples themselves were contaminated, the technician who was alleged to have been responsible for the contamination had "retired" and was not available to be questioned, and the amount of methamphetamine found in the blood and urine was 30 picograms in the blood and 1 2 nanograms in the urine, quantities that until a couple of years ago were too small for analysis, and such results were consistent with contamination, not with doping. *Sharp v NJ Racing Comm'n*, OAL DKT NO RAC 15587-17, 2019 N J AGEN LEXIS 94, Initial Decision (March 8, 2019)

Trainer's admission that he had administered Phenylbutazone or Flunixin to a race horse for which he was the trainer of record afforded adequate grounds for the imposition of sanctions because both substances were detected in samples of the horse's blood taken on a day on which the horse had raced at a N J track, and the trainer's claim that he had administered the drugs on the day prior to the race and that they had been detected due to an oversensitive testing process was not a defense. *Maymo v NJ Racing Comm'n*, OAL DKT NO RAC 8691-14, 2016 N J AGEN LEXIS 53, Initial Decision (February 3, 2016)

#### Law Review and Journal Commentaries

Horse Drugging-The New Jersey Trainer Absolute Insurer Rule. Luke P Iovine, III, John E Keefe, Jr, 1 Seton Hall J sport L 61 (1991)

**13:70-14A.2 Testing**

(a) Any horse entered to start at any licensed race meeting may be subjected to a pre-race and/or post-race blood, and/or urine test, at the direction of the State Veterinarian, and/or State Steward, in the manner prescribed by the New Jersey Racing Commission. The costs so incurred shall be borne by the track association. The cost to the track association for testing each sample shall be established by the New Jersey Racing Commission.

(b) Every owner, or his authorized agent, or trainer or any horse entered to race at any licensed racetrack shall immediately submit the said horse to any veterinarian designated by the Commission, for examination and/or testing whenever so requested by the Commission, Stewards, State Veterinarians, or Associate State Veterinarians.

**13:70-14A.3 Pre-race testing program**

(a) All horses entered to start in any race where parimutuel wagering is conducted shall be subject to a pre-race blood and/or urine test.

(b) Such horses shall be tested in their respective barn area on the grounds of the permitholder on the day of the race at such time as designated by the Commission and shall be under the care of a duly licensed attendant designated by the trainer of the horse.

(c) A licensed veterinarian approved by the Commission shall be the only person allowed to draw blood for testing. A quantity of 20 cubic centimeters or such amount as the veterinarian may designate shall be extracted from each horse for testing purposes.

(d) Should the forensic analysis of such sample be classified as suspicious for any drug, or substance foreign to the natural horse except as expressly permitted by these rules and regulations, the horse shall be scratched.

(e) Should the forensic analysis of such sample be classified as positive for any drug, or substance foreign to the natural horse, the horse shall be scratched and placed on the Steward's list for seven days.

(f) The entry of a horse shall constitute permission for a veterinarian appointed by the New Jersey Racing Commission to obtain biological samples, and consent to the scratching of the horse from the race in the event such test is positive or suspicious.

(g) A trainer shall receive a warning for the first time a horse in his charge shall show a positive pre-race test. If the same horse shall again be positive on a pre-race test, then the trainer may be fined, suspended or both.

**13:70-14A.4 Post-race testing program; split urine or split blood samples**

(a) No drug shall be administered or applied, internally or externally, to any horse that is to be sampled after a race until

the blood and/or urine samples have been obtained unless permission from the State Veterinarian is obtained.

(b) Every horse to be tested shall be taken to a detention barn, to be supplied by the association in accordance with specifications set forth by the Commission. All blood samples shall be taken by a State Veterinarian while urine samples shall be secured by the State Veterinarian or a chemical inspector of the Commission at the direction of the State Veterinarian.

(c) During the taking of any blood and/or urine sample by the veterinarian representing the Commission, from the horse entered to race, the owner, trainer or their designated representative shall be present and witness the procedure. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission and the evidence of such sealing shall be indicated by the signature of such owner, trainer or representative. It shall be the obligation of the owner, trainer or representative to cooperate fully with the State Veterinarian in obtaining any samples which may be required and to attend and witness the taking and securing of such sample.

(d) In order to conduct a post-race test of a horse, the State Veterinarian or a designated employee shall cause one sample of the horse's urine, and one or more samples of the horse's blood to be sent to the testing laboratory designated by the Commission (testing laboratory). Upon completion of testing, any residue portion of the urine or blood sample taken shall be preserved by the testing laboratory as a "split sample" until either it is determined by said laboratory that the primary urine or blood sample is negative for a foreign substance or, if a foreign substance is discovered in the primary urine or blood sample, for 48 hours following the notification of such finding to the owner and trainer. The owner or trainer, prior to the expiration of such 48-hour time period, may request in writing to the State Steward or Executive Director that the split sample(s) be sent to another laboratory for testing. The laboratory shall be selected by the requesting owner or trainer from a list of eligible laboratories presented to the owner or trainer by the Racing Commission. The list should contain a minimum of three alternative laboratories. Upon being presented with the list of alternative outside laboratories, the owner or trainer requesting the split sample shall have 24 hours to decide which outside laboratory will conduct the test of the split sample. If no request is timely made, upon expiration of either the 48-hour time period to request a split sample be tested or the 24-hour time period to select an outside laboratory, the testing laboratory shall properly dispose of any and all split samples and the findings of its testing shall be conclusive. If a request is timely made, and if the entire primary sample was consumed during the testing laboratory testing process, the results of the testing laboratory testing on the primary sample shall be conclusive. If a request is timely made, an outside laboratory is timely selected, and a split sample remains, the testing laboratory shall cause the split sample or portion thereof to be delivered to the selected outside laboratory for testing. If the outside laboratory confirms

substantially the testing laboratory findings, or if the split sample was not of sufficient quantity for the outside laboratory to conduct valid testing or to reach a valid testing conclusion, the findings of the testing laboratory shall be considered conclusive. If the outside laboratory testing does not confirm substantially the testing laboratory findings, any outstanding allegation or finding that the foreign substance in question was in the horse's system at the time of the subject race shall be dismissed. If the testing laboratory detects a foreign substance at a level that is at or above a threshold established in this chapter, the overage shall be deemed confirmed if the outside laboratory confirms the presence of that foreign substance in the split sample at any level. The owner or trainer requesting the testing of any split sample shall bear all costs related to the shipment and testing of same by the outside laboratory. The owner or trainer shall pay the costs at the time he or she selects which outside laboratory will test the sample. Failure of the owner or trainer to provide payment at the time he or she selects which outside laboratory will conduct the test of the split sample shall constitute a waiver of all rights to split sample testing. The timely submission by an owner or trainer of a request for split sample testing shall not result in a deferral or suspension of the implementation of the procedures set forth in N.J.A.C. 13 70-14A.5

(e) Nothing contained in (d) above shall be interpreted to preclude the State Steward from initiating the procedure set forth in N.J.A.C. 13 70-14A.5 upon notification of a positive urine or blood test by the Racing Commission laboratory, or to preclude the holding of an initial hearing with respect to an alleged violation of this subchapter where a request for testing of the split sample has been timely made and the results of testing by the outside laboratory are pending. However, where in such circumstances an appeal of any initial determined violation is filed pursuant to N.J.A.C. 13 70-13A.4, a stay of any ordered penalty notwithstanding the provisions of N.J.A.C. 13 70-13A.8 shall be issued pending receipt of the results of the outside laboratory testing. In the event the Board of Stewards determines in such case that the outside laboratory does not confirm substantially the Racing Commission laboratory findings, and the determined violation is therefore dismissed pursuant to (d) above, any allegation or determination of a violation as a result of any search initiated pursuant to N.J.A.C. 13 70-14A.5 shall not be affected.

Amended by R 1999 d 98, effective April 5, 1999  
See: 30 N.J.R. 3757(a), 31 N.J.R. 887(b)

Added (d) and (e)

Amended by R 2001 d 249, effective July 16, 2001  
See: 33 N.J.R. 1335(a), 33 N.J.R. 2492(a)

Rewrote (d).

Petition for Rulemaking

See: 43 N.J.R. 321(a), 1542(a)

Amended by R 2012 d 067, effective April 2, 2012

See: 43 N.J.R. 2986(a), 44 N.J.R. 1121(b)

Section was "Post-race testing program, split urine sample" In (d), inserted " , or one or more samples of the horse's blood where the testing protocol is based on blood testing (hereinafter 'blood sample'),", and inserted "or blood" throughout, and in (e), inserted "or blood" and substituted "circumstances" for "circumstance"

Amended by R 2018 d 156, effective August 20, 2018

See: 50 N.J.R. 1029(a), 50 N.J.R. 1900(a)

Rewrote (d)

#### Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 756) adopted, which determined that appropriate chain of custody had been established for urine specimen that resulted in a positive finding for trainer's horse, despite trainer's contentions concerning the witness requirements of N.J.A.C. 13 70-14A.4(c), where it was proven that horse tested was trainer's horse *Synnefias v. N.J. Racing Comm'n*, OAL Dkt No RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008)

#### 13:70-14A.5 Procedure following positive chemical analysis

(a) On receiving written notice from the official chemist that a post-race specimen has been found "positive" for any drug or substance foreign to the natural horse, the stewards shall proceed as follows

- 1 They shall notify the State Police and authorize a search of the premises occupied by the stable involved
- 2 They shall, as quickly as possible, notify the owner and trainer of the horse involved
- 3 They shall, with the assistance of the State Police, conduct a thorough investigation, interviewing the trainer, assistant trainer and any other persons who may have pertinent knowledge of the circumstances involved
- 4 During the progress of such investigation, the stable involved shall be permitted to race, save that the particular horse (or horses) involved shall not be entered or start until allowed to do so by the Stewards

#### Case Notes

Rule permitting warrantless administrative search of premises after positive drug test valid as within warrant exception for industries subject to pervasive and long-standing government regulation, scope of search (cited as former N.J.A.C. 13 70-14A.12 and 13 70-14.21) *State v. Dolce*, 178 N.J. Super 275, 428 A.2d 947 (App. Div. 1981)

#### 13:70-14A.6 Trainers

(a) A trainer shall be the absolute insurer of and is responsible for the condition of a horse within his care and custody

(b) A trainer shall not enter or start a horse that has in its body any drug or substance foreign to the natural horse except as otherwise provided for in these rules and regulations

(c) A trainer has the duty to be familiar with the medication rules of this Commission and with any drug or substances foreign to the natural horse administered to said horse at his direction or while in his care and custody

(d) The trainer, owner, veterinarian, groom or other person charged with the custody, care and responsibility of a horse are all obligated to protect and guard the horse against administration of any drug or substance foreign to the natural horse except as otherwise provided for in these rules and regulations by any unauthorized individual, and the administration of any unauthorized drug or substance foreign to the natural horse by any person



## Case Notes

Commission rules intended to place absolute responsibility upon the trainer in situations in which a horse has been administered a drug, trainer's suspension proper and not violative of due process, despite no finding of trainer's knowledge of drug or negligence (citing former N J A C 13 70-14 19) *Dare v State*, 159 N J Super 533, 388 A 2d 984 (App Div 1978)

The existence of numerous errors, inconsistencies and alleged "typographical" errors in test results that purportedly established the existence of prohibited substances in the bloodstream of a race horse cast doubt on the reliability of the test results and afforded grounds for reversal of a suspension, fine and loss of purse that had been imposed on the horse's trainer under the absolute liability rules governing racing *Woodhouse v NJ Racing Comm'n*, OAL DKT NO RAC 10441-18, 2019 N J AGEN LEXIS 572, Initial Decision (September 5, 2019)

ALJ rejected the determination of the New Jersey Racing Commission imposing absolute liability on a horse trainer who was responsible for a horse whose blood and urine were found in standard testing to have tested positive for methamphetamine. The circumstances were unique: the laboratory that first tested the samples later admitted that the control samples themselves were contaminated, the technician who was alleged to have been responsible for the contamination had "retired" and was not available to be questioned, and the amount of methamphetamine found in the blood and urine was 30 picograms in the blood and 1.2 nanograms in the urine, quantities that until a couple of years ago were too small for analysis, and such results were consistent with contamination, not with doping *Sharp v NJ Racing Comm'n*, OAL DKT NO RAC 15587-17, 2019 N J AGEN LEXIS 94, Initial Decision (March 8, 2019)

## 13:70-14A.7 Penalties

(a) Should the stewards determine that any person or persons have violated any section of this subchapter, they may punish the offending party consistent with the penalties provided for in these rules and regulations

(b) In addition thereto, the Stewards may penalize the owner of any horse, or any entry of which said horse is a part, that has started in any race with any drug or substance foreign in its body by disqualification and denial of any part of the purse with redistribution of purse moneys as in the case of a disqualification

(c) Any individual suspended or disciplined in any fashion for multiple violations of this subchapter or any comparable rule of any other racing commission or turf governing body shall be deemed a repeat offender and shall be subject to enhanced penalties pursuant to RCI Model Rule ARCI-011-020B(13), Multiple Medication Violations (MMV) (version 5.7, Approved April 9, 2014), which is incorporated herein by reference, as amended and supplemented, or as otherwise ordered by the Commission or its Stewards (see N J A C 13 70-16) RCI Model Rule ARCI-011-020B(13), Multiple Medication Violations (MMV) may be accessed at [http://ua-rtp.org/sites/ua-rtp.org/files/Flat%20Racing%20Chapters%20\(5-11\).pdf](http://ua-rtp.org/sites/ua-rtp.org/files/Flat%20Racing%20Chapters%20(5-11).pdf) The Commission may, at its discretion, consider

evidence of compliance with the guidelines set forth in the "Dosing Specifications" and "Withdrawal Guideline" columns of the Schedule as mitigating factors, when appropriate, in determining the penalty to be imposed for a violation of the levels listed in the "Threshold" column

(d) Horses owned wholly or in part by persons suspended for violations of this subchapter or any comparable rule of any other racing commission or turf governing body are ineligible to start during the period of such suspension or as ordered by the Commission or its Stewards, unless sold to a bona fide purchaser (see N J A C 13 70-16) Horses trained by a person suspended for such violations, wherein the trainer does not have an ownership interest, are automatically eligible to start when placed in the hands of a licensed trainer approved by the Stewards (See N J A C 13 70-13A for rules concerning appeals)

Amended by R 2014 d 163, effective November 3, 2014  
See 46 N J R 1414(a) 46 N J R 2161(a)

Rewrote (c) and (d)

## Case Notes

There is no specific penalty imposed by governing regulations where an unlawful concentration of the drug methylprednisolone is found in a blood sample of a horse that is under the jurisdiction of the New Jersey Racing Commission. The proper penalty is discerned by reference to the Model Rules of the Association of Racing Commissioners International, incorporated into state regulations by reference at N J A C 13 70-14A 7. By reason thereof, methylprednisolone is a "Class 4" drug subject to "Class C" penalties, and the recommended penalty for a Class C violation is a minimum fine of \$ 1,000, absent mitigating circumstances, for a trainer's first offense for that year in any jurisdiction, subject to the discretion afforded to the stewards under New Jersey law *Cibelli v NJ Racing Comm'n*, OAL DKT NO RAC 06431-16, ON REMAND OAL DKT NO RAC 13821-15, 2016 N J AGEN LEXIS 963, Initial Decision (November 1, 2016)

Owner/trainer license was properly suspended for finding of procaine in horse's system *Dickey v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 34

## 13:70-14A.8 Possession of drugs or drug instruments

(a) No person aside from licensed veterinarians shall have in his possession anywhere within the grounds of any association conducting a race meeting, or anywhere within the confines of a racetrack enclosure, or anywhere within the grounds of any licensed off-track stabling facility, any drugs not possessed in accordance with the laws of the State of New Jersey, nor any contraband drug or unauthorized prescription legend drugs, nor any hypodermic syringes or needles, or any other instrument which may be used for injection, unless the injectable device is possessed for self-administration, and further provided that the individual possessing such device promptly notify the State Steward



- 1 That he is in possession of such device, and
- 2 Of the chemical substance to be administered

Amended by R 1993 d 262, effective June 7, 1993  
See 24 N J R 1060(a), 25 N J R 2488(a)

#### Case Notes

While the Racing Commission approved in the main of the factual determinations of an ALJ who concluded that a registered horse trainer had violated numerous racing regulations by possessing 83 injectable vials and 36 needles, the Commission expressly rejected the ALJ's conclusion that certain counts were properly merged under the criminal law doctrine of merger for the purpose of determining the proper penalty because the merger doctrine did not apply to this proceeding. Specifically, the possession of impermissible substances and, separately, the possession of instruments of injection were each their own violation. Moreover, the possession of each injectable bottle constituted a separate offense from the possession of prohibited liquids therein. Because each such violation was not a "lesser included offense" of the other violation, the ALJ erred in using the merger doctrine as a basis for a substantial reduction of the penalty. *Battula v N J Racing Comm'n*, OAL Docket No RAC 07184-20, 2021 N J AGEN LEXIS 147, Final Agency Determination (May 21, 2021)

#### 13:70-14A.9 Administering medication to respiratory bleeders; standards for the administration of non-steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications; environmental contaminants

(a) The stewards may permit the administration of medication to control respiratory bleeding under the following conditions

1 Furosemide may be administered intravenously to a horse which is entered to compete in a race to control respiratory bleeding. Administration of furosemide shall be permitted only after the State Veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List, the following process must be followed

i After the horse's licensed trainer and a licensed, practicing veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the State Veterinarian or his or her designee, using the prescribed form provided by the Racing Commission, that they wish the horse to be put on the Furosemide List,

ii The form must be received by the State Veterinarian or his or her designee no later than the time of entry, so as to ensure public notification prior to race participation,

iii A horse placed on the Furosemide List must remain on that list unless the licensed trainer and a licensed, practicing veterinarian submit a written request to remove the horse from the List. The request must be made to the State Veterinarian or his or her designee, on the proper form, no later than the time of entry, and

iv After a horse has been removed from the Furosemide List, the horse may not be placed back on the

List for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the State Veterinarian. If a horse is removed from the Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days

2 The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is utilized

i Furosemide shall be administered at the direction of the State Veterinarian no less than four hours prior to post time for the race for which the horse is entered,

ii A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified in (a)2i above,

iii The dose administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg),

iv Furosemide shall be administered by a single, intravenous injection only,

v After treatment, the horse shall remain in the detention barn or other designated area in the care, custody and control of its trainer or the trainer's designated representative under association and/or Commission security supervision until called to the saddling paddock, and

vi Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the stewards

3 The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is not utilized

i Furosemide shall be administered no less than four hours prior to post time for the race for which the horse is entered,

ii The furosemide dosage administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg),

iii Furosemide shall be administered by a single, intravenous injection,

iv The trainer of the treated horse shall cause to be delivered to the State Veterinarian, no later than one hour prior to post time for the race for which the horse is entered, the following information, on a form provided by the Racing Commission

(1) The name of the horse, racetrack name, and the date and time the furosemide was administered to the entered horse,

(2) The dosage amount of furosemide administered to the entered horse,

(3) The printed name and signature of the licensed, practicing veterinarian who administered the furosemide, and

(4) The signature of the trainer or his or her representative, and

v Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the stewards

4. If a horse is approved to receive Furosemide, the use of aminocaproic acid (AMICAR® injectable only) as an adjunct bleeder medication may be co-administered by a licensed veterinarian only when the horse receives Furosemide Dose AMICAR® injectable 10 ml (2.5 gram) I V four hours pre-race

1 Veterinarians must report that the horse was co-treated with AMICAR® on the Furosemide medication slip

11 The administration of AMICAR®, pursuant to this paragraph, is only approved through December 31, 2007

(b) The State Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout. Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods

1 For the first incident, the confirmed bleeder will be ineligible to race for 14 days,

2 For the second incident, the confirmed bleeder will be ineligible to race for 30 days,

3 For the third incident, the confirmed bleeder will be ineligible to race for 180 days, and

4 For the fourth incident, the confirmed bleeder will be barred from racing for its lifetime

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. All horses on the Bleeder List who are eligible to race shall be administered furosemide before they can race. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by (b) above. A horse may be recommended for removal from the Bleeder List only upon the direction of the licensed, practicing veterinarian, who shall certify in writing to the stewards the recommendation for removal. A horse which has been placed on a Bleeder List in another jurisdiction pursuant to these rules, shall be placed on a Bleeder List in this jurisdiction.

(d) Post race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with furosemide to control respiratory bleeding pursuant to the requirements set forth in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma, or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations must be below the serum or plasma threshold levels authorized in N J A C 13 70-14A 1(b)14. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide is at or above the permitted serum or plasma threshold levels authorized in N J A C 13 70-14A 1(b)14, or in the event that a post-race analysis of a blood or urine sample reveals no detectable concentration of furosemide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable for the penalties as set forth in (e) below

(e) Should the stewards determine that any person or persons have violated (d) above, they shall punish the offending party as follows

1 A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a warning for the first violation

2 A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a fine not to exceed \$500.00 for a second violation

3 A trainer and other persons charged with responsibility including, without limitation, licensed, practicing veterinarians, shall be suspended, fined or both for a third violation

4 Repeated violations of (d) above by a trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, for any horse under their care may subject said trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to fine and/or suspension regardless of whether or not the same horse is involved

(f) Notwithstanding anything to the contrary in this section or in N J A C 13 70-14A 1, no penalty shall be imposed where on the day of the race, a horse carries in its body either Phenylbutazone or Flunixin, both NSAIDs, under the following conditions

1 The NSAID level is below the permitted serum or plasma threshold levels authorized in N J A C 13 70-14A 1(b)14, which are consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered,

2 Phenylbutazone and Flunixin are not to be administered within the 24 hours before post time for the race in which the horse is entered, and

3 The presence of more than one of the approved NSAIDs or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered

(g) In the event post-race testing determines that the threshold levels authorized in N J A C 13 70-14A 1(b)14 have been met or exceeded, there is evidence of more than one of the permitted NSAID(s) present or there is evidence of an unapproved NSAID, the stewards shall penalize the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, as follows, regardless of whether or not the same horse is involved

1 First violation of N J A C 13 70-14A 9(f) - \$500 00 fine, loss of purse and 15 days suspension, and

2 Second or subsequent violation of N J A C 13 70-14A 9(f) - such fines, suspensions and/or other penalties allowed by this chapter

(h) The following anti-ulcer medications may be administered up to 24 hours prior to the race in which the horse is entered. Omeprazole, Cimetidine, Ranitidine, and Sucralfate. In the event a horse tests positive for any of the anti-ulcer medications identified in this section, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be subject to the following penalties

1 \$250 00 fine for the first violation,

2 \$500 00 fine and loss of purse for the second violation, and

3 Increased fine, loss of purse and license suspension as deemed appropriate by stewards for the third and subsequent violations

(i) The following substances may be present in post-race samples as a result of possible environmental contamination from plants that are traditionally grazed or harvested as equine feed or are present from contamination during cultivation, processing, treatment, storage and transportation phases that contribute to contamination

1 Atropine,

2 Dimethyl sulfoxide,

3 Estranediol,

4 Hydrocortisone,

5 Morphine and Metabolites,

6 Salicylic acid,

7 Scopolamine,

8 Strychnine,

9 Testosterone,

10 Theobromine, or

11 Theophylline

(j) If a horse tests positive for one of the substances identified in (i) above, within 10 days of being notified of the positive test, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, may request in writing a hearing before the stewards for the purpose of determining whether the positive test resulted from environmental contamination as described in (i) above. The trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall have the burden of proof at the hearing. If the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, meet their burden of proof in showing environmental contamination as described in (i) above, the stewards shall consider the environmental contamination as a mitigating circumstance in assessing a penalty

(k) Regulatory thresholds (the concentration of the drug below which no administrative action is taken) are established for caffeine as 100 nanograms per milliliter (100 ng/mL) of serum or plasma. A positive test which exceeds the regulatory threshold will subject trainers and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to penalties consistent with those permitted by the New Jersey Racing Commission rules

Amended by R 1988 d 244, effective June 6, 1988

See 20 N J R 506(b), 20 N J R 1207(b)

A respiratory bleeder has an additional opportunity to participate and further allows a horse that is a third time bleeder to be suspended from racing for three months rather than being barred from racing

Amended by R 1990 d 485, effective October 1, 1990 (operative January 1, 1991)

See 22 N J R 1716(b), 22 N J R 3154(a)

Authorizes the administration of medication in assigned stall instead of detention barns, dosage levels and time requirements adopted are those recommended by the Association of Racing Commissioners International and provides for disciplinary action in the event post-race tests show excessive levels in blood of horse

Amended by R 1990 d 576, effective November 19, 1990 (operative January 1, 1991)

See 22 N J R 1233(a), 22 N J R 3499(d)

Provides for the acceptance of certification of respiratory bleeders from racing commissions in other jurisdictions

Amended by R 1991 d 263, effective May 20, 1991

See 23 N J R 674(a), 23 N J R 1684(a)

Change in text from "14 calendar days" to "10 calendar days" and from "three months" to "90 days" in (d)

Amended by R 1992 d 19, effective January 6, 1992

See 23 N J R 2919(c), 24 N J R 108(b)

Revised (a)3

Amended by R 1994 d 129, effective March 7, 1994

See 25 N J R 3100(a), 26 N J R 1237(a)

Amended by R 1995 d 298, effective June 5, 1995

See 26 N J R 1956(a), 27 N J R 2243(b)

Amended by R 1996 d 444, effective October 7, 1996

See 28 N J R 3054(a), 28 N J R 4488(a)

Amended by R 1997 d 90, effective February 18, 1997  
See 28 N.J.R. 5056(a), 29 N.J.R. 584(a)

In (a)3, inserted reference to observation by a licensed veterinarian on the racetrack grounds

Petition for Rulemaking Notice of Action on Petition for Rulemaking

Administering Medication to Respiratory Bleeders

Sec. 38 N.J.R. 1881(a) 2893(b), 4762(c)

Amended by R.2006 d 223, effective June 19, 2006

See 38 N.J.R. 1389(a), 38 N.J.R. 2723(a)

Section was "Administering medication to respiratory bleeders, standards for the administration of phenylbutazone" Rewrote the section

Amended by R 2007 d 171, effective May 21, 2007

Sec. 38 N.J.R. 4819(a), 39 N.J.R. 2133(a)

Added (a)4, and in the introductory paragraph of (b), deleted "as observed by the State Veterinarian" following "workout"

Amended by R 2011 d 272, effective November 7, 2011

See 43 N.J.R. 727(a), 43 N.J.R. 3036(a)

Section was "Administering medication to respiratory bleeders, standards for the administration of non steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications, environmental contaminants" In (f)1i, substituted "two" for "five" twice

Amended by R 2014 d 163, effective November 3, 2014

Sec. 46 N.J.R. 1414(a), 46 N.J.R. 2161(a)

Rewrote (d) and (f), and in (g), substituted "authorized in NJ A C 13:70-14A 1(b)14 have been met or" for "set forth for the two permitted NSAID(s) were", and deleted "two" preceding "permitted"

#### Case Notes

The existence of numerous errors, inconsistencies and alleged "typographical" errors in test results that purportedly established the existence of prohibited substances in the bloodstream of a race horse cast doubt on the reliability of the test results and afforded grounds for reversal of a suspension, fine and loss of purse that had been imposed on the horse's trainer under the absolute liability rules governing racing *Woodhouse v N.J. Racing Comm'n*, OAL DKT NO RAC 10441-18, 2019 NJ AGEN LEXIS 572, Initial Decision (September 5, 2019)

Trainer's admission that he had administered Phenylbutazone or Flunixin to a race horse for which he was the trainer of record afforded adequate grounds for the imposition of sanctions because both substances were detected in samples of the horse's blood taken on a day on which the horse had raced at a NJ track, and the trainer's claim that he had administered the drugs on the day prior to the race and that they had been detected due to an oversensitive testing process was not a defense *Maymo v N.J. Racing Comm'n*, OAL DKT NO RAC 8691-14, 2016 NJ AGEN LEXIS 53, Initial Decision (February 3, 2016)

#### 13:70-14A.10 Breathalyzer test

Officials, jockeys, trainers and grooms shall, when directed by the State Steward, submit to a breathalyzer test and if the results thereof show a reading of more than .05 percent of alcohol in the blood, such person shall not be permitted to continue his duties. The stewards may fine or suspend any participant who records a blood alcohol reading of .05 percent or more. Any participant who records a reading above the prescribed level on more than one occasion shall be subject to expulsion, or such penalty as the stewards may deem appropriate.

#### Case Notes

Regulation valid as reasonable under the Fourth Amendment; drug disclosure form did not violate jockey's privacy interests, urinalysis test information use regulations must also be applied to breathalyzer test results, tests to be conducted privately *Shoemaker v Handel*, 619 F Supp 1089 (D N J), affirmed 795 F 2d 1136 (3rd Cir 1986) certiorari denied 107 S Ct 577, 479 U S 986, 93 L Ed 2d 580

Preliminary injunction denied to jockeys who sought to halt implementation of Commission's breathalyzer and urine test regulations, as they did not establish a likelihood of success on the merits of their unconstitutionality claim, horse racing comes within a recognized "pervasively regulated business" exception to the administrative search warrant requirement *Shoemaker v Handel*, 608 F Supp 1151 (D N J 1985)

#### 13:70-14A.11 Urine test

(a) No licensee or official shall use any Controlled Dangerous Substance as defined in the "New Jersey Controlled Dangerous Substance Act", N.J.S.A. 24:21-1, et seq or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or order from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the official, jockey, trainer and groom to give notice to the State Steward that he is using a Controlled Dangerous Substance or prescription legend drug pursuant to a valid prescription or order from a licensed practitioner when requested.

(b) Every official, jockey, trainer and groom for any race at any licensed racetrack may be subjected to a urine test, or other non-invasive fluid test at the direction of the State Steward in a manner prescribed by the New Jersey Racing Commission. Any official, jockey, trainer or groom who fails to submit to a urine test when requested to do so by the State Steward shall be liable to the penalties provided in N.J.A.C. 13:70-31.

(c) Any official, jockey, trainer and groom who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the Commission. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission and the evidence of such sealing shall be indicated by the signature of the tested official, jockey, trainer or groom. The portion of the form which is provided to the laboratory for analysis shall not identify the individual official, jockey, trainer or groom by name. It shall be the obligation of the official, jockey, trainer or groom to cooperate fully with the Chemical Inspector in obtaining any sample which may be required to witness the securing of such sample.

(d) A "positive" Controlled Dangerous Substance or prescription drug result shall be reported, in writing, to the Executive Director or his or her designee. On receiving written notice from the official chemist that a specimen has been found "positive" for controlled dangerous substances or prescription legend drugs, the Executive Director or his or her designees shall proceed as follows

1 For a licensee's first violation, he or she shall not be allowed to participate in racing until such time as his or her condition has been professionally evaluated

i After such professional evaluation, if said licensee's condition proves non-addictive and not detrimental to the best interests of racing, said licensee shall not be allowed to participate in racing, until he or she can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and agrees to further testing at the direction of the Executive Director or his or her designee

ii After such professional evaluation in which said licensee's condition proves addictive or detrimental to the best interests of racing, said licensee shall not be allowed to participate in racing until he or she can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and show documented proof that he or she has successfully completed a certified rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee

iii In addition to other requirements specified in this subsection, the Racing Commission may require a licensee to submit additional proof of rehabilitation as may be required in view of the licensee's patient assessment, his or her medical, drug and/or alcoholism history including current physiological dependency on drugs and/or alcohol and the duration of the addiction or abuse, and the facts and circumstances surrounding the violation

2 For a licensee's second violation, he or she shall be required to enroll in a certified drug rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee. Said licensee's license shall be suspended for six months or until the requirements are fulfilled, whichever is greater

3 For a licensee's third violation, he or she shall be liable to the penalties provided in N J A C 13 70-31, including revocation of the individual's license. A licensee may

apply for reinstatement after five years but such reinstatement shall be at the discretion of the Commission based upon a review of the licensee's entire record

4 After a licensee's first violation, such additional drug tests, as are required by the Commission, may be at the licensee's expense. It shall be the licensee's responsibility to provide the Commission with such status reports as the Commission may require, including, but not limited to, written notice of enrollment, weekly status reports, and written notice of discharge and successful completion of the program

(e) Any information received in the process of obtaining a urine sample, including but not limited to medical information, the results of any urine test, and any reports filed as a result of attending a Supervisory Treatment Program shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a Supervisory Treatment Program shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee, Counsel to the Racing Commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the Executive Director or his designee

(f) Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the Executive Director for a period of one year, after which time, they shall be destroyed. However, the Commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur

Amended by R 1985 d 602, effective December 2, 1985 (operative January 1, 1986)

See 17 N J R 1640(a), 17 N J R 2912(a).

Substantially amended

Amended by R.1985 d 641, effective December 16, 1985

See 17 N J R 2363(a), 17 N J R 2996(a)

Amended by R 1991 d 75, effective February 19, 1991

See 22 N J R 3451(a), 23 N J R 611(a)

New (d)1 -4, added restrictions for individuals who have tested positive for a controlled dangerous substance or prescription medication without a valid prescription

#### Case Notes

Regulation valid as reasonable under the Fourth Amendment, drug disclosure form did not violate jockeys' privacy interests, urinalysis test information use regulations must also be applied to breathalyzer test results, tests to be conducted privately *Shoemaker v Handel*, 619 F Supp 1089 (D N J), affirmed 795 F 2d 1136 (3rd Cir 1986) certiorari denied 107 S Ct 577, 479 U S 986, 93 L Ed 2d 580

Preliminary injunction denied to jockeys who sought to halt implementation of Commission's breathalyzer and urine test regulations, as they did not establish a likelihood of success on the merits of their unconstitutionality claim, horse racing comes within a recognized "pervasively regulated business" exception to the administrative search warrant requirement *Shoemaker v Handel*, 608 F Supp 1151 (D N J 1985)

**13:70-14A.12 Anti-recombinant human EPO antibody testing program**

(a) A determination by the Racing Commission Equine Testing Laboratory that a pre-race or post-race blood sample taken from a horse entered to start in a race pursuant to N.J.A.C. 13 70-14A 2 is positive for elevated titers of anti-recombinant human EPO antibody, as a result of post-race testing utilizing the anti-recombinant human EPO antibody test, shall result in the following actions by the Racing Commission Board of Stewards

1 The Racing Commission State Veterinarian shall be notified of the name of the horse for placement on the Veterinarian's list pursuant to N.J.A.C. 13 70-19 36

2 The Board of Stewards shall authorize a search of the premises occupied by the stable involved pursuant to N.J.S.A. 13 70-14A 5

3 Unless the Board of Stewards determine otherwise as a result of a hearing requested pursuant to (a)4 below, the horse shall not be permitted to enter a race or to race until such time as the owner or trainer makes the horse available for retesting by the Racing Commission pursuant to (b) below, and the testing results are determined negative with the anti-recombinant human antibody test. In the event retesting determines that the horse is negative with the anti-recombinant human EPO antibody test, the Board of Stewards shall cause the horse to be removed from the Veterinarian's list and the horse shall be eligible to enter races and compete in races

4 The owner and trainer of the horse shall be notified by the Board of Stewards in writing of the initial positive test result for elevated titers of anti-recombinant human EPO antibody, that a hearing will be afforded by the Board of Stewards, following written request to them, at which hearing the owner and/or trainer of the horse can challenge the validity of the positive test results of the Racing Commission Equine Testing Laboratory, and that the horse is not permitted to race until the terms of (b) below are satisfied, unless the results of any requested hearing demonstrates to the satisfaction of the Board of Stewards that the horse was negative for elevated titers of anti-recombinant human EPO antibody as a result of the initial anti-recombinant human EPO antibody test. In the latter case, the Board of Stewards shall remove the horse from the Veterinarian's list and the horse shall be permitted to race

(b) An owner or trainer whose horse has tested positive for elevated titers of anti-recombinant human EPO antibody may not request that its horse be retested until 21 days following the date of the initial positive test as reported by the Racing Commission's Equine Testing Laboratory. If any retest of the horse results in a Racing Commission determination that the horse is or remains positive with the anti-recombinant human EPO antibody test, the owner or trainer may not request that its horse be retested again until 21 days following the date of the last positive retest as reported by the Racing Commission's Equine Testing Laboratory. All requests after the initial

positive test for the retesting of a horse shall be in writing and directed to the Board of Stewards, accompanied by a \$50 00 payment for administrative and testing costs. Following receipt of a timely request for retesting, the production of the horse at a permitted racetrack premises in this State approved by the Board of Stewards, and the receipt of the \$50 00 retesting fee, the Board of Stewards shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting

(c) Any horse claimed from a race pursuant to N.J.A.C. 13 70-12, Claiming, shall have its blood tested for elevated titers of anti-recombinant human EPO antibody. The successful claimant shall have the option to void the claim should the claimed horse test positive with the anti-recombinant human EPO antibody test

(d) A horse which tests positive with the anti-recombinant human EPO antibody test remains subject to the requirements of this rule despite being sold, otherwise transferred, or claimed where the claimant elects not to void the claim as authorized by (c) above

(e) The split sample testing provision of N.J.A.C. 13 70-14A 4(d), which is limited to where testing is conducted on a horse's urine sample, shall not be applicable to anti-recombinant human EPO antibody testing conducted pursuant to this section

New Rule, R.2006 d 101, effective March 6, 2006  
See 37 N.J.R. 3784(a), 38 N.J.R. 1322(a)

**13:70-14A.13 Out-of-competition testing (on non-race days and on race days pre-race) of racehorses for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents; penalties, procedures, and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of out-of-competition testing; penalties, procedures, and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of post-race blood sample testing (on race days) conducted pursuant to other provisions of this chapter**

(a) The presence of Erythropoietin (Epogen, EPO), DarbEPO or other blood doping agents in the racehorse is deemed adverse to the best interests of thoroughbred racing, and adverse to the best interests of the racehorse in that such condition alters its normal physiological state. Accordingly, in addition to such substances being prohibited from being present in the body of a racehorse on race day pursuant to N.J.A.C. 13 70-14A 1 and 14A 4, and in addition to elevated titers of anti-recombinant human EPO antibodies being prohibited from being present in the body of a racehorse on race day pursuant to N.J.A.C. 13 70-14A 12, the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents in any racehorse under the trainership of any li-



censed New Jersey trainer is hereby prohibited at any location and at anytime, including days where a race horse is neither entered to or scheduled to participate in a race

(b) Racing Commission representatives may, without prior notice, appear upon off-track stabling facilities and permitted racetrack facilities subject to its jurisdiction in furtherance of out-of-competition testing, that is, for the purpose of taking blood samples from racehorses on race days (pre-race) or on non-race days to test such samples (on the same date the sample is taken, or on a subsequent date) for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents. Upon arrival at such premises and if present, the Racing Commission representative shall advise the facility's owner, and the trainer of the racehorse or racehorses from which blood samples are to be taken, of its purpose. Additionally, the Racing Commission State Steward may require that any New Jersey licensed trainer stabled within New Jersey, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 24 hours of a State Steward request, any racehorse under his or her custody and control for out-of-competition testing. Additionally, the State Steward may require that any New Jersey licensed trainer stabled outside this State, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 48 hours of a State Steward request, any racehorse under his or her custody and control (which racehorse or racehorses competed in New Jersey in the same calendar year of the request, or which racehorse was intended or is intended to compete in New Jersey in the calendar year of the request), for out-of-competition testing. The State Steward may, in his or her discretion, and for good cause shown, extend these time frames for a trainer's requested production of the horse at a permitted New Jersey racetrack. In the event of the failure of any licensed New Jersey trainer or agent thereof to timely produce a racehorse for out-of-competition testing at a permitted racetrack facility as requested by the State Steward, or in connection with the Racing Commission's appearance on a premises subject to its jurisdiction for such purpose, the penalties set forth in (e) below shall be imposed upon the trainer and any responsible person where said failure to produce the horse is due to non-cooperation. Also, in the event of such non-production of a horse due to the non-cooperation of the trainer and any other responsible person, the ineligibility restrictions as to the racehorse subject of the request for production, as set forth in (f) below, shall be imposed.

(c) In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of out-of-competition testing, the following actions shall be taken by the Racing Commission Board of Stewards

1 They shall authorize a search of the New Jersey premises occupied by the stable pursuant to N.J.A.C. 13:70-14A.5;

2 They shall cause the horse to be immediately placed on the Veterinarian's list pursuant to N.J.A.C. 13:70-19.36

(thereby rendering the horse ineligible to compete), pending the conduct of a hearing by the Board of Stewards,

3 The owner and trainer of the horse shall be notified in writing by the Board of Stewards, by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission, of the initial out-of-competition testing result and of the horse's placement on the Veterinarian's list pending the conduct of a hearing by the Board of Stewards. The writing shall further set forth, in a designated space, the date it was mailed or personally served by the Board of Stewards, and

4 The Board of Stewards shall schedule a hearing, by written notice to the trainer and any other responsible person, which hearing notice sets forth the alleged violations of the Racing Commission's rules, as well as the date and time of the hearing. The hearing notice may be incorporated into the written notice provided pursuant to (c)3 above. Where the owner of the horse is not a subject of the hearing, the owner shall be provided a copy of the notice of hearing as an interested party. The written notice of hearing shall be by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission.

(d) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Stewards pursuant to (c)4 above, the trainer of the horse subject of the violation shall, within five days of the issuance of the related ruling, provide the State Steward with \$2,000 as reimbursement to the Racing Commission for the administrative and testing costs associated with the initial positive test. In the event the positive test result finding is appealed, and in the event such appeal results in a final determination that no violation was committed, the \$2,000 shall then be returned to the trainer.

(e) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Stewards pursuant to (c)4 above, the license of the trainer, as the absolute insurer of the horse pursuant to N.J.A.C. 13:70-14A.6, and any other responsible person, shall be suspended by the Board of Stewards for 10 years for a first violation. In addition, said trainer and any other responsible person shall be fined \$50,000 for a first violation, and shall be prohibited from appearing upon or at any premises subject to the Racing Commission's jurisdiction for the 10-year license suspension period. For a second violation, the penalty of license revocation shall be imposed. A person whose license has been revoked, as a result of a violation of this section, shall permanently be prohibited from licensure in any capacity and from appearing upon or at any premises subject to the jurisdiction of the Racing Commission. Where a violation of this section is determined, the ineligibility period as to the horse, as set forth in (f) below, shall also be imposed by the Board of Stewards. Such ineligibility period shall be calculated to begin running on the date the horse was placed on the Veterinarian's list pursuant to (c)2 above. Where no violation is determined, as a result of the conduct of a hearing by the

Board of Stewards, the horse shall be promptly removed from the Veterinarian's list and shall then be eligible to compete in racing

(f) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Stewards pursuant to (c)4 above, a horse determined to test positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent shall be ineligible to compete in racing in this State for a period of 120 days. Following said 120-day period of ineligibility, the horse which tested positive shall continue to be ineligible to compete in racing in this State until following a written request to the Racing Commission State Steward by the owner or trainer of the horse and the production of that horse for testing (at cost to the requesting party and at a location determined by the State Steward) accompanied by a \$2,000 payment for administrative and testing costs payable to the Racing Commission, the horse is determined by the Racing Commission to test negative for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, and said horse is determined by the Racing Commission to test negative for elevated titers of anti-recombinant human EPO antibody, pursuant to the testing methodology set forth at N J A C 13 70-14A 12. Where such testing results in a determination that the horse either tests positive for presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, or for elevated titers of anti-recombinant human EPO antibody, the owner or trainer may not request that the horse be retested until 21 days following the date of the last positive retest as reported to the Racing Commission by the Racing Commission's Equine Testing Laboratory. In the event of any such retest, and subject to payment of the requisite administrative and testing costs (that is, \$2,000) to the Racing Commission, the horse shall be retested for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, and for elevated titers of anti-recombinant human EPO antibody.

(g) A horse which tests positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO or other blood doping agent, as a result of out-of-competition testing, remains subject to the requirements of (f) above despite its being sold, or otherwise transferred.

(h) The split sample testing provisions of N J A C 13 70-14A 4 shall be applicable to the out-of-competition testing authorized pursuant to this section.

(i) Nothing contained in this section shall be construed to disallow the Racing Commission to conduct post-race blood testing (that is, sampling of a horse's blood on race day following the race, for testing on that same date or on a subsequent date) for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, pursuant to post-race testing otherwise authorized by this chapter. See N J A C 13 70-14A 4. In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of post-race testing, the procedures set forth in (c) above, as well as the provisions of (d) though (f) above, shall apply and the penalties, testing costs and horse ineligibility

criteria set forth in this section shall therefore be imposed. In the event of such a positive, determined as a result of post-race testing, any purse won by the offending horse shall be forfeited pursuant to N J A C 13 70-14A 7.

New Rule, R 2007 d 329, effective October 15, 2007

See 39 N J R 2593(a), 39 N J R 4412(a)

Amended by R 2018 d 156, effective August 20, 2018

See 50 N J R 1029(a), 50 N J R 1900(a)

Section was "Out-of-competition testing (on non-race days and on race days pre-race) of racehorses for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of out-of-competition testing, penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of post-race blood sample testing (on race days) conducted pursuant to other provisions of this chapter" In (h), substituted "shall" for "which is limited to where testing is conducted on a horse's urine sample, shall not"

### 13:70-14A.14 Post-race blood gas testing program

(a) An excess level of total carbon dioxide (TCO<sub>2</sub>) in the race horse is deemed adverse to the best interests of thoroughbred racing, and adverse to the best interests of the horse in that such condition alters its normal physiological state. Accordingly, a State Veterinarian representing the Commission may obtain blood samples in compliance with post-race testing provisions of N J A C 13 70-14A 4 and this section, from the horse for the purpose of the testing of said samples by the Racing Commission laboratory for a TCO<sub>2</sub> level on a clinical auto analyzer that applies an ion selective electrode method (ISE) for measuring TCO<sub>2</sub> in blood. Where the TCO<sub>2</sub> level, based upon such testing, equals or exceeds 37 or more millimoles per liter (37 mmole/L), the stewards shall order the relief authorized pursuant to (b) below.

(b) Where the TCO<sub>2</sub> level in a horse is determined to equal or exceed the level set forth in (a) above, and it is not determined that such a TCO<sub>2</sub> level is physiologically normal for that particular horse pursuant to (c) below, the stewards shall order the following relief:

1. The trainer, as the absolute insurer of the horse responsible for the condition of a horse within his or her care and custody pursuant to N J A C 13 70-14A 6, shall for a first violation have his or her license suspended for a 75-day period, be ordered to pay a \$1,000 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a second violation, the license of the trainer shall be ordered suspended for a 180-day period, a \$2,500 fine shall be ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third or subsequent violation, the license of the trainer shall be ordered suspended for a minimum of one year to a maximum of licensure revocation, a \$5,000 fine shall be ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. The licensure suspension aspect of these penalties shall

be increased by a minimum of two years where evidence independent of the testing demonstrates that the excessive TCO<sub>2</sub> level of the horse resulted from the administration of a drug or substance foreign to the horse in violation of N J A C 13 70-14A 1 and that such foreign substance was administered nasogastrically or orally, using a tubing device, jug or by any intravenous means,

2 In addition to the liability of the trainer as set forth in (b)1 above, any additional persons responsible shall be subject to the penalties set forth in (b)1 above,

3 Disqualification and denial of purse with redistribution of any purse money due, pursuant to N J A C 13 70-14A 7, and

4 Pre-race guarded quarantine pursuant to N J A C 13 70-14A 15

(c) If the level of TCO<sub>2</sub> is determined to equal or exceed those set forth in (a) above, and the licensed owner or trainer of that horse contends in writing to the stewards within three calendar days of notification of the results that such a level is physiologically normal for the particular horse, said licensee may by such writing request that the horse be held in guarded quarantine. In the event so requested, and in the event the requesting licensee satisfies its burden of producing the horse for such purpose, the track association shall make such guarded quarantine available, for a period of time to be determined by the stewards but in no event more than 72 hours, at the sole expense of the licensee requesting same. In the event the requesting licensee fails to timely request guarded quarantine or fails to produce the horse for such purpose, the Commission's post-race TCO<sub>2</sub> testing results for the horse shall be final and conclusive. During any guarded quarantine, the horse shall be re-tested periodically and, although the horse may not race during such quarantine period, it may be exercised and trained at times prescribed by the track association and consistent with the ability to monitor the horse, take blood samples from the horse and test those blood samples of said horse. If the stewards are satisfied, on the basis of the evident facts, the quarantine and the testing of the horse's blood during the quarantine period utilizing the Clinical Auto Analyzer, that the level of TCO<sub>2</sub> set forth in (a) above is physiologically normal for that particular horse, the stewards shall not order the relief set forth in (b) above and the horse shall be permitted to compete. In such case, the stewards in their discretion may, at the sole expense of the track association, require that the horse re-establish that such TCO<sub>2</sub> level is physiologically normal to it pursuant to the quarantine procedure set forth in this subsection but no sooner than 45 days after the last quarantine period for the purpose of such re-establishment.

(d) All persons participating in any blood gas testing program or quarantine process as described in this section shall act at the direction of the Commission representative as designated by the Commission or its Executive Director. The taking of blood samples from a horse, as authorized by this section for the purpose of testing on the clinical auto analyz-

er, shall be additional to and not in lieu of, any other sampling or testing of blood or urine authorized by this chapter. The split sample provisions of N J A C 13 70-14A 4(d) and (e) shall apply to blood samples taken from horses pursuant to this TCO<sub>2</sub> testing methodology.

New Rule, R 2007 d 330, effective October 15, 2007

See 39 N J R 2596(a), 39 N J R 4415(a)

Amended by R 2018 d 156, effective August 20, 2018

See 50 N J R 1029(a), 50 N J R 1900(a)

In (d), deleted “, whether an employee of the Racing Commission or a track association” following the first occurrence of “section”, inserted a comma following “lieu of”, substituted “split sample” for “split urine sample”, and deleted “not” following the third occurrence of “shall”.

### 13:70-14A.15 Post-race blood gas testing program; pre-race guarded quarantine

(a) Where a trainer, during any 12-month period, has had any single horse under his or her custody, care and control test equal to or in excess of the total carbon dioxide level (TCO<sub>2</sub>) set forth in N J A C 13 70-14A 14(a), and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in such instance pursuant to N J A C 13 70-14A 14(c), that horse subsequently scheduled to participate in a race under the custody, care and control of said trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the stewards but in no event less than six hours prior to the start of the first race of the program.

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine, regardless of whether the horse is transferred to a new bona fide trainer.

(b) Where a trainer, during any 12-month period, has had any horse or horses under his or her custody, care and control test equal to or in excess of TCO<sub>2</sub> level set forth in N J A C 13 70-14A 14 on two occasions, and where the said level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in either of such instance, all horses subsequently scheduled to participate in a race under the custody, care and control of that trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the stewards but in no event less than six hours prior to the start of the first race of the program.

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected trainer for eight months following the date of the second order of quarantine of a horse or horses under his or her custody, care and control. However, if during the eight-month period any additional horse under the custody, care and control of the trainer is determined to have an excessive TCO<sub>2</sub> level in accord with N J A C 13 70-14A 14, and where the level of

TCO<sub>2</sub> has not been determined as physiologically normal for the horse, the stewards shall order that the eight-month pre-race guarded quarantine period as to all of the trainer's horses be extended for a length of time which they deem appropriate. Any horses under the custody, care and control of the trainer at the time the trainer experienced the excessive TCO<sub>2</sub> level, which are transferred to a new bona fide trainer (with the exception of the particular horse or horses which experienced the excessive TCO<sub>2</sub> level), shall not be subject to such pre-race quarantine once under the custody, care and control of the new trainer. However, the trainer whose horse actually experienced the excessive TCO<sub>2</sub> level who is subject of the pre-race quarantine order for all of his or her horses shall be required to have all of his or her horses submit to pre-race quarantine for the period ordered, regardless of when said trainer acquired or acquires his or her horses, which pre-race quarantine shall not be imposed at the same time the trainer is serving the license suspension imposed pursuant to N J A C 13 70-14A 14(b)1

(c) Where a single horse, during any 12-month period, is determined to have an excessive TCO<sub>2</sub> level in accord with N J A C 13 70-14A 14, and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse, the horse shall be placed under pre-race guarded quarantine even where the horse has been transferred to a new trainer. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the current trainer, for a length of time to be determined by the stewards but in no event less than six hours prior to the start of the first race of the program

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine. However, where during the pendency of such six-month period the horse is under the custody, care and control of the new trainer and the horse is again determined to exhibit an excessive TCO<sub>2</sub> level in accord with N J A C 13 70-14A 14, and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for said horse, the stewards shall order that the six-month pre-race guarded quarantine period for the horse be extended for a length of time which they deem appropriate. Where such an event, during any 12-month period, constitutes the second incident of any horse or horses under the custody, care and control of the current trainer of said horse exhibiting an excessive TCO<sub>2</sub> level in accord with the procedures set forth in N J A C 13 70-14A 14, the provisions of (b) above shall apply as to that current trainer

New Rule, R 2007 d 330, effective October 15, 2007  
See 39 N J R 2596(a), 39 N J R 4415(a)

### 13:70-14A.16 Post-race blood gas testing program; punishment for failure to cooperate

In the event any owner, trainer, licensed representative of same, or any person subject to the jurisdiction of the Racing Commission, fails to cooperate in connection with the blood

gas testing program authorized pursuant to N J A C 13 70-14A 14, or with regard to any procedures set forth in N J A C 13 70-14A 4(a) and (b), or otherwise set forth in or implemented pursuant to N J A C 13 70-14A 14 or 14A 15, in addition to ordering the relief set forth in N J A C 13 70-14A 14, the stewards may, consistent with this chapter, impose fines or suspensions, or both, on the non-cooperating person. In determining the length of such suspension or amount of the fine, the stewards may consider prior violations of N J A C 13 70-14A 14, 14A 15, or this section

New Rule, R 2007 d 330, effective October 15, 2007  
See 39 N J R 2596(a), 39 N J R 4415(a)

### 13:70-14A.17 Anabolic steroids

(a) The administration of anabolic steroids to horses that race shall be a prohibited practice except as authorized in (c) below

(b) Any horse entered to start at a permitted race meet may be subjected to a blood and urine test in order to identify the presence and/or levels of anabolic steroids

(c) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following threshold levels in blood plasma

Boldenone – 25 picograms/milliliter (25 pg/mL),

Nandrolone – Females and geldings 25 picograms/milliliter (25 pg/mL),

Testosterone – Intact male horses 2,000 picograms/milliliter (2,000 pg/mL),

Females and geldings 25 picograms/milliliter (25 pg/mL) (unless a female is in foal)

For the purposes of this section, "intact male horse" shall mean a male horse that has not been gelded. Male horses other than geldings shall be tested for nandrolone in urine only. See (d) below

(d) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following threshold levels in urine

Boldenone – Intact males 15 nanograms/milliliter (15 ng/mL),

Females and geldings 1 nanogram/milliliter (1 ng/mL)

Nandrolone – Intact males 45 nanograms/milliliter (45 ng/mL),

Females and geldings 1 nanogram/milliliter (1 ng/mL),

Testosterone – Females 55 nanograms/milliliter (55 ng/mL) (unless in foal),

Geldings 20 nanograms/milliliter (20 ng/mL)

(e) Any blood or urine samples containing one of the three anabolic steroids listed in (c) and (d) above that quantitatively measures above the threshold levels shall constitute a violation of this section. Any samples identifying the presence of more than one of the three permitted anabolic steroids shall constitute a violation of this section regardless of the threshold levels identified in the sample. Any samples identifying the presence of one of the three permitted anabolic steroids, even if it tests at or below the threshold level, shall constitute a violation of this section if the samples also indicate the presence of any other anabolic steroid.

(f) The split sample testing procedures set forth in N J A C 13 70-14A 4 in connection with urine samples shall be extended to apply to blood and/or urine samples taken in connection with testing for anabolic steroids.

(g) The trainer is the absolute insurer of the condition of all horses within his or her care and custody. For a first violation of this section, the trainer's license shall be suspended for a 45-day period, he or she shall be ordered to pay a \$1,000 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a second violation of this section, the trainer's license shall be suspended for a 90-day period, he or she shall be ordered to pay a \$2,500 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third violation of this section, the trainer's license shall be permanently revoked and he or she shall be permanently denied the privileges of all grounds subject to the jurisdiction of the Commission.

(h) In addition to the liability of the trainer, any person licensed in any capacity by the Commission who is involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to penalties up to or equal to the penalties set forth for trainers in (g) above. Persons not licensed by the Commission who have been involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to penalties as determined by the Commission.

(i) Upon determining that a violation of this section occurred, the tested horse shall be disqualified from the race and denied the purse money, which shall be redistributed in accordance with N J A C 13 70-14A 7(b). The horse shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples violating this section were taken. After the 30-day disqualification has been completed, no horse shall be allowed to enter a race or race until such time as the owner or trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the samples taken.

(j) The trainer of a horse that was claimed outside of the State of New Jersey or purchased in a private sale in any state

may request that the claimed horse be tested for the presence of anabolic steroids prior to entering that horse to race in New Jersey. The trainer who requests such testing shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the blood and urine samples consistent with (i) above. A horse that tests in violation of this section shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, the horse shall not be allowed to compete until such time as the trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. Any trainer who fails to request this testing prior to entering a horse claimed outside of the State of New Jersey or purchased in a private sale to race and the horse tests positive for the presence of anabolic steroids in violation of this section, the trainer shall be liable for all penalties set forth in this section.

New Rule, R 2010 d 058, effective April 19, 2010

See 41 N J R 3382(a), 42 N J R 798(a)

Administrative correction

See 43 N J R 1205(a)

Amended by R 2014 d 163, effective November 3, 2014

See 46 N J R 1414(a), 46 N J R 2161(a)

Rewrote (c), and in (d), substituted "three" for "four" throughout, inserted "at or" and the second occurrence of "threshold", and deleted "at or" following "tests"

Amended by R 2018 d 094, effective May 7, 2018

See 49 N J R 3334(a), 50 N J R 1223(a).

Rewrote the section

#### Case Notes

Racing Commission should have imposed a fine of \$1000, not \$500, on a horse trainer after a blood test showed that a horse trained by her contained trace amounts of an anabolic steroid. *Hassig v N.J. Racing Comm'n*, OAL DKT NO RAC 13878-16, 2017 N J AGEN LEXIS 794, Initial Decision (October 16, 2017)

#### 13:70-14A.18 Shock wave therapy

(a) "Shock wave therapy" shall mean all extracorporeal shock wave therapy or radial pulse wave therapy treatments and any other similar treatments determined to pose similar risks by the State Veterinarian.

(b) The use of shock wave therapy shall not be permitted, unless the following conditions are satisfied:

1 Only licensed veterinarians are permitted to perform shock wave therapy on a horse,

2 Only licensed veterinarians are permitted to possess or use any instrument used to administer shock wave therapy on the grounds of any property over which the Commission has jurisdiction,

3 All shock wave therapy machines must be registered with the Commission. Investigative staff shall be granted access to any location housing a registered shock wave therapy machine for the purpose of inspecting the machine,

4 Shock wave therapy cannot be administered to any horse currently entered in a race. If a horse is entered,

shock wave therapy cannot be administered upon that horse until it is scratched. Should any horse not be scratched at the time shock wave therapy is administered, both the trainer and the licensed veterinarian shall be liable,

5 No horse treated with shock wave therapy shall race for a period of 10 days following treatment with day one beginning on the day after therapy was administered,

6 No horse treated with shock wave therapy shall breeze in any capacity for a period of four days with day one beginning on the day after therapy was administered,

7 Prior to administering shock wave therapy, a licensed veterinarian must notify the State Veterinarian in writing, via e-mail or fax, which writing shall include the horse's name, the reason for administration of shock wave therapy, the trainer's name, the registration number of the shock wave therapy machine, and the property at which the treatment is performed. This condition does not eliminate the need to ensure the horse is not entered to race prior to administering shock wave therapy,

8 Within 24 hours of administering shock wave therapy, the treating veterinarian shall transmit a Shock Wave Therapy Treatment Sheet to the State Veterinarian via e-mail or fax, and

9 Any horse treated shall be placed on the Commission's Shock Wave Therapy List for a period of 10 days from the date of the treatment

New Rule, R 2018 d 096, effective May 7, 2018  
Sec 49 N.J.R. 1005(a), 50 N.J.R. 1220(a)

**13:70-14A.18A Penalties for violating N.J.A.C. 13:70-14A.18**

(a) Violations of N.J.A.C. 13:70-14A.18, Shock wave therapy, shall result in the following penalties

1 Any person who performs shock wave therapy who is not a licensed veterinarian shall be subject to the following penalties

i A first violation shall result in a minimum suspension of 60 days and a \$5,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to 180 days and a fine up to \$10,000,

ii A second violation shall result in a minimum suspension of 180 days and a \$10,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to one year and a fine up to \$20,000, and

iii A third or subsequent violation shall result in a minimum two-year suspension and a \$20,000 fine. The presence of aggravating factors may result in permanent license revocation,

2 Should any person other than a licensed veterinarian possess a shock wave therapy machine at any racetrack, off-track stabling facility, or other location subject to the

jurisdiction of the Commission, the following penalties shall be imposed upon that person

i A first violation shall result in a minimum suspension of 30 days and a \$2,500 fine,

ii A second violation shall result in a minimum suspension of 90 days and a \$5,000 fine, and

iii A third or subsequent violation shall result in a minimum one-year suspension and \$10,000 fine,

3 Should a licensed veterinarian possess an unregistered shock wave therapy machine at any racetrack, off-track stabling facility, or other location subject to the jurisdiction of the Commission, the following penalties shall be imposed upon that veterinarian

i A first violation shall result in a \$1,000 fine for failure to register,

ii A second violation shall result in a \$2,500 fine, and

iii A third or subsequent violation shall result in a minimum 15-day suspension and \$5,000 fine,

4 Should any veterinarian perform shock wave therapy on a horse that has not been scratched from any race in which it is entered, the veterinarian and trainer shall each be subject to the following penalties

i A first violation shall result in a minimum one-year suspension and a \$10,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to three years and a fine up to \$25,000,

ii A second violation shall result in a minimum three-year suspension and a \$25,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to five years and a fine up to \$50,000, and

iii A third or subsequent violation shall result in a minimum five-year suspension and a \$50,000 fine. The presence of aggravating factors may result in permanent license revocation and a fine up to \$100,000,

5 Should any horse treated with shock wave therapy race within 10 days of treatment

i The owner shall be subject to the following penalties

(1) A first violation shall result the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 10 days,

(2) A second violation shall result the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 30 days and shall not be removed in the event of a bonafide transfer of ownership. The same horse need not be involved in both vi-

olations in order for the owner to have committed a second violation, and

(3) A third or subsequent violation shall result the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 90 days and shall not be removed in the event of a bonafide transfer of ownership. The same horse need not be involved in all violations in order for the owner to have committed a third or subsequent violation, and

11 The trainer shall be subject to the following penalties

(1) A first violation shall result in a suspension for a minimum period of one year and a fine of \$10,000,

(2) A second violation shall result in a suspension for a minimum period of three years and a fine of \$25,000, and

(3) A third or subsequent violation shall result in a suspension for a minimum period of five years and a fine of \$50,000,

6 Should any horse treated with shock wave therapy breeze within four days, then the following shall apply

1 The trainer shall be subject to the following penalties

(1) For a first violation, the trainer shall have his or her license suspended for a minimum of six months and shall be fined a minimum of \$1,000,

(2) For a second violation, the trainer shall have his or her license suspended for a minimum of one year and shall be fined a minimum of \$2,500, and

(3) For a third or subsequent violation, the trainer shall have his or her license suspended for a minimum of three years and shall be fined a minimum of \$5,000, and

11 If an owner's horse or horses, cumulatively, are found to have breezed within four days of receiving shock wave therapy on three occasions, the horse committing the third violation shall be placed on the Steward's List for a period of 30 days, and

7 A licensed veterinarian's failure to abide by either the pre-notice requirement or the requirement to send a Shock Wave Therapy Treatment Sheet within 24 hours shall be subject to the following penalties

1 A first violation shall result in a formal written warning,

11 A second violation shall result in a \$1,000 fine, and

111 A third or subsequent violation shall result in a minimum 15-day suspension and a \$2,500 fine

(b) If shock wave therapy is impermissibly performed upon any horse, the racing of that horse within 10 days or breeding of that horse within four days shall serve to aggravate the penalties imposed in (a)1 or 4 above, respectively, against the offending party who performed shock wave therapy

(c) Any and all penalties assessed against an owner, trainer, veterinarian, or other person for violation of N J A C 13 70-14A 18 shall be individually assessed against each particular violator based upon his or her own violation history. For example, the same set of facts may be deemed a third violation against the trainer, a second against the owner, and a first against the veterinarian

(d) Notwithstanding the foregoing, the Judges may punish any person who directed another to violate N J A C 13 70-14A 18. The person who directed the violator shall be subject to the same penalties as the offender. This includes, but is not limited to, the principal veterinarian of a veterinary practice, a veterinarian who directs a veterinarian technician or other person to perform shock wave therapy or act in any other way that would violate N J A C 13 70-14A 18, a trainer or owner who directs any other party to perform shock wave therapy or act in any way that would violate N J A C 13 70-14A 18, or any other person who directs another to violate N J A C 13 70-14A 18

(e) Notwithstanding any of the penalties set forth in (a) above, the Stewards may punish any other person found to be acting in concert with a person performing shock wave therapy in violation of N J A C 13 70-14A 18, by imposing penalties in accordance with the severity of the conduct up to the maximum provided in this section

New Rule, R 2018 d 096, effective May 7, 2018  
See 49 N J R 1005(a), 50 N J R 1220(a)

## SUBCHAPTER 15 RACING OFFICIALS

### 13:70-15.1 List of racing officials

(a) The racing officials shall include

- 1 Three stewards, appointed by the Racing Commission and paid by the Association,
- 2 Three placing judges,
- 3 Clerk of the scales,
- 4 Three or more patrol judges,
- 5 Starter,
- 6 Paddock Judge,
- 7 Racing secretary, who may also be the handicapper,

- 8 Timer,
- 9 State Veterinarian and two or more Associate State Veterinarians,
- 10 A mutual manager, general manager and all other managers and persons having administrative responsibility,
- 11 Chief State Veterinarian, and
- 12 Horse identifier

As amended, R.1976 d 125, eff April 22, 1976

See 8 N.J.R. 47(b), 8 N.J.R. 308(a)

As amended, R 1978 d 133, eff April 19, 1983

See 10 N.J.R. 18(a), 10 N.J.R. 261(a)

As amended, R 1978 d 269, eff August 1, 1978

See 10 N.J.R. 259(a), 10 N.J.R. 403(c)

As amended, R 1982 d 183, eff June 21, 1982

See 14 N.J.R. 91(a), 14 N.J.R. 661(a)

(a)12 added

Amended by R 1990 d 127, effective February 20, 1990

See 21 N.J.R. 3856(b), 22 N.J.R. 663(b)

Change from one to all three stewards to be appointed by Racing Commission

Administrative Correction in (a)1

See 24 N.J.R. 2063(b)

### 13:70-15.2 Appointment

The stewards, a State Veterinarian and Associate State Veterinarians, and a supervisor of mutuels shall be appointed by the Racing Commission. One of the duly appointed State Veterinarians shall also be designated by the Racing Commission as the Chief State Veterinarian and shall so serve at the pleasure of the Racing Commission. All other racing officials listed in N.J.A.C. 13:70-15.1 shall be appointed by the association, subject to the approval of the Commission.

As amended, R.1978 d 133, eff. April 19, 1978

See 10 N.J.R. 18(a), 10 N.J.R. 261(a)

As amended, R 1978 d 269, eff August 1, 1978

See 10 N.J.R. 259(a), 10 N.J.R. 403(c)

Amended by R 1990 d 127, effective February 20, 1990

See 21 N.J.R. 3856(b), 22 N.J.R. 663(b)

Change from one to all three stewards to be appointed by Racing Commission

### 13:70-15.3 Submission of names of officials

At least 30 days prior to the first day of a race meeting, the association must submit in writing to the Racing Commission the names of those officials listed in section 1 of this subchapter and must furnish a resume of their qualifications. No racing official shall be approved to act until he has been approved by the Racing Commission.

As amended, R 1976, d 125, effective April 22, 1976

See 8 N.J.R. 47(b), 8 N.J.R. 308(a)

### 13:70-15.4 Certificates; vision

All persons approved in the capacity of steward, placing and/or patrol judge, starter and clerk of the scales must submit annually a certificate from a recognized oculist or optometrist to the effect that their vision in both eyes is 20/20 or corrected to that figure.

### 13:70-15.5 Weekly compensation

The compensation to be paid to those officials appointed by the Racing Commission shall be determined by the commission and shall be paid by the association on a weekly basis.

### 13:70-15.6 Horse ownership or interest; officials

No one interested in the result of a race, either because of ownership of any horse entered or of its sire or dam, or because of bets or otherwise, shall act as a racing official in respect to that race.

### 13:70-15.7 Restrictions

(a) No racing official or his assistants shall, at the meeting

1 Wager money or any other chattel of value on any race,

2 Accept directly or indirectly any gratuity, reward or favor in connection with racing,

3 Sell or buy, for himself or another, any thoroughbred horse,

4 Write or solicit insurance on any horse,

5 Buy or sell any contract upon any jockey or jockey apprentice for himself or another.

### 13:70-15.8 Report of violations

Each racing official and his assistants shall report to the stewards all observed violations of the rules.

## SUBCHAPTER 16 STEWARDS

### 13:70-16.1 Qualifications

Before being appointed or approved by the Racing Commission to serve in the capacity of steward, an applicant shall have been employed as steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge or clerk of the scales at a recognized meet or meetings for a period of not less than 60 racing days per year, during at least three of the five preceding calendar years, provided however, that if no applicant possesses the foregoing qualifications, whenever possible, the person or persons appointed or approved as steward should have had prior experience in some other branch of racing, such as owner, trainer, jockey, breeder or such other related experience as the Commissioner may deem sufficient.

Amended by R 1990 d 127, effective February 20, 1990

See 21 N.J.R. 3856(b), 22 N.J.R. 663(b)

Deleted reference to racing board



**13:70-16.2 Powers of stewards**

The stewards shall have the power to determine all questions arising with reference to racing, and shall decide, in conformity with fairness and the established usage of the turf, all questions not specifically covered by the rules

**13:70-16.3 Steward's orders**

In matters pertaining to racing, the orders of the stewards supersede the orders of the officers and directors of the association

**13:70-16.4 Governing conduct**

The stewards shall have the power and it shall be their duty to regulate and govern the conduct of all racing officials and of all owners, trainers, jockeys, grooms and all other persons attendant on horses during, before, and after races, unless the power and the duty is vested in the Racing Commission

**13:70-16.5 Entries and declarations**

All entries and declarations shall be under the supervision of the stewards

**13:70-16.6 Authority; extent**

All questions pertaining to which their authority extends shall be determined by the majority vote of the stewards

**13:70-16.7 Punishment for violations**

The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions, or both, for infractions. The stewards may consider the prior record of any licensee for similar violations of the rules of this Commission or other racing commission or turf governing body in determining the extent of punishment to be imposed

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

**Case Notes**

There is no specific penalty imposed by governing regulations where an unlawful concentration of the drug methylprednisolone is found in a blood sample of a horse that is under the jurisdiction of the New Jersey Racing Commission. The proper penalty is discerned by reference to the Model Rules of the Association of Racing Commissioners International, incorporated into state regulations by reference at N J A C 13 70-14A 7

By reason thereof, methylprednisolone is a "Class 4" drug subject to "Class C" penalties, and the recommended penalty for a Class C violation is a minimum fine of \$1,000, absent mitigating circumstances, for a trainer's first offense for that year in any jurisdiction, subject to the discretion afforded to the stewards under New Jersey law *Cibelli v N J Racing Comm'n*, OAL DKT NO RAC 06431-16, ON REMAND OAL DKT NO RAC 13821-15, 2016 N J AGEN LEXIS 963, Initial Decision (November 1, 2016)

**13:70-16.8 Fines**

The stewards may not impose a fine in excess of \$5,000. If it is deemed necessary that a larger fine be imposed, the stewards shall so recommend to the Racing Commission

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

"\$500 00" was "\$250 00"

Amended by R 2004 d.154, effective April 19, 2004  
See 35 N J R. 4181(a), 36 N J R 1951(b)

Increased the maximum fine amount from \$500 00 to \$5000 00

**Case Notes**

There is no specific penalty imposed by governing regulations where an unlawful concentration of the drug methylprednisolone is found in a blood sample of a horse that is under the jurisdiction of the New Jersey Racing Commission. The proper penalty is discerned by reference to the Model Rules of the Association of Racing Commissioners International, incorporated into state regulations by reference at N J A C 13 70-14A 7. By reason thereof, methylprednisolone is a "Class 4" drug subject to "Class C" penalties, and the recommended penalty for a Class C violation is a minimum fine of \$1,000, absent mitigating circumstances, for a trainer's first offense for that year in any jurisdiction, subject to the discretion afforded to the stewards under New Jersey law *Cibelli v N J Racing Comm'n*, OAL DKT NO RAC 06431-16, ON REMAND OAL DKT NO RAC 13821-15, 2016 N J AGEN LEXIS 963, Initial Decision (November 1, 2016)

**13:70-16.9 Suspensions and disqualifications**

The stewards may suspend a person or disqualify a horse

**Case Notes**

There is no specific penalty imposed by governing regulations where an unlawful concentration of the drug methylprednisolone is found in a blood sample of a horse that is under the jurisdiction of the New Jersey Racing Commission. The proper penalty is discerned by reference to the Model Rules of the Association of Racing Commissioners International, incorporated into state regulations by reference at N J A C 13 70-14A 7. By reason thereof, methylprednisolone is a "Class 4" drug subject to "Class C" penalties, and the recommended penalty for a Class C violation is a minimum fine of \$1,000, absent mitigating circumstances, for a trainer's first offense for that year in any jurisdiction, subject to the discretion afforded to the stewards under New Jersey law *Cibelli v N J Racing Comm'n*, OAL DKT NO RAC 06431-16, ON REMAND OAL DKT NO RAC 13821-15, 2016 N J AGEN LEXIS 963, Initial Decision (November 1, 2016)



**13:70-16.10 Exclusion of certain persons**

The stewards shall have the power to exclude from all premises and enclosures of the association any person who is disqualified for corrupt practices on the turf in any country; or so exclude any other improper or objectionable persons

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Deleted reference to ejection

**13:70-16.11 Required proof**

The stewards may demand proof that a horse neither is disqualified in any particular, nor entered or owned, wholly or in part, by a disqualified person. In default of proof satisfactory to them, the stewards may declare the horse disqualified.

**13:70-16.12 Postponing races**

The stewards may postpone a race from race-day to race-day.

**13:70-16.13 Track conditions; transfers**

The stewards shall determine when track conditions render it necessary to transfer a race scheduled on a turf course to the main track. They shall make such decision as promptly as possible so that the appropriate announcement can be made, but in no case shall a turf race be transferred to the main course after the wagering has opened, except with the consent of the stewards.

**13:70-16.14 Extent of disqualification; fouls**

The stewards are vested with the power to determine the extent of disqualification in cases of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

**13:70-16.15 Power to examine horses**

The stewards shall have the power to examine or cause to be examined at any time any horse stabled on the association grounds, or in stabling approved by the association.

**13:70-16.16 Presence of stewards**

The three stewards must be on duty during race time, which shall mean from one hour before post time for the first race of the day until after the last race has been made official.

**13:70-16.17 Overnight races; time on duty**

One of the stewards, or his deputy, must be on duty within call of the racing secretary from the time of opening of overnight races until after the drawing of post positions.

**13:70-16.18 Steward's deputy; appointment**

A steward may appoint his own deputy at any time.

**13:70-16.19 Filling vacancies; stewards**

If there is only one steward present, at race time, said steward shall fill all vacancies occurring in the stewards stand and in his absence the Executive Director or his designee of the New Jersey Racing Commission shall assume this responsibility.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Changed "Secretary" to "Executive Director or his designee"

**13:70-16.20 Acting stewards**

If none of the stewards is present at race time, the Racing Secretary shall appoint three qualified persons, one of whom may be himself, to act as stewards pro tem.

**13:70-16.21 Filling vacancies; racing officials**

When a vacancy occurs among racing officials, other than the stewards, the stewards shall fill the vacancy on an emergency basis. The appointment shall be only for the day, unless the association fails to fill the vacancy, and so notifies the stewards.

**13:70-16.22 Reporting replacements or substitutions**

The stewards shall report promptly to the Racing Commission all replacements or substitutions of racing officials.

**13:70-16.23 Questionable conduct**

The stewards shall take notice of any questionable conduct with or without complaint thereof.

**13:70-16.24 Jockey substitutes**

The stewards may substitute a jockey of their selection on any horse.

**13:70-16.25 Horses in temporary charge of trainer**

The stewards may place any horse in the temporary charge of a trainer of their selection.

**13:70-16.26 Horses, arrival at starting post**

It shall be the duty of the stewards to see to it that the horses arrive at the starting post as nearly as practical at the advertised post time.

**13:70-16.27 Accidents or casualties**

In case of accident or casualty to a horse before off-time, the stewards may excuse that horse.

**13:70-16.28 Investigation of complaints**

The stewards must investigate promptly, and render a decision in every complaint properly made to them.

**13:70-16.29 Reports of infractions**

The stewards shall, after the close of each day, file with the Racing Commission a signed report of any and all

infractions of the rules coming under their observance that day, and shall file with the Racing Commission any and all rulings on infractions or otherwise, as soon as said rulings are made

### 13:70-16.30 Procedure; violations

(a) When the stewards feel that a rule has been violated by any person, the procedure shall be as follows

1 He or she shall be summoned to a meeting before the stewards, called for that purpose, at which all or a majority of the stewards shall be present,

2 Adequate notice of said meeting shall be given the summoned party. The stewards decision as to what is adequate notice shall be final,

3 No penalty shall be imposed until such hearing,

4 Nonappearance of the summoned party after adequate notice shall be construed as a waiver of right to hearing before the stewards,

5 No special announcement of the hearing or of the alleged infraction of rules shall be made until after said hearing. Immediately after a hearing, provided the matter is settled, the stewards shall submit their findings in a signed written statement to the Racing Commission and to the party in question

### 13:70-16.31 Access

In the performance of duty, the stewards shall have reasonable control over and unrestricted access to all stands, weighing rooms and jockey rooms, enclosures and other places in use for the meeting

### 13:70-16.32 Suspensions; badges; admission

During the term of suspension of any jockey, owner, trainer or other person on any race track under the Racing Commission's jurisdiction, it shall be the duty of the stewards to see to it that the offender's badge is taken up and that he is refused admission to any part of the course

### 13:70-16.33 Changes in equipment

Except in emergencies, no steward shall grant permission for a change of horses' equipment after scratch time on the day of the race in which the changed equipment is to be carried

### 13:70-16.34 State Police; communication

When the State Police in the normal performance of their duties at an association meeting observe a violation of the Racing Commission rules and regulations that may adversely affect the integrity of racing, they shall communicate the circumstances of such to the State steward and the Executive Director of the Racing Commission in writing. The State steward shall acknowledge receipt of the information from the State Police and shall respond in writing to the Racing Commission, without undue delay, of the action taken thereon

R 1977 d 331, effective August 29, 1977  
See 9 N J R 345(b), 9 N J R 487(a)

## SUBCHAPTER 17 STARTER

### 13:70-17.1 Who may start race

Only the starter or a deputy appointed by him and approved by the stewards may start a race

### 13:70-17.2 Insurance of a fair start

The starter shall give all orders and take all necessary measures to insure a fair start

### 13:70-17.3 Final decision; starts

The starter's decision as to the validity of a start shall be final, likewise, his decision as to whether or not a horse was locked in the gate shall be final, unless otherwise established by examination of the film or video tape of the race

### 13:70-17.4 Appointing starter's assistants

The starter may appoint his assistants, subject to the approval of the stewards

### 13:70-17.5 Horses; starter's control

Horses are in the hands of the starter from the moment they enter the track on the way from the paddock to post. They remain in his hands until off-time

### 13:70-17.6 Horses' positions

Horses shall take their positions in numerical order from the inside rail, that order to be determined by post positions. When there are eight or more horses starting in a race, they will be loaded in the gate two at a time, from the inside rail and from the middle post position on out

Amended by R 1995, d 616, effective December 4, 1995  
See 27 N J R 3305(a), 27 N J R 4904(b)

### 13:70-17.7 Delays

In case of delay, the starter may permit jockeys to dismount and their mounts to be attended

### 13:70-17.8 Injured horses

If, after reaching the starting post, a horse is so badly injured as to make it impossible for it to run in the race, the starter may, in the interest of time saving, excuse that horse, but he must notify the stewards before starting the race. A horse so excused shall to all intents and purposes be considered as excused by the stewards

**13:70-17.9 Starting gate**

All flat races shall be started from a starting gate, but in case of necessity, the starter may start the race without a gate, or with the doors of the gate open

**13:70-17.10 Excusing horses; notice**

If a horse is locked in the gate, and/or if the starter excuses a horse from a race he shall, in either or both cases, immediately notify the stewards who in turn shall immediately notify the manager of the pari-mutuel department

**13:70-17.11 Flag**

(a) When a race is started without a gate, there shall be no start until and no recall after an assistant starter has dropped his flag in answer to that of the starter

(b) When a race is started from a closed gate there shall be no recall after the starter has signalled that the race is off

**13:70-17.12 Inability to place horse in starting gate**

If the starter and his assistants are unable, after reasonable effort, to place a horse in the starting gate, the starter may order that horse placed outside of the gate and behind the starting line

**13:70-17.13 Schooling list**

The starter shall maintain a schooling list, and all unruly horses shall be schooled, if and when required, under the supervision of the starter or his assistants. No horse on the starter's list may enter and start until its name is stricken from the list by the starter

**13:70-17.14 Filing schooling list and horses stricken from list**

The starter shall file a copy of the schooling list with the Racing Secretary and shall report to him when a horse is stricken from the list

**13:70-17.15 Approval of starter**

No horse which has never started in a race at a recognized meeting shall be entered or start without the approval of the starter

**13:70-17.16 Abusive language**

Neither the starter nor his assistants shall use abusive language to a jockey

**13:70-17.17 Fines and suspensions by starter**

The starter, may, during the time the horses are in his hands, find or suspend a jockey or pony rider for disobedience of orders or other improper conduct. Said fine is not to exceed \$250 00, and said suspension shall not exceed five days. All rulings by the starter must be made in writing and reported to the stewards

**SUBCHAPTER 18 RACING SECRETARY****13:70-18.1 Discharge of duties**

The Racing Secretary shall discharge all duties of his office, express or implied as required by the rules

**13:70-18.2 Official program**

The Racing Secretary shall compile an official program for each racing day, which shall state the time fixed for the first race of the day and give the names of the horses which are to run in each of the races of the day

**13:70-18.3 Contents of program**

The program shall furnish the purse, conditions and distance of each race, the owner, trainer and jockey of each horse, each owner's racing colors, the weight assigned to each horse, and its number and post position, color, sex, age, breeding and claiming price, if entered to be claimed. The program may show other pertinent data

**13:70-18.4 Entries and declarations**

The Racing Secretary shall receive all entries and declarations, and he or any person designated by the association may receive all stakes, forfeits, entrance money, fees (including jockey fees), purchase money in claiming races and all other money that can properly come into his possession as agent for the association for which he is acting

**13:70-18.5 Assign stabling**

It shall be the duty of the racing secretary to assign to applicants such stabling as he may deem proper to be occupied by horses in preparation for racing, and he shall determine all conflicting claims of stable privilege

**13:70-18.6 Conditions; program**

(a) In making his program, the Racing Secretary shall respect these essential conditions

1 No two-year-old shall compete in any race with older horses prior to October 1 of any year,

2 No racing for two-year-olds prior to April 1 of any year shall be at a greater distance than  $4\frac{1}{2}$  furlongs, and no race for two-year-olds after September 15 of any year shall be at a less distance than  $5\frac{1}{2}$  furlongs,

3 At a track with a chute at the six furlong pole, there shall be no race for three-year-olds and upward at less than five furlongs

4 Not more than three overnight events of less distance than a mile shall be given on any day for horses three years old and upward unless conditions make it impossible to obtain sufficient entries to races of a mile or greater distance

As amended, R 1983 d 14, eff February 7, 1983  
See 14 N J R 1146(b), 15 N J R 158(b)

Decreased from six to five furlongs the length of race for three-year-olds Deleted reference to P L 1940 c 17 sec 29

### 13:70-18.7 Number of entrants; overnight race

If the number of entrants in an overnight race exceeds the number deemed safe and expedient by the stewards, the Racing Secretary shall reduce the number of starters to be the proper number by lot

### 13:70-18.8 List of eliminated horses

The Racing Secretary shall keep a list of horses thus eliminated from races, and they are to have precedence in any race of a similar distance and similar conditions for which they may be entered thereafter, when a horse's name appears in the entries and it is also entered for the following day, such entry will be given no consideration on the preferred list Preference must be claimed at time of entry, and the signed entry must indicate that preference was claimed The Racing Secretary will adjust no claims which do not comply with this procedure

### 13:70-18.9 The "also-eligible" list

If the entries in an overnight race exceed the acceptable number, as many as six of those that have not been drawn shall also be listed on the entry sheet as "also eligible" to start After any horses in the body of the race have been excused at scratch time, a new drawing shall be taken from the horses on the also eligible list, and their order of post position shall be determined by the sequence in which they are drawn The owner or trainer of any horse on the also-eligible list who does not wish to start shall so notify the Racing Secretary prior to scratch time on the day of the race

## SUBCHAPTER 19 OTHER OFFICIALS

### 13:70-19.1 Duties of clerk of the scales

The clerk of the scales shall weigh all jockeys in and out

### 13:70-19.2 Recording jockey changes and weights; notice

The clerk of the scales shall record and publish on the notice board all jockey changes, overweights and corrected weights, and shall promptly supply all racing officials with the pertinent changes

### 13:70-19.3 Post-race data reports

The clerk of the scales shall report to the Racing Secretary after each race the weights carried by each horse, together with the name of each horse's jockey and any overweight carried by any jockey He shall also report the post time, running time and all other data required

### 13:70-19.4 Infraction of rules; reports

The clerk of the scales shall report to the stewards any infraction of the rules in respect to weight, weighing or riding equipment

### 13:70-19.5 Riding engagements for jockeys

The clerk of the scales may make riding engagements for those jockeys who request him to do so No fee may be charged for his service in this respect

### 13:70-19.6 Assistance; jockey room custodian

The clerk of the scales may be assisted in his duties by the jockey room custodian

### 13:70-19.7 Duties; custodian

The custodian shall assist the clerk of the scales in any way that official requires

### 13:70-19.8 Conditions of jockey room

The custodian shall maintain order, decorum and cleanliness in the jockey room, and shall report to the stewards any irregularities that occur in his province

### 13:70-19.9 Admission to jockey room

The custodian shall see to it that no person, other than racing officials, representatives of the Racing Commission, and the necessary attendants, is admitted to the jockey room after two hours prior to post time of the first race without consent of the stewards

### 13:70-19.10 Overseeing jockey attendants

The custodian shall oversee the jockey attendants and shall see to it that no attendant not approved by the Racing Commission shall be permitted to assist any jockey at any time

### 13:70-19.11 Colors and jockey attire

The custodian shall oversee the care and storage of all racing colors, and shall see to it that jockeys are neat in appearance and properly attired whenever they leave the jockey room

### 13:70-19.12 Duties of paddock judge; generally

The paddock judge shall be in charge of the paddock and the entire saddling area

### 13:70-19.13 Identifying horses

It shall be the duty of the paddock judge and the horse identifier to check contestants for each and every race and to have all horses properly identified

**13:70-19.14 Record of equipment carried by horses**

The paddock judge shall keep a record of all equipment carried by all horses in races under his jurisdiction, permitting no unauthorized change in equipment

**13:70-19.15 Shodding of horses**

The paddock judge shall, in each race, require the plater in attendance to see to it all horses are properly shod

**13:70-19.16 Reporting irregularities**

The paddock judge shall report any irregularities to the stewards

**13:70-19.17 Patrol judge selections**

Each association shall appoint, subject to the approval of the Racing Commission, at least three patrol judges, whose stations shall be designated by the stewards. The association shall provide adequate direct communication between each station of the patrol judges and the stewards

**13:70-19.18 Reports; patrol judges**

The patrol judges shall be subject to the orders of the stewards, and they shall duly report to them all of their pertinent observations in each and every race, and shall report on same in writing if so requested by the stewards

**13:70-19.19 Placing judges' duties**

The placing judges shall occupy the placing judges stand at the time the horses pass the winning post, and their duty shall be to place and record six horses and as many more as they think proper in order of their finish in each race

**13:70-19.20 Displaying numbers of winning horses**

The placing judges shall properly display the numbers of the first four horses in each race in the order of their finish

**13:70-19.21 Majority decisions; placing judges**

When the placing judges differ in their placing, the majority shall prevail

**13:70-19.22 Determining finishing place; noses of horses**

In determining the places of the horses at the finish of a race, the placing judges shall consider only the relative position of the respective noses of such horses. In the event of an electrical or mechanical failure of the photo finish camera, or if a distorted, deceptive or otherwise inadequate picture is developed, the placing judges shall decide the order of finish and such decision shall be final

Amended by R 1988 d 560, effective December 5, 1988  
See 20 N J R 2038(b), 20 N J R 3025(b)  
Added text "In the event "

**13:70-19.23 Declaring race official**

The stewards shall communicate with the outriders after a race to determine if any claim of foul has been lodged by a jockey in the race. If the outriders report that there has been no claim of foul, the stewards may permit a "fast official" to be posted. The stewards shall notify the placing judges that a race is official and the placing judges shall promptly display the official sign

Repeal and New Rule, R 1990 d 534, effective November 5, 1990  
See 22 N J R 2403(a), 22 N J R 3385(c)

No provision for "fast official" was provided in former rule

**13:70-19.24 Official sign; corrections**

There shall be no alteration of placement after the sign "official" has been purposely displayed, but the placing judges with permission of the stewards may correct an error before the display of the official sign, or may recall the official sign if it has been displayed through error

**13:70-19.25 Filing copy of official placement**

The placing judges shall each day file with the Racing Commission, a copy of the official placement of the first six horses in each race, and shall supply to other officials such information in respect to the racing as the association may require

**13:70-19.26 Timer's duties**

There shall be one or more timers, who shall determine the official time of each race

**13:70-19.27 Electric timing**

When electric timing is used, the races shall also be timed otherwise

**13:70-19.28 Time announced and displayed**

The time of each race shall be announced and displayed

**13:70-19.29 Official time**

(a) The time recorded for the first horse to cross the finish line shall be the official time of the race

(b) However, in the event a horse establishes a track record in any race and it later develops that the chemical analysis of any sample taken indicates the presence of any medication which may have affected the performance of the horse, then such track record should be null and void

**13:70-19.30 Track superintendent's duties**

It shall be the duty of the track superintendent to supervise the upkeep of the course in its preparedness for training and racing

**13:70-19.31 Control over course**

The track superintendent shall exercise such control over the course as may be necessary to protect its condition and the rights of all parties entitled to its use.

**13:70-19.32 Sanitary conditions**

The track superintendent shall be responsible for sanitary conditions

**13:70-19.33 Preserving order**

It is the duty of the track superintendent to preserve order, enforce decorum, and prevent petty games of chance on the grounds of the association at such time as a meeting is not in progress. When a meeting is in progress, those duties shall fall upon the association security force

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"Police" changed to "security"

**13:70-19.34 Chief State Veterinarian, State Veterinarians and Associate State Veterinarian license**

The Chief State Veterinarian and Associate State Veterinarian shall be graduate veterinarians in good standing and licensed to practice under the laws of the State of New Jersey

As amended, R 1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)  
As amended, R 1978 d 269, effective August 1, 1978  
See 10 N J R 259(a), 10 N J R 403(c)

**13:70-19.35 Duties of Chief State, State and Associate State Veterinarians**

(a) The Chief State Veterinarian shall have the duty to supervise the activities of the various State Veterinarians and Associate State Veterinarians in the performance of their prescribed duties

(b) The State Veterinarian shall have full and complete control of the detention barn, and shall supervise all activities therein including the taking of pre-race and post-race blood and urine samples. Further, the State Veterinarian shall have assigned to him two or more Associate State Veterinarians who shall perform their duties and responsibilities under the supervision of the State Veterinarian. The Associate State Veterinarian shall, in general, familiarize himself with the racing condition of all entrants, and if in his opinion, any entrant is not in good condition to race, he shall immediately notify the stewards and the racing secretary

As amended, R.1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)  
As amended, R 1978 d 269, effective August 1, 1978  
See 10 N J R 259(a), 10 N J R 403(c)  
Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"Associated" changed to "Associate"

**13:70-19.36 Veterinarian's list**

The Associate State Veterinarian shall be present in the paddock before each race, and he shall inspect each entrant pursuant to specific veterinary medical procedures established by the State Veterinarian as approved by the Racing Commission. If, in his opinion, any entrant is not in condition to compete in that race, he shall immediately notify the stewards, who shall order the horse scratched out of the race. The horse automatically goes on the veterinarians list, and thereafter shall not be permitted to enter until the veterinarian notifies the racing secretary that the horse is again fit to compete

As amended, R 1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)

**13:70-19.37 Veterinarian's presence; reports**

The Associate State Veterinarian shall be attendant on the stewards and the racing secretary at scratch time each morning, and shall examine such horses as they request, and make reports to the said racing officials as promptly as possible

As amended, R 1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)  
As amended, R 1978 d 269, effective August 1, 1978  
See 10 N J R 259(a), 10 N J R 403(c)

**13:70-19.38 Other treatments by veterinarian**

The Chief State Veterinarian, State Veterinarian and Associate State Veterinarians shall not be permitted, during the period of their employment, to treat or prescribe for any horse, for compensation or otherwise, except in the case of emergency, in which case a report shall be made to the stewards

As amended, R 1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)  
As amended, R 1978 d 269, effective August 1, 1978  
See 10 N J R 259(a), 10 N J R 403(c)

**13:70-19.39 Testing specimens**

The State veterinarian shall obtain specimens from such horses as are designated by the stewards or the Racing Commission, and make such examinations and test as from time to time may be required by the stewards and the Racing Commission, costs of such tests to be borne by the association

**13:70-19.40 Unlicensed veterinarians**

(a) No owner or trainer shall employ any veterinarian who has not been duly licensed in accordance with the laws of the State of New Jersey

(b) Any licensed veterinarian desiring to practice at the race track of an association must be approved by the veterinarian representing the Racing Commission



(c) The association shall warn off all unlicensed veterinarians

#### 13:70-19.41 Veterinary reports

Upon the request of the Commission, a practicing veterinarian shall furnish the original treatment record(s) and copies of all pertinent objective data and papers, along with a key to any codes, abbreviations and non-English words appearing on such record, data and papers, to the Racing Commission or any duly authorized investigators. A veterinarian shall respond to the Commission's request in full within 24 hours of notification. Failure to comply with the foregoing may subject the practitioner to disciplinary action by the stewards.

Amended by R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

Section substantially amended

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Administrative correction

Amended by R 2003 d 257, effective July 7, 2003  
See 34 N J R 3923(a), 35 N J R 2941(a)

Rewrote the section.

#### 13:70-19.42 Medical equipment and supplies

(a) Veterinarians are required to keep under lock and with their complete control at all times, all medical equipment and supplies

(b) Veterinarians are further required to remove from the track associations premises all needles and syringes and any other equipment that might be reused

(c) Any veterinarian found guilty of violating this rule will be subject to fine and/or suspension by the stewards

#### 13:70-19.43 Veterinarians during racing hours

The racing association will be responsible to provide the services of a licensed veterinary practitioner for the period of one-half hour prior to the post time of the first race until one-half hour after the conclusion of the last race on the racing program

New Rule, R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

Repealed by R 1983 d 295, effective August 1, 1983  
See 15 N J R 685(a), 15 N J R 1256(a)

Section was "Bleeding and known bleeders"

New Rule, R 1991 d 260, effective May 20, 1991  
See 23 N J R 674(b), 23 N J R 1684(b)

### SUBCHAPTER 20 TRAINERS

#### 13:70-20.1 Trainer's license

Each trainer must obtain a license from the Racing Commission. Trainers not previously licensed in New Jersey may be required to submit to oral, written and barn tests for qualifications as may be prescribed by the stewards and/or the Racing Commission.

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)  
"Such" changed to "oral, written and barn" tests.

#### 13:70-20.2 Trainer representing owner

A licensed trainer may represent the owner in the matter of entries, declarations and the employment of jockeys.

#### 13:70-20.3 Trainer's actions pending application approval

The stewards may permit a trainer to conduct business pending action on his or her application.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Non-sexist language added

#### 13:70-20.4 Trainer and unlicensed owners

A trainer who represents an unlicensed owner may be permitted to file a temporary application, supplying as much information about the owner as possible.

#### 13:70-20.5 Presence of trainer

A trainer shall have his horse in the paddock at the time appointed, and shall be present to supervise its saddling, unless he has obtained permission from the stewards to be represented by a substitute.

#### 13:70-20.6 Absence of trainer; substitutes

When a trainer is to be absent from his or her stable or the grounds where his or her horses are racing, for a period of more than two racing days and horses are entered or are to be entered, he or she must provide a licensed trainer or his or her assistant trainer to assume the complete responsibility of the horses he or she is entering or running. Such licensed trainer shall sign in the presence of the stewards a form furnished by the Racing Commission accepting complete responsibility for the said horses being entered and running.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Non-sexist language added

#### 13:70-20.7 Trainer responsibilities; horses

A trainer is responsible for the condition of a horse trained by him.

#### Case Notes

Commission rules intended to place absolute responsibility upon the trainer in situations in which a horse has been administered a drug, trainer's suspension proper and not violative of due process, despite no finding of trainer's knowledge of drug or negligence. *Dare v State* 159 N J Super 533, 388 A 2d 984 (App Div 1978)

ALJ rejected the determination of the New Jersey Racing Commission imposing absolute liability on a horse trainer who was responsible for a horse whose blood and urine were found in standard testing to have tested positive for methamphetamine. The circumstances were unique: the laboratory that first tested the samples later admitted that the control samples themselves were contaminated; the technician who was alleged to have been responsible for the contamination had "retired" and was not available to be questioned; and the amount of methamphetamine found

in the blood and urine was 30 picograms in the blood and 12 nanograms in the urine, quantities that until a couple of years ago were too small for analysis, and such results were consistent with contamination, not with doping. *Sharp v. N.J. Racing Comm'n*, OAL DKT. NO. RAC 15587-17, 2019 N.J. AGEN LEXIS 94, Initial Decision (March 8, 2019).

Racing Commission should have imposed a fine of \$1000, not \$500, on a horse trainer after a blood test showed that a horse trained by her contained trace amounts of an anabolic steroid. *Hassig v. N.J. Racing Comm'n*, OAL DKT. NO. RAC 13878-16, 2017 N.J. AGEN LEXIS 794, Initial Decision (October 16, 2017).

Trainer's responsibility as absolute insurer of horse's condition justifies suspension even where someone with personal vendetta against trainer may have administered illegal substance to horse. *New Jersey Racing Commission v. Hirst*, 96 N.J.A.R.2d (RAC) 17.

### 13:70-20.8 Registering horses

A trainer shall register with the Racing Secretary all the horses in his charge, giving the name, age, sex, color, breeding and ownership of each.

### 13:70-20.9 Registering employees

A trainer shall register with the backstretch security every person in his or her employ, and it shall be his or her duty to see to it that his or her employees obtain licenses from the Commission. Trainers employing or harboring unlicensed or disqualified personnel may be subject to disciplinary action.

Amended by R 1990 d 127, effective February 20, 1990.  
See 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

"Racing Commission" changed to "backstretch security" and non-sexist language added.

#### Case Notes

Disciplinary regulation governing failure by licensed trainer to register suspended jockey as employee and employment of disqualified person did not violate equal protection. *Wendling v. New Jersey Racing Com'n*, 279 N.J. Super 477, 653 A.2d 582 (A.D. 1995).

Fine of \$500 was not excessive. *Wendling v. New Jersey Racing Com'n*, 279 N.J. Super 477, 653 A.2d 582 (A.D. 1995).

State racing commission had authority to discipline licensed trainer despite claimed application of exemption. *Wendling v. New Jersey Racing Com'n*, 279 N.J. Super 477, 653 A.2d 582 (A.D. 1995).

### 13:70-20.10 Horses owned by disqualified persons

A trainer shall not have under his supervision any horse owned, in whole or in part by a disqualified person, nor shall he assume responsibility for horses not under his active care and supervision, except as stated in section 6 of this subchapter.

### 13:70-20.11 Limitations on entering or starting

- (a) A trainer shall not enter or start a horse that
- 1 Is not in serviceable, sound racing condition,
  - 2 Is on the stewards, starters or veterinarians list in any racing jurisdiction,
  - 3 Is not in compliance with N.J.A.C. 13:70-14A.1,

4 Is blind, or has seriously impaired vision in both eyes,

5 Is a chronic known bleeder.

(b) Blocking of nerve functions via surgical neurectomy, cryogenic techniques, or any other desensitizing means, whether permanent or temporary, is defined as "nerving" and is subject to the following restrictions in New Jersey:

1 Only posterior digital "nerving" will be permitted on horses to be raced. The procedure must be performed posterior to the first phalanx at a level below the base of the sesamoid bones.

2 Horses that are "nerved" above the area specified in this subsection will not be permitted to race in New Jersey.

3 It shall be the responsibility of the trainer to report all "nerved" horses to the State Veterinarian or Associate State Veterinarian.

4 A list of all "nerved" horses shall be posted on the bulletin board at the entry room by the State Veterinarian.

Amended by R 1988 d 77, effective February 16, 1988.  
See 19 N.J.R. 1788(a), 20 N.J.R. 405(a).

Deleted (a)7 and added subsection (b).  
Amended by R 1994 d 130, effective March 7, 1994.  
See 25 N.J.R. 3101(a), 26 N.J.R. 1238(a).

#### Case Notes

Commission rules intended to place absolute responsibility upon the trainer in situations which a horse has been administered a drug, trainer's suspension proper and not violative of due process, despite no finding of trainer's knowledge of drug or negligence. *Dare v. State*, 159 N.J. Super 533, 388 A.2d 984 (App. Div. 1978).

#### Law Review and Journal Commentaries

Horse Drugging-The New Jersey Trainer Absolute Insurer Rule. *Luke P. Iovine, III, John E. Keefe, Jr.*, 1 Seton Hall J. Sport L. 61 (1991).

### 13:70-20.12 Licensed under legal name only

No trainer may be licensed as trainer other than in his legal name.

### 13:70-20.13 Trainer commissions

(a) A trainer's commission, in the absence of a contract between the owner and trainer addressing such fees or providing for no such fees, shall be 10 percent of an owner's share of winning purse to be deducted from an owner's account at the horsemen's bookkeeper's office. It shall be the responsibility of the owner to furnish the horsemen's bookkeeper, at the horsemen's bookkeeper's office, with written evidence of any existing contract concerning commission fees between said owner and trainer. Following receipt of such written evidence of an existing contract from the owner, the horsemen's bookkeeper shall not cause any deduction to be made from the owner's share of winning purse.

(b) In the event the owner fails to provide the horsemen's bookkeeper's office with written evidence of any existing contract for commission fees between said owner and trainer,

pursuant to (a) above, the owner may in writing certify to the horsemen's bookkeeper that a genuine and meritorious dispute exists with the trainer concerning commission fees due. In such case, the horsemen's bookkeeper shall not cause any deductions to be made from the owner's account on behalf of the trainer.

(c) The owner, trainer or agent thereof shall have no recourse against the horsemen's bookkeeper, or any agent thereof, for any acts or omissions in administering this rule.

(d) Nothing contained in this rule shall preclude the owner and trainer from entering into an agreement for the payment of fees due the trainer for services provided or expenses incurred.

New Rule, R 1994 d 135, effective March 21, 1994  
See 25 N J R 5107(b), 26 N J R 1355(a)

## SUBCHAPTER 21 OWNERS

### 13:70-21.1 Owner's license

Each owner must obtain a license from the Racing Commission. Owner includes sole owner, part owner or lessee. Where in the case of extenuating circumstances an owner may be unavailable to complete the license application, permission may be granted by the Racing Commission for the horses of said owner to be entered. The trainer for the owner in question will be required to promptly fill out a temporary application and pay all license fees.

### 13:70-21.2 Married woman as owner

An owner who is a married woman may be required to furnish to the Racing Commission the same information about her husband as she is required to furnish about herself.

### 13:70-21.3 Disqualification of spouse

Disqualification of either husband or wife applies equally to both, unless the spouse of the disqualified person shows to the satisfaction of the Commission that ownership and racing of his or her horses are independent of or not under the control or influence of the disqualified spouse.

### 13:70-21.4 Medication

An owner shall not knowingly enter, or cause to be entered, any horses having received a substance foreign to the natural horse which results in the horse not being in compliance with N J A C 13 70-14A 1 and/or N J A C 13 70-20 11.

Amended by R 1994 d 131, effective March 7, 1994  
See 25 N J R 3102(a), 26 N J R 1238(b)

### 13:70-21.5 Registering horses

An owner who changes trainers must see to it that his horses are properly registered under the new trainer's name.

### 13:70-21.6 Insurance; employees

All owners and trainers shall carry compensation insurance covering all their employees. This paragraph is intended to include all individuals employed by owners and trainers in the training and racing of horses. All concessionaires shall carry compensation insurance covering all their employees.

### 13:70-21.7 Licensed under legal name only

No owner may be licensed other than in his legal name.

### 13:70-21.8 Fines

The Commission may in its discretion, impose a fine against an owner and/or any participant in racing who seeks to be reinstated following suspension for failure to comply with the Commission rules governing licensing.

## SUBCHAPTER 22 AUTHORIZED AGENTS

### 13:70-22.1 License

Each authorized agent must obtain a license from the Racing Commission.

### 13:70-22.2 License Application

Application for a license must be filed for each owner represented.

### 13:70-22.3 Powers of attorney

If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license, then said application shall be in duplicate and one copy filed permanently with the Racing Secretary.

### 13:70-22.4 Changes

Any change must be in writing and filed as above provided.

### 13:70-22.5 License fees

The fee for each license shall be \$50.00 as set forth in N J A C 13 70-4 1. If an agent represents more than one owner, a separate written instrument shall be filed for each owner and the fee paid in each case.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

License fee increased from \$10.00 to \$25.00  
Amended by R 1993 d 43, effective January 19, 1993  
See 24 N J R 4021(a), 25 N J R 314(a)  
License fee revised

### 13:70-22.6 Owner's revocations

Owner's revocations must be filed in writing with the Racing Commission and with the Racing Secretary.

**13:70-22.7 Appointment of sub-agents**

An authorized agent may appoint a sub-agent only when authorized to do so by the above written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Racing Commission and the Racing Secretary. Application for a license must be filed for each sub-agency so created.

Amended by R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
"Application created" added

**SUBCHAPTER 23 DISCIPLINARY ACTION****13:70-23.1 Right to impose fines or suspensions**

No racing official other than the stewards and the starter shall have the right to impose a fine or suspension.

**13:70-23.2 Written reports**

A racing official imposing a fine or suspension shall report it promptly to the Racing Secretary in writing.

**13:70-23.3 Payment of fines**

All fines shall be paid to the horsemen's accountant within 48 hours after imposition.

**13:70-23.4 Collection of fines**

Fines collected by the horsemen's accountant shall be paid promptly to the New Jersey Racing Commission.

**13:70-23.5 Unpaid fines**

An unpaid fine may not be rescinded except with the approval of the Racing Commission.

**13:70-23.6 Power to punish; violations**

The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions or both for infractions.

**13:70-23.7 (Reserved)**

As amended, R 1981 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

**13:70-23.8 Persons and horses**

The stewards may suspend a person or disqualify a horse.

**13:70-23.9 Objectionable persons**

The stewards shall have the power to exclude from all premises and enclosures of the association any person who is disqualified for corrupt practices on the turf in any country, or so exclude any other improper or objectionable persons.

Amended by R 1990 d 127, effective February 20, 1990

See 21 N J R 3856(b), 22 N J R 663(b)  
Reference to ejection deleted

**SUBCHAPTER 24. STEEPLECHASING****13:70-24.1 Jurisdiction**

Steeplechases (includes any form of jumping race) shall be conducted in conformity with the rules herein established insofar as they can be consistently applied. To the extent that they cannot be so applied, modification thereto may be made by the stewards in accordance with the rules of the National Steeplechase and Hunt Association, but the jurisdiction of steeplechasing at a meeting shall be vested solely in the Racing Commission.

**13:70-24.2 Penalties**

Penalties incurred or allowances due to steeplechase or hurdle races shall not apply to races on the flat, or vice versa.

**13:70-24.3 Claiming races**

In claiming races over jumps and hurdles, any horse is subject to claim for its entered price by any owner who has started a horse in a steeplechase or hurdle race at the meeting at which the claim is made. Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
"any licensed individually" added

**SUBCHAPTER 25 DEAD HEATS****13:70-25.1 Running off dead heats prohibited**

When two or more horses run a dead heat, the dead heat shall not be run off.

**13:70-25.2 Division of purse money**

The owners of the horses in a dead heat shall divide equally the purse money involved.

**13:70-25.3 First place; dead heats**

If a dead heat is for first place, each horse shall be considered a winner of the amount received.

**13:70-25.4 Drawing lots**

Owners shall divide equally all moneys and other prizes, and if no agreement can be reached as to which of them shall receive a cup, plate or other indivisible prize, they shall draw lots for it in the presence of one or more of the stewards.

**13:70-25.5 Jockey fees**

In a dead heat for first place, the jockeys involved shall each receive 10 percent of the purse money awarded to the owner by whom he is engaged. In all other dead heats, the jockeys involved shall divide equally the sum total of the fees they would have received individually had one beaten the other. Likewise, the owners of the horses involved shall pay their equal share of the jockey fees.

As amended, R 1978 d 132 effective April 19, 1978  
See 9 N J R 540(a), 10 N J R 295(b)

**SUBCHAPTER 26 PRODUCE RACES****13:70-26.1 Naming entries**

In naming an entry for a produce race, the produce is entered by specifying the dam and sire or sires.

**13:70-26.2 Mares**

If a mare entered in a produce race drops her foal before January 1, or if she has a dead foal, or is barren, the entry of such mare is void.

**13:70-26.3 Return of entrance money**

Entrance money shall be returned if the nominator or transferee notifies the association of proper grounds for voiding an entry in a produce race, in advance of the date specified for such notice in the conditions of the race.

**13:70-26.4 Weight allowances**

Weight allowances for the produce of untried horses must be claimed at the time of entry, and said allowances are not lost by subsequent winnings, unless so provided by the conditions of the race.

**13:70-26.5 Failure to register foal**

Failure to register a foal shall not exempt the nominator from any liability he may incur under the rules.

**13:70-26.6 Nominator liability**

The nominator in produce races, or races in which nominations of foals are made, shall be released from further liability with regard to the entry by filing an acceptable transfer of entry prior to the declaration date stated in the conditions of the race.

**SUBCHAPTER 27 VENDORS****13:70-27.1 Licenses**

All persons, including the employees and agents thereof, who engage in the profession or business of selling, at retail or wholesale, or otherwise disposing thereof, of any kind of merchandise, equipment, drugs or medication for animals or

humans, or pharmaceutical horse food or nutrient of any kind, providing that such substances, or the sale or disposition thereof is not otherwise prohibited by law, shall be licensed by and be subject to the jurisdiction of the Racing Commission. All applicants for vendor license shall be recommended by the director of security of the track where application for license is made.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
"Security officer" changed to "director of security"

**Case Notes**

Failure to disclose prior criminal convictions, licensure as a racetrack vendor. *Stowman v New Jersey Racing Commission*, 94 N J A R 2d (RAC) 1

**13:70-27.2 Labelling drugs and medication**

All drugs, medications, pharmaceutical products and any other substances of a similar nature possessed or used within the grounds of a racing association shall at all times bear appropriate labelling displaying the contents thereof.

**SUBCHAPTER 28 WINNINGS****13:70-28.1 Computation of value of winnings**

(a) The value of a race to a winner shall be computed by deducting from the sum total of the prize money

- 1 The amount of the winner's fee,
- 2 The money payable to other horses or persons (except jockey's fees) thus arriving at net money winnings.

**13:70-28.2 Stake races**

The winnings of a horse in a stake race shall be computed on the value of the gross earnings.

**13:70-28.3 Net moneys won**

Winnings shall include all net moneys won in all countries, up to the time appointed for the start, including walkovers and forfeits, but not second and third money nor the value of a prize not in money.

**13:70-28.4 Calendar year**

Winnings during a year shall be reckoned from January 1 of that year.

**13:70-28.5 Winner or nonwinner of money**

Winner or nonwinner of a specified sum means winner or nonwinner of a single race of that value to the winner, unless otherwise stated.

**13:70-28.6 Series of races**

In computing the value of a series of races in which an extra sum of money is won by the winning of two or more races

of the series, the extra amount shall not be included in the horse's winnings until the series, or that part of it, is finished and hence the extra amount is definitely ascertainable. When ascertained, it shall be added to the race which determined the extra amount.

#### 13:70-28.7 Foreign winnings

Foreign winnings shall be estimated on the basis of the normal rate of exchange prevailing on the day of the winning.

#### 13:70-28.8 Entrance money and fees

The entrance money, starting and subscription fees, in every race, shall go to the winner, unless otherwise provided in its conditions.

#### 13:70-28.9 Horse registration

To be eligible to start in races exclusively for horses foaled in New Jersey, each horse must be registered with the Thoroughbred Breeders Association of New Jersey. To qualify for such registration the said horse must have been dropped by a mare in the State of New Jersey.

#### 13:70-28.10 Where is horse bred

A horse is bred where it is foaled. The breeder is the owner of the dam at the time of foaling.

#### 13:70-28.11 Horse registration rules; authority

The Thoroughbred Breeders Association of New Jersey shall make rules for the registration of horses foaled in New Jersey.

#### 13:70-28.12 Appeal; horse registration

Any owner or breeder may appeal from the refusal of the Thoroughbred Breeders Association of New Jersey to register a horse under this rule to the New Jersey Racing Commission, and the decision of the Commission shall be final.

### SUBCHAPTER 29 MUTUELS

#### Subchapter Historical Note

Petition for Rulemaking Allowing of two forms of pari-mutuel wagering 37 N.J.R. 1895(a)

Petition for Rulemaking Mutuels 37 N.J.R. 2261(b)

#### 13:70-29.1 Supervisor of mutuels

(a) The supervisor of mutuels shall be a Certified Public Accountant of the State of New Jersey. He shall be appointed by the Commission and a rate of compensation set by the Commission that is to be paid weekly by the track association where he serves.

(b) The supervisor of mutuels shall be represented daily in the mutuel department supervising its operation, determining

calculations, overpays and underpays and directing the necessary adjustments to the race totals.

(c) He shall investigate all tote and other discrepancies and shall see that corrections are made where warranted.

(d) He shall check the machine computation of all daily double, exacta and any other multiple wagering pool.

(e) He shall review all necessary computer sheets and have the State-appointed verifiers test check the machine calculations of the pay out, breaks, commission and prove each race pool.

(f) He shall prepare a daily summary result from the pari-mutuel operations and submit his findings to the Racing Commission. He shall also prepare a seven day financial report and a seven day comparative statistic report for submission to the Commission.

(g) He shall, on a daily basis, reconcile the pari-mutuel department daily sales and the track association treasurer's statement with the Racing Commission daily summary of results from pari-mutuel wagering.

(h) He shall check on the sellers and cashiers employed by the mutuel department to determine if they are over or short. Any material overages or shortages shall be investigated and reviewed with the director of mutuels and a full report made to the Racing Commission.

#### 13:70-29.2 Post time

Post time of each race shall be set by the manager of the pari-mutuel department, and shall not be changed after being posted on the odds-board without permission of the stewards.

#### 13:70-29.3 Public notice

Public notice shall be given at the earliest practicable time if a published race is declared off.

#### 13:70-29.4 Number of entrants

If the number of entrants in an overnight race exceeds the number deemed safe and expedient by the stewards, the racing secretary shall reduce the number of starters to the proper number by lot.

#### 13:70-29.5 List of eliminated horses

The racing secretary shall keep a list of horses thus eliminated from races, and they are to have precedence in any race of a similar distance and similar conditions for which they may be entered thereafter, when a horse's name appears in the entries and it is also entered for the following day, such entry will be given no consideration on the preferred list. Preference must be claimed at time of entry, and the signed entry must indicate that preference was claimed. The racing secretary will adjust no claims which do not comply with this procedure.

**13:70-29.6 Also eligible list**

If the entries in an overnight race exceed the acceptable number, as many as six of those that have not been drawn shall also be listed on the entry sheet as "also eligible" to start. After any horses in the body of the race have been excused at scratch time, a new drawing shall be taken from horses on the also-eligible list, and their order of post position shall be determined by the sequence in which they are drawn. The owner or trainer of any horse on the also-eligible list who does not wish to start shall so notify the racing secretary prior to scratch time on the day of the race.

**13:70-29.7 Dissemination of racing information**

The Racing Commission may in its discretion agree not to make available and direct the track associations not to make available to outside sources, information such as the name of jockeys, scratches, substitute races, track conditions, whether races are to be run on the turf or regular course, morning line information, equipment changes, weight and any other information it may deem advisable, in order to curtail the illegal activities of bookmakers and to prevent other states from using the results of races run in New Jersey as part of such other state's off-track betting scheme.

**13:70-29.8 Odds board**

Each association must maintain an approximate odds board for the purpose of informing the public of the actual wagering on each horse as disclosed by an accurate take-off of the straight pool at the time such odds are posted, and also a final line or flash after the close of wagering, which shall show the final odds on each horse before the finish of the race. (No quotation or line shall exceed a total of 129 percent.)

As amended, R 1979 d 274, effective July 18, 1979  
See 11 N J R 296(b), 11 N J R 401(b)

**13:70-29.9 Lines**

A copy of the opening line and all additional lines of odds, with percentages figured, as well as amounts of money wagered in the straight pool on each horse at the time each additional line of odds is posted, including the final line, shall be furnished and delivered by the association, immediately following each race, to the supervisor of mutuels duly appointed by the Racing Commission, as its representative in the mutuel department, under authority of the racing law.

**13:70-29.10 Payoff prices**

(a) The mutuel manager is held responsible for correctness of all pay-off prices posted on the board.

(b) Before the mutuel department of any race track posts the pay-off prices of any pool for any race, the mutuel manager shall require each of the (calculating sheets) computer print-out sheets of such race to be proven by the (calculator) computer and the winners verified. Such proof

shall show pay, breaks, commission, and added together shall show they equal total pool.

(c) All pay-slips are to be checked in (calculating sheet) computer print-out sheet as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the (calculator) computer print-out sheet before they are released to the public.

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)  
Corrected punctuation

**13:70-29.11 (Reserved)**

As amended, R 1981 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

**13:70-29.12 Ticket sales**

No ticket may be sold after the totalisator has been locked or wagering has ceased.

**13:70-29.13 Ticket claims**

(a) Any claim by a person that a wrong ticket has been delivered to him must be made before leaving the mutuel ticket window.

(b) No claim shall be considered thereafter and no claim shall be considered for tickets thrown away, lost, changed, destroyed or mutilated beyond identification.

(c) Payment of wagers will be made only on presentation of appropriate pari-mutuel tickets.

Petition for Rulemaking  
See 35 N J R 278(b), 896(c)  
Petition for Rulemaking  
See 36 N J R 4999(a), 5976(a)

**Case Notes**

Race track patron could not receive payment for a winning horse race ticket that was allegedly stolen even if he could prove he purchased it. *Ryan v. New Jersey Racing Com'n*, 336 N J Super 237 (A D 2001)

**13:70-29.14 Emergencies**

Should any emergency arise in connection with the operation of the pari-mutuel department not covered by these rules and an immediate decision is necessary, the manager of the pari-mutuel department shall make a good faith effort to contact and consult with the supervisor of mutuels prior to making the decision, and render a full report to the Racing Commission.

As amended, R 1981 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)  
Substantially amended

**13:70-29.15 Advice; horses competing**

The manager of the pari-mutuel department shall be properly and timely advised by the stewards, prior to the beginning of wagering on each race, of the horses that will compete in the race.

**13:70-29.16 Post time schedule**

Post time of each race shall be set by the manager of the pari-mutuel department, and shall not be changed after being posted on the odds-board without permission of the stewards

**13:70-29.17 Entry defined**

When two or more horses run in a race, and are coupled because of common ties, they are called an "entry" and a wager on one of them shall be a wager on all of them

**13:70-29.18 Field defined**

When the individual horses competing in a race exceed the numbering capacity of the tote, the highest numbered horse within the capacity of the tote and all horses of a higher number shall be grouped together and called the "field" and a wager on one of them shall be a wager on all of them

**13:70-29.19 Elimination of wagering**

(a) With the approval of the Racing Commission, or its designee, race tracks will be permitted to eliminate place and show wagering on any particular horse or entry in any race. Among the factors to be considered will be the quality of the horse or horses for which the elimination of wagering is sought compared to the quality of the other horses in the race. The request to eliminate place or show wagering shall be made prior to the printing of the program. Once the program is printed, elimination of wagering will not be permitted unless the following occurs

1 If less than six wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate show wagering on that race

2 If less than five wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate both place and show wagering on that race

3 If two or less wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate wagering on that race

(b) The decision to eliminate wagering in (a)1 through 3 above shall be made prior to the opening of mutuel windows for that day's business unless there is a change in the number of wagering interests qualified to start. If a change in the number of wagering interests qualified to start occurs after wagering has begun, the decision to eliminate wagering shall be made immediately at the time the number of wagering interests qualified to start changes

(c) New Jersey racetracks, casino simulcast facilities and the account wagering system may adjust the pari-mutuel pools to eliminate certain forms of wagering on all interstate simulcasts consistent with the pari-mutuel decisions made by the sending track associations in conformance with that state's rules and regulations. Notice of the decision to make

adjustments shall be provided to the Racing Commission or its designee prior to accepting wagers on the event

(d) New Jersey racetracks, casino simulcasting facilities and the account wagering system may adjust the pari-mutuel pools to eliminate certain forms of wagering on all interstate simulcasts which are being offered by an interstate simulcast facility provided there is a written contractual agreement between the New Jersey racetrack, casino simulcasting facility or the account wagering system and the out-of-State venue, allowing the elimination of said wagering pool(s). Notice of the decision to eliminate any wagering pool(s) offered by an interstate simulcasting sending facility shall be provided to the Racing Commission or its designee prior to the printing of the program. Once the program is printed, elimination of wagering will only be permitted consistent with (a) and (b) above

(e) In all cases where wagering is eliminated, race tracks shall inform the public through notification in the program, advertisements, public address system or any other means available

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

(a)4 changed (a)5 deleted

Amended by R 1990 d 184, effective April 2, 1990

See 21 N J R 3254(a), 22 N J R 1149(a)

Prohibits place and show wagering on particular horses

Amended by R 2006 d 224, effective June 19, 2006

See 38 N J R 1393(a), 38 N J R 2725(a)

Substituted "racetracks, casino simulcast facilities and the account wagering system" for "race tracks" in (c), added present (d), recodified former (d) as (e)

**13:70-29.20 Cease wagering**

Wagering shall cease not later than off-time

**13:70-29.21 Ticket-issuing machines closed**

(a) If, for any reason, the pari-mutuel ticket issuing machines are closed during the wagering on a race before off-time, they shall remain closed until after the race

(b) Wagering shall cease on that race, and the payoff for that race shall be computed on the sums then wagered in each pool

(c) In the event the machines are inadvertently closed through some human error, said machines shall be opened only by permission of the stewards

As amended, R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

**13:70-29.22 Name and numbers of horses in gate**

If a horse or horses are locked in the gate, the stewards shall promptly notify the manager of the pari-mutuel department of the name and number of said horse or horses



**13:70-29.23 Written notice of official placement**

At the end of each race, the placing judges shall advise the manager of the parimutuel department in writing of the official placement of the horses, and no payoff shall be made until the receipt of such written notice

**13:70-29.24 Basis of payoffs**

Whenever the totalisator falls mechanically, or whenever there is a difference in any pool or pools between the sum total of the wagers on the individual horses as compared with the grand total shown by the totalisator, the association shall compute the pay-off to the public on the basis of the larger of

the two amounts (i.e., the sum total of the wagers on the individual horses or the grand total as shown by the totalisator)

As amended, R 1979 d 274, effective July 18, 1979  
See 11 N J R 296(b), 11 N J R 401(b)

**13:70-29.25 Recapitulation of sales**

All monies remaining undistributed following the calculation of all pools shall be paid to the State

As amended, R 1979 d 274, effective July 18, 1979  
See 11 N J R 296(b), 11 N J R 401(b)



**13:70-29.26 Errors in pay-off figures**

(a) If an error is made in posting the pay-off figures on the public board, it shall be corrected promptly and only the correct amounts shall be used in the pay-off irrespective of the error on the public board

(b) If because of mechanical failure, it is impossible to promptly correct the posted pay-off, a statement shall be made over the public address system stating the facts and correction

Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

In (a), "of" corrected to "on" the public board

**13:70-29.27 Overpays or underpays**

Overpays caused by errors of the totalisator shall be paid by the totalisator company

As amended, R 1979 d 274, eff July 18, 1979  
See 11 N J R 296(b), 11 N J R 401(b)

**13:70-29.28 Mechanical breakdowns**

(a) In the event of an irreparable breakdown of the totalisator, or the ticket issuing machines, or both, during the wagering on a race, the wagering for that race shall be declared closed

(b) The pay off for that race shall be computed on the sums wagered in each pool up to the time of the breakdown

(c) In the event of any totalisator malfunction requiring the totalisator company to purchase any non-issued ticket "lost" in the totalisator computer, the totalisator company shall be permitted to credit losing tickets so purchased to the extent of winning tickets similarly purchased. The proceeds of such winning tickets which exceed any credit for losing tickets shall revert to the State

As amended, R 1982 d 183, eff June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

(c) added

**13:70-29.29 Refunds**

(a) In all cases when a horse has been excused by the stewards after wagering has started, but before off-time, all money wagered on the horse so excused shall be deducted from the pool and be refunded

(b) If a horse is left at the post at off-time there shall be no refund, but if one horse or more is prevented from leaving the post at off-time because of being locked in the gate, the money wagered on said horse or horses so locked in the gate shall be deducted from the pool and be refunded

(c) If no horse finishes in a race, all money wagered on that race shall be refunded

(d) If two or more horses in a race are coupled on the same mutuel ticket, there shall be no refund unless all of the horses so coupled are excused before off-time, or all of the horses so coupled are locked in the gate. Discretion is, however, vested in the stewards to order a refund wherein a part of an entry in a stake, handicap or futurity is excused before off-time where it is in the public interest to do so. In such an instance, the remaining part of the entry shall race for the purse only

(e) In the case of a race postponed beyond the day originally scheduled, as provided for in N J A C 13 70-6 50, all money wagered on said race shall be refunded

(f) If a race is declared off by the stewards after wagering begins on that race, all money wagered on that race shall be refunded

(g) In the event track conditions require a turf race to be moved to the main track, advance wagers shall be refunded at the request of the bettor up until post-time of the race immediately preceding the scheduled turf race. This does not apply to Super-Six wagers

New Rule, R 1987 d 120, effective March 2, 1987

See 18 N J R 2368(a), 19 N J R 409(d)

Old rule "Excused horses, refunds" has been repealed

**13:70-29.30 through 13:70-29.34 (Reserved)**

As amended, R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

Added text in 29 32 "Discretion is, purse only"

Repealed by R 1987 d 120, effective March 2, 1987

See 18 N J R 2368(a), 19 N J R 409(d)

Repeal of sections 29 30 through 29 34

**13:70-29.35 No wagers to win**

If a horse wins and there is not money wagered on him to win, the straight pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise, among holders of the show tickets

**13:70-29.36 Place pool apportionment**

If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which has placed first or second

**13:70-29.37 Show pool apportionment**

If no money has been wagered to show on a horse which placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race

**13:70-29.38 One horse finishing race**

If only one horse finishes in a race, the place and show pools shall be apportioned among the holders of place and show tickets on that horse

**13:70-29.39 Two horses finishing race**

If only two horses finish in a race, the show pool shall be apportioned among the holders of show tickets on those two horses

**13:70-29.40 Rulings after display of official sign**

Any ruling of the stewards with regard to the award of purse money made after the sign "Official" has been purposely displayed by the placing judges shall have no bearing on the mutuel pay-off

**13:70-29.41 Copies of reports**

The manager of the pari-mutuel department shall furnish a copy of all (take-off) computer print-out and calculating sheets to the supervisor of mutuels immediately after completion

**13:70-29.42 Payments**

(a) Payments due on all wagers shall be made in conformity with the well established practice of the pari-mutuel system known as the "gross pool pricing" method as defined in N J A C 13 70-2 1, Definitions However, with the prior approval of the Commission, payments due on all wagers may be made in conformity with the "net pool pricing" method as defined in N J A C 13 70-2 1

1 The Racing Commission shall consider such applications on a case by case basis in the best interest of racing before granting approval for a change in the method of payment

2 The Racing Commission may approve or disapprove, at a public meeting, applications from permitholders for a change in the method of calculating payments All requests must be filed with the Racing Commission a minimum of 30 days prior to a scheduled public meeting and must include the reason and supporting justification for the request

3 The application shall include a certification from the totalisator company confirming the method of calculation has been successfully programmed, tested and conforms with the permitholder's rules of the wager in all respects

4 The application shall include a description by the permitholder of notification provided to the public explaining the impact of net pool pricing

(b) Money wagered on winning tickets is returned in full plus the profits

(c) The practice is to work in dollars and not in the number of tickets

(d) The break permitted by law is deducted in all of the calculations arriving at the pay-off prices, that is, the odd cents over any multiple of ten cents of winnings per dollar

wagered are deducted and retained by the licensee, to be paid to the State

(e) Unless contingencies arise not covered herein, the practice shall be as follows

Amended by R 2007 d 324, effective October 15, 2007  
See 39 N J R 2587(a), 39 N J R 4409(a)

Rewrote the introductory paragraph of (a), and added (a)1 through (a)4

**13:70-29.43 Calculating the pay-off in a straight pool**

(a) The Commission authorized by law is deducted from the sum total wagered in the straight pool The balance is called the "net pool "

(b) The amount wagered on the winner is then divided into the "net pool " The quotient thus obtained is the pay-off price on the winner for each dollar wagered, and it includes the dollar wagered on the winner

**13:70-29.44 Calculating the pay-off in a place pool**

(a) The Commission authorized by law is deducted from the sum total wagered in the place pool The balance is called "net pool "

(b) The sum total of the amount wagered in the place pool on the horses placed first and second is deducted from the "net pool " This gives a remainder which is the profits or winnings The said profit is divided into two equal parts, that is, between those who wagered, in the place pool, on the winner and those who wagered on the horse that was placed second

(c) Using the amount wagered in the place pool on the winner "to place" as a divisor and one-half of the profits of the place pool, as specified in subsection (b) of this Section, as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the winner "to place "

(d) Using the amount wagered in the place pool on the horse placed second "to place" as a divisor and the other half of the profits, as specified in subsection (b) of this Section, as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the second horse "to place "

(e) In each of the subsections (c) and (d) of this Section the profit per dollar wagered is the resultant The sums wagered on the horses placed first and second must be returned, therefore, add to the quotient the dollar taken out of the "net pool" in subsection (b) above The result is the pay-off price for each dollar wagered on horses placed first and second in the place pool

**13:70-29.45 Calculating the pay-off in a show pool**

(a) The Commission authorized by law is deducted from the sum total wagered in the "show pool " The balance is called the "net pool "

(b) The sum total of the amount wagered in the show pool on the horses, placed first, second and third is deducted from the "net pool" This gives a remainder which is the profit, or winnings. The said profit is divided into three equal parts, that is, among those who wagered in the show pool on the winner, the second horse and the third horse.

(c) Using the amount wagered in the show pool on the winner "to show" as a divisor and  $\frac{1}{3}$  of the profits of the show pool, as specified in subsection (b) of this Section, as a dividend, the quotient thus obtained is the profit per dollar wagered in the show pool on the winner "to show."

(d) Using the amount wagered in the show pool on the horse placed second "to show" as a divisor and one-third of the profits, as specified in subsection (b) of this Section, as a dividend, the quotient thus obtained is the profit per dollar in the show pool wagered on the second horse "to show."

(e) Using the amount wagered in the show pool on the horse placed third "to show" as a divisor and one-third of the profits, as specified in subsection (b) of this Section, as a dividend, the quotient thus obtained is the profit per dollar in the show pool wagered on the third horse "to show."



(f) In each of the subsections (c), (d), (e), of this Section the profits per dollar wagered is the resultant. The sums wagered on the horses placed first, second and third must be returned, therefore add to the quotient the dollar taken out of the "net pool" in subsection (b) of this Section. The result is the pay-off price for each dollar wagered on horses placed first, second and third in the show pool.

#### 13:70-29.46 Calculating the pay-off in dead heats

(a) In the case of a dead heat in the straight pool, the pay-off price shall be figured as in a place pool.

(b) In the case of a dead heat for second in the place pool, the winner of the race receives its half share of the profits in that pool, and each of the two horses that dead heat for second receive one-half of the remaining half of the profits.

(c) In the case of a dead heat for third or "show" in the show pool, the first and second horses each receive a normal one-third of the profits in that pool, and the two horses that dead heat for third each receive one-half of the remaining third of the profits.

(d) Where two or more horses racing for one interest or field horses participate in dead heats, each horse of the entry of field is entitled to his proportionate share of the profits in the pool in which the dead heat occurs and the other pools affected. For example, where two horses of an entry or field "dead heat" for straight, the straight and place prices are calculated as straight pools, and the entry is entitled to two-thirds of the profits of the show pool.

(e) Where two or more horses of an entry or field figure in a dead heat, or multiple dead heats in one race, each horse of the entry or field participating gets his proportionate award of the profits in whatever pool, or pools, are affected by the dead heat or dead heats. The sum of the total profits, in each pool, for the entry or field is then used as a dividend to calculate the pay-off price for said entry or field in that pool.

#### 13:70-29.47 Exacta

(a) No exacta wagering shall be conducted without permission of the New Jersey Racing Commission. The races in which exacta type pari-mutuel wagering will be permitted shall be only those designated by the Commission and separate pools shall be established therefor.

(b) In order to win an exacta, it is necessary for the purchaser of an exacta ticket to select the winning horse and the horse finishing second in the race in which exacta type wagering is permitted. If either of the selections made by the purchaser fails to finish in the position designated by the purchaser when purchasing the exacta ticket, then the contract is void except as hereinafter provided.

(c) Should there be a dead heat for the first place in an exacta race, holders of tickets on those two horses involved, and only those two horses, will share in the exacta pay-off. Should there be a dead heat to place, both horses involved shall share in the pool with the winner of the exacta race.

(d) If no ticket is sold combining the two winners of the exacta, the pool shall then be apportioned equally between those having tickets including the winner of the race and those having tickets including the horse finishing second in the race in the same manner in which a place pool is calculated.

(e) In the event any horse or horses in the exacta should be excused by the racing official after the horses shall have left the paddock for the post, or after the betting on the exacta has been closed, or should any horse or horses in the exacta be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the exacta pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused from racing.

(f) Entries shall be allowed in an exacta race. "Fields" are permitted in an exacta race. If two or more horses in an exacta race are listed as "field" on the same totalisator ticket, there shall be no refunds, unless all the horses so listed are excused before off-time.

(g) In exacta races with a coupled entry or mutuel field, the numbers of the first two horses in order of finish as made official shall constitute the winning exacta combination except that where two or more of these horses are part of the same coupled entry or mutuel field, only the best finishing position attained by the coupled entry or mutuel field shall be considered for exacta payoff purposes and the next best finishing horse or horses, not part of the same coupled entry or mutuel field, shall be determined to comprise the winning exacta combination. Should any horse not part of any coupled entry or mutuel field finish in a dead heat for second place with a horse that is part of the same coupled entry or mutuel field as the first-place finishing horse, the winning exacta combination shall consist of the first-place coupled entry or mutuel field with said dead heated horse.

Amended by R 1979 d 274, effective July 18, 1979  
See 11 N J R 296(b), 11 N J R 401(b)  
Amended by R 1995 d 659, effective December 18, 1995  
See 27 N J R 3762(b), 27 N J R 5032(b)

#### 13:70-29.48 Daily double

(a) Before off-time of the second half of the daily double there shall be posted on the public board, readable from the stands, the pay-off of each combination coupled with the winner of the first half of the daily double.

(b) In the event of a dead heat for the straight pool in the first half of the daily double, in the event of a consolation pool, it shall not be deemed necessary to compute and post the actual pay-off prices on all the various combinations of the daily double before the running of the second half of the double. However, an effort should be made to compute the double prices and to announce them to the public over a loudspeaker system prior to the running of the second half of the double.

(c) The daily double is not a parlay. All tickets on the daily double will be calculated in an entirely separate pool.

(d) The principle of a daily double is in effect a contract by the purchaser of a daily double ticket to pick (select) the winners of each of the two races specified for the daily double.

(e) If the purchaser of a daily double ticket fails to pick the winner of the first half of the daily double, his contract is void, unless circumstances occur as described in (m), (n), (o) and (p) below. If these conditions do not apply, then irrespective of what happens to the horse selected in the second half of the daily double, there is no refund because the patron has failed to fulfill the first half of the contract which is to pick the winner of the first half of the daily double.

(f) If a horse in the first half of the daily double is excused by the stewards before off-time, all money wagered on any horse or horses so excused shall be deducted from the daily double pool and be refunded to the purchaser or purchasers of tickets on the horse or horses so excused.

(g) In the event a horse is excused in the second half of the daily double after the first race is official, all daily double tickets combining the scratched horse with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second half of the daily double. The total pay-off of all tickets combining the winner of the first race of the daily double with the scratched horse in the second half of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(h) After off-time, there shall be no refund in either of the above cases, provided for in (f) and (g) above.

(i) For the purpose of figuring the daily double, when horses are locked in the gate they shall be considered as having been excused by the stewards, and (f) and (g) above shall be enforced.

(j) If, for any reason, the first race of a daily double is canceled or declared a "no contest," a full and complete refund will be made of the daily double pool. If, for any reason, the second race of a daily double is canceled or declared a "no contest," the daily double pool shall be distributed to the holders of the daily double tickets on the winner of the first race in the same manner as the straight pool of the first race is distributed, except as to the amount of distribution, which shall be controlled by the amount bet in the daily double pool.

(k) When the condition of the turf course warrants a change of racing surface and such change has not been made known to the betting public prior to the close of wagering for the daily double pool, the stewards shall declare the race a "no contest" for daily double wagering purposes and the pool shall be distributed in accordance with (j) above.

(l) Except for the contingencies stated below the daily double is calculated in the same general manner as the straight pool.

(m) If no ticket is sold combining both winners of the daily double, the net pool shall then be apportioned between those having tickets including the winner of the first race of the daily double and those having tickets including the winner of the last race of the daily double and shall be calculated and distributed as a place pool.

(n) If no ticket is sold including the winner of the first race of the daily double, then the entire net pool will be paid to the holders of tickets which include the winner of the last race of the daily double.

(o) If no ticket is sold including the winner of the last race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the first race of the daily double.

(p) If no ticket is sold including a winner of either race of the daily double, then the entire net pool will be paid to the holders of tickets which include the horses finishing second in the two races of the daily double.

(q) If either race of the daily double results in a dead heat, the pay-off will be figured the same as a place pool, that is: First, the regulation commission is deducted, then the total amount wagered on the winning combination is deducted, leaving the profit which is divided equally between holders of the winning combinations.

Amended by R 1981 d 32, effective February 2, 1981  
See 13 N J R 150(f)

(a) "No more than two" was "only one"  
Amended by R 1981 d 490, effective December 21, 1981  
See 13 N J R 521(a), 13 N J R 947(a)

(d) "entries or" deleted before "field horses"  
Amended by R 1990 d 127, effective February 20, 1990  
See 21 N J R 3856(b), 22 N J R 663(b)

Correction in (c)



Amended by R 1991 d 491, effective October 7, 1991

See 23 N J R 2003(a), 23 N J R 3033(a)

In (g), eliminated contradictory language and clarified the proper way to calculate the pay off in a daily double

Amended by R 1992 d 86, effective February 18, 1992

See 23 N J R 3431(a), 24 N J R 647(a)

Deleted (d), recodified (e)-(r) as (d)-(q)

Petition for Rulemaking

See 35 N J R 279(a), 897(a)

Amended by R 2003 d 486, effective December 15, 2003

See 35 N J R 3459(a), 35 N J R 5547(c)

Rewrote the section

Amended by R 2003 d 487, effective December 15, 2003

See 35 N J R 3460(a), 35 N J R 5548(a)

Rewrote the section

Administrative correction

See 36 N J R 531(a)

### 13:70-29.49 Quimiela

(a) The principle of a quimiela is, in effect, a contract by the purchaser of a quimiela ticket to select the first two horses to finish in a race. The order in which the horses finish is immaterial. The quimiela is not a "parlay" and has no connection with or relation to win, place or show betting, and will be calculated in an entirely separate pool.

(b) Entries shall be allowed in a quimiela race.

(c) In cases of a dead heat between two horses for first place, the combination shall be the winner of the quimiela pool.

(d) In case of a dead heat between two horses for second place, the pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two horses finishing second participating in the payoff.

(e) In case of a dead heat for second place, and no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the winning combination.

(f) If no ticket is sold on the winning combination of a quimiela pool the net pool shall be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second, in the same manner in which a place pool is calculated.

(g) If no ticket is sold that would require distribution of a quimiela pool to a winner as above defined, the association shall make a complete and full refund of the quimiela pool.

(h) In case of a scratch in a quimiela race, the patron holding a ticket on the scratched horse will receive a refund.

### 13:70-29.50 Daily triple

(a) The Daily Triple pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalisator board, nor to the rules governing the distribution of such other pools.

(b) A valid Daily Triple ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and said ticket shall constitute an acceptance of Daily Triple provisions and N J A C 13:70-29.

(c) A Daily Triple may be given a distinctive name to be selected by the association conducting such races, such as Win 3, subject to the prior approval of the Commission.

(d) The Daily Triple pari-mutuel pool shall consist of amounts contributed for a selection for win only in each of the three consecutive races designated by the association with the prior approval of the Commission. Each person purchasing a Daily Triple ticket shall designate the winning horse in each of the three races comprising the Daily Triple.

(e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Daily Triple shall race as a single wagering interest for the purpose of the Daily Triple pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Daily Triple calculation, and the selection shall not be deemed a scratch.

(f) The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all three races comprising the Daily Triple.

(g) If no ticket is sold combining the three winners of the Daily Triple, the net amount in the pari-mutuel pool shall be distributed among the holders of tickets which include the winners of at least two of the three races comprising the Daily Triple.

(h) If no ticket is sold combining at least two winners of the Daily Triple, the net amount in the pari-mutuel pool shall be distributed among holders of tickets which include the winner of any one race comprising the Daily Triple.

(i) If no ticket is sold that would require distribution of the Daily Triple pool to a winner pursuant to (f) through (h) above, the association shall make a complete and full refund of the Daily Triple pool.

(j) If for any reason one or two of the races comprising the Daily Triple are cancelled, the net amount of the pari-mutuel pool shall be distributed as provided in (g), (h), and (i) above.

(k) When the condition of the turf course warrants a change of racing surface in the second or third legs of the pick three races and such change has not been made known to the betting public prior to the close of wagering for the pick three pool, the stewards shall declare the leg(s) a "no

contest" for pick-three wagering purposes, and the pool shall be distributed in accordance with (j) above

(l) The following pertains to scratches and consolations

1 In the event a betting entry is scratched (which as used in this subsection includes being excused or determined by the stewards to be a non-starter in the race) from any leg of the daily triple prior to the start of the first leg, all bets containing such scratched betting entry shall be refunded and not calculated into the gross pool. Coupled entries and fields are only considered "scratched" for purposes of this subsection in accordance with (e) above

2 Regarding consolations

1 In the event a betting entry is scratched in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with such scratched horse as follows

(1) From the gross pool shall be deducted the statutory take-out and then the amounts represented by bets on combinations involving all entries scratched from the third leg (reduced by the rate of statutory take-out thereon)

(2) The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting entries in the second leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with an entry scratched in the second leg

(3) The breaks shall not be deducted from the pool

11 In the event a betting entry is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and second legs with such scratched horse as follows

(1) From the gross pool shall be deducted the statutory take-out and then the amounts represented by bets on combinations involving all entries scratched from the second leg (reduced by the rate of statutory take-out thereon)

(2) The resulting remainder shall be divided by the amounts bet on the combination of such first and second leg winners with all betting entries in the third leg (less breaks) to determine the consolation price per dollar payable in those bets combining winners of the first and second legs with an entry scratched in the third leg

(3) The breaks shall not be deducted from the pool

111 In the event betting entries are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with such scratched horses in both the second and third legs as follows

(1) From the gross pool shall be deducted the statutory take-out

(2) The remainder shall be divided by the amounts bet on the winner of the first leg combined with all other entries (less breaks) to determine the consolation price per dollar payable in those bets combining the winner of the first leg with entries scratched in both the second and third legs

(3) The breaks shall not be deducted from the pool

(m) If any of the daily triple races result in a dead heat, the payoff will be figured the same as a place pool, that is first the regulation commission is deducted, then the total amount wagered on the winning combination is deducted, leaving the profit which is divided equally between the holders of the winning combinations

(n) No pari-mutuel ticket for the Daily Triple pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the three races comprising the Daily Triple, except for such refunds on Daily Triple tickets as required by this rule, and no persons shall disclose the number of tickets sold in the Daily Triple pool or the number or amount of tickets selecting winners of Daily Triple races until such time as the Stewards have determined the last race comprising the Daily Triple to be official. At the conclusion of the second of the three races comprising the Daily Triple, an association may, with the prior approval of the Commission, display potential distributions to ticket holders depending upon the outcome of the third race of the Daily Triple

(o) This section shall be prominently displayed throughout the betting area of the track and printed copies shall be made available by the track to patrons upon request

As amended, R 1982 d 183, effective June 21, 1982  
See 14 N J R 91(a), 14 N J R 661(a)

Repealed

New Rule, R 1988 d 396, effective August 15, 1988  
See 20 N J R 1173(a), 20 N J R 2070(b)

Amended by R 1993 d 366, effective July 19, 1993

See 25 N J R 1671(a), 25 N J R 3238(a)

Amended by R 1995 d 211, effective April 17, 1995

See 27 N J R 306(a), 27 N J R 1642(a)

Amended by R 2000 d 261, effective June 19, 2000

See 32 N J R 1159(a), 32 N J R 2248(a)

Rewrote (k), and added (n)

Amended by R 2003 d 488, effective December 15, 2003

See 35 N J R 3461(a), 35 N J R 5548(b)

Added a new (k), recodified former (k) through (n) as (l) through (o)

**13:70-29.51 Break to nickel in the event of a minus pool**

The minimum pari-mutuel payoff by any licensee conducting pari-mutuel wagering shall be \$2 10 on each winning \$2 00 wager. This shall pertain only in the event that there is insufficient money in the net pari-mutuel pool to return \$2 20 on each \$2 00 wager.

**13:70-29.52 The Pick (N)**

(a) The Pick (N) requires selection of the first place finishers in each of four or more consecutive races, with the letter (N) representing the number of such races. The association must obtain written approval from the Commission concerning the scheduling of Pick (N) events. Any changes to the approved Pick (N) format requires prior approval from the Commission.

(b) A carry-over, as is relevant to (c)1 and 2 below, is that percentage of the pool not paid out when no one successfully selects all winning horses in the Pick (N). The carry-over amount shall be added to the subsequent Pick (N) pool until distributed as a result of the successful selection of all the winning horses.

(c) The Pick (N) pool shall be distributed under one of the following methods:

1 Method 1 Pick (N) with carry-over. The net Pick (N) pool and carry-over, if any, shall be distributed as a single price pool to those who selected the first place finisher in each of the Pick (N) contests, based on the official order of finish. If there are no such wagers, then 25 percent of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (N) races, and the remaining 75 percent of the net pool shall be added to the carry-over.

2 Method 2 Pick (N) with minor pool and carry-over. The major of the net Pick (N) pool (75 percent) and the carry-over, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (N) contests, based on the official order of finish. The minor share of the net Pick (N) pool (25 percent) shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (N) contests based on the official order of finish. If there are no such wagers selecting the first-place finisher of all Pick (N) contests, the minor share of the net Pick (N) pool (25 percent) shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (N) contests based on the official order of finish and major share (75 percent) shall be added to the carry-over.

3 Method 3 Pick (N) with no carry-over. The net Pick (N) pool shall be distributed to those who selected the first-place finisher in each of the Pick (N) contests, based on the official order of finish. If there are no such wagers selecting the first-place finisher of all Pick (N) contests, the entire net pool shall be distributed as a single-price pool to

those who selected the first-place finisher in the greatest number of Pick (N) contests based on the official order of finish.

(d) If there is a dead heat for first in any of the Pick (N) contests involving contestants representing the same betting interest, the Pick (N) pool shall be distributed as if no dead heat occurred. If there is a dead heat for first in any of the Pick (N) contests involving contestants representing two or more betting interests, the Pick (N) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the net Pick (N) pool.

(e) The Pick (N) pool shall be held entirely separate from all other pools and is not a parlay and is not part of a daily double, exacta, trifecta or other wagering pool.

(f) Pick (N) tickets shall be sold in not less than \$1 00 denominations and only from machines capable of issuing four or more numbers.

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Pick (N) race as a single wagering interest for the purpose of Pick (N) pari-mutuel pool calculations and payments to the public. A scratch after wagering has begun on any part of an entry or mutuel field in such a race shall be of no effect with respect to the status of such entry or field as a viable wagering interest.

(h) At any time after wagering begins on a Pick (N) pool should a horse, entire betting entry or mutuel field be scratched or declared a non-starter in any Pick (N) race, no further tickets selecting such horse betting entry or mutuel field shall be issued, and wagers upon such horse betting entry or mutuel field, for purposes of the Pick (N) pool shall be deemed wagers upon the horse, betting entry or mutuel field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie, the tied horse, betting entry or mutuel field with the most inside post position shall be designated.

(i) In accordance with (k) below, when the condition of the turf course warrants a change of racing surface in any of the legs of the Pick (N) races, and such change has not been known to the betting public prior to the close of the Pick (N) pool, the stewards shall declare the changed leg(s) a "no contest" for Pick (N) wagering purposes, and the pool shall be distributed in accordance with (k) below.

(j) The Pick (N) pool shall not be cancelled based upon the number of race cancellations or races being declared no contest, unless the following is true, in which case all Pick (N) wagers for the individual performance shall be refunded:

1 Three or more races of a Pick 4 or Pick 5 are cancelled or declared no contest,

2 Four or more races of a Pick 6 or Pick 7 are cancelled or declared no contest,

3 Five or more races of a Pick 8 or Pick 9 are cancelled or declared no contest,

4 Six or more races of a Pick 10, Pick 11 or more races are cancelled or declared no contest

(k) As specified in (i) above, if at least one contest included as part of a Pick (N) is cancelled or declared "no contest," but not more than the number specified in (j) above the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (N) contests for that performance if the Pick (N) is being contested under Method 1 or Method 2 referred to in (c)1 and 2 above. Such distribution shall include the portion ordinarily retained for the Pick (N) carryover but not the carryover from previous performances

(l) If, on the last day on which the system of wagering is conducted at race meeting and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over and no bettor selects the winning horse in those designated races, the total amount of the pool which exists on the day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races

(m) If, for any reason, the Pick (N) carry-over cannot be paid out on the last scheduled day of a race meeting and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over, the carry-over shall be deposited in an interest bearing account approved by the Commission. The Pick (N) carry-over plus accrued interest shall then be added to the net Pick (N) pool on a race date determined by the Commission

(n) An association, with the written approval of the Commission, may contribute funds to the net Pick (N) pool or the carry-over pool

(o) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved with general pari-mutuel practice. Decisions regarding distribution of Pick (N) pools will be final

Repealed by R 1982 d 183, effective June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

New Rule, R 1993 d 685, effective December 20, 1993

See 25 N J R 4585(b), 25 N J R 5938(c)

Amended by R 2003 d 489, effective December 15, 2003

See 35 N J R 3461(b), 35 N J R 5549(a)

Added a new (i), recodified former (i) as (j), added a new (k), recodified former (j) through (m) as (l) through (o)

Petition for Rulemaking

See 37 N J R 2575(b), 3463(c)

Amended by R 2006 d 225, effective June 19, 2006

See 38 N J R 1394(a), 38 N J R 2726(a)

Substituted "Pick (N)" for "Pick(N)" throughout, substituted "(c)1 and 2 below" for "this section" in (b), added (c)3, in (k), substituted "(j) above" for "subsection (j) of this rule" and inserted "if the Pick (N) is being contested under Method 1 or Method 2 referred to in (c)1 and 2 above", substituted "and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over and" for a comma in (l), and inserted "and Method 1 or Method 2

referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over" in (m)

### 13:70-29.53 Trifecta

(a) The trifecta (or other approved name) is a form of pari-mutuel wagering. Each bettor selects, in order, the first, second and third placed horses in the designated trifecta race. The trifecta pool shall be held entirely separate from all other pools, and is no part of a daily double, exacta or other wagering pool

(b) Trifecta tickets shall be sold in not less than \$1 00 denominations and only from machines capable of issuing three numbers

(c) Races in which trifecta pools shall be conducted shall be approved by the Commission and shall be clearly designated in the program

(d) The design of trifecta tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets

(e) If a horse is scratched or declared a nonstarter, no further trifecta tickets may be issued designating such horse and all trifecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool

(f) Rules concerning failure to select a winning combination, short finishes include

1 If there is a failure to select, in order, the first three horses, payoff shall be made on trifecta tickets selecting the first two horses, in order with all others, failure to select the first two horses, payoff to trifecta tickets selecting the winner and third place horse with any and all other horses, failure to select any of the foregoing orders of finish, payoff shall be made to trifecta tickets selecting the winner to win with all other horses, failure to select the winner to win, payment shall be made to holders of tickets on the second and third place finishers with any and all others

2 If less than three horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection

(g) Coupled entries and fields are prohibited in trifecta races without the prior approval of the Racing Commission. The Commission in considering whether to grant such approval, shall consider the number of wagering interests in the race and whether its approval would be consistent with the best interests of the sport and wagering public

(h) Where a field in a trifecta race is less than five at wagering time, said race will be run as an exacta. A late scratch after wagering starts will not affect the trifecta

(i) In the trifecta races with a coupled entry or mutuel field, the numbers of the first three horses in order of finish as made official shall constitute the winning combination except

that, where two or more of such horses are part of the same coupled entry or mutuel field, only the best finishing position attained by the coupled entry or mutuel field shall be considered for payoff purposes and the next best finishing horse or horses, not part of the coupled entry or mutuel field, shall be selected to determine the winning trifecta combination

(j) This rule shall be prominently displayed throughout the betting area of each track conducting the trifecta and printed copies of this rule shall be distributed by the track to patrons upon request

As amended, R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

As amended, R 1978 d 235, effective July 17, 1978

See 10 N J R 258(c), 10 N J R 351(c)

As amended, R 1978 d 270, effective August 1, 1978

See 10 N J R 169(a), 10 N J R 404(a)

Amended by R 1988 d 132, effective March 21, 1988

See 19 N J R 2385(a), 20 N J R 670(a)

(b) \$46 00 changed to \$6 00, (h) "nine" changed to "seven", deleted "or where a field in a trifecta race in harness racing is two or more horses short of filling the available positions of the starting gate at wagering time,"

Amended by R 1993 d 516, effective October 18, 1993

See 25 N J R 3103(a), 25 N J R 4751(a)

Amended by R 2001 d 248, effective July 16, 2001

See 33 N J R 1337(a), 33 N J R 2493(a)

In (h), substituted "six" for "seven"

Amended by R 2004 d 359, effective September 20, 2004

See 36 N J R 2159(a), 36 N J R 4320(a)

In (h), substituted "five" for "six" after "less than" in the first sentence

### 13:70-29.54 Sell-only system

(a) The supervisor of mutuels shall be furnished with the following documents on a daily basis by the totalisator company for any sell-only system

- 1 Win, place and show pools
  - i Running total sheet,
  - ii Calculating sheet,
  - iii Tickets and denomination sheet,
  - iv Price sheet by denomination,
  - v Progression of odds
- 2 Exacta and daily double pools
  - i Calculating sheets,
  - ii Tickets by denomination and combinations,
  - iii Machine sales by Division,
  - iv Daily double will pay sheet
- 3 Trifecta pools
  - i Calculating sheet,
  - ii Winning ticket combination sheet,
  - iii Key wheel sheet,
  - iv Machine sales by Division,
  - v Trifecta ticket print
- 4 Outstanding ticket balance report for all pools

R 1979 d 274, eff July 18, 1979

See 11 N J R 269(b), 11 N J R 401(b)



**13:70-29.55 Cash-sell system**

(a) The supervisor of mutuels shall be furnished with the following documents by the totalisator company on a daily basis for all pools at such time and in such manner as requested by the supervisor of mutuels

- 1 Pool summary report,
- 2 Price calculation report,
- 3 Final cycle pool print report,
- 4 Progression of odds (win only),
- 5 Machine sales by race report,
- 6 Daily double will pay report,
- 7 Exacta probables report,
- 8 Prices report summary,
- 9 Price calculation summary,
- 10 Summarized balance report (out tickets),
- 11 End of day report,
- 12 All trifecta computer sheets,
- 13 Lost ticket report

(b) The supervisor of mutuels shall also be furnished with the following documents by the totalisator company upon request

- 1 Payout distribution report,
- 2 Day end teller report,
- 3 Pool processing proof,
- 4 Outs book A,
- 5 Outs book B,
- 6 Bet reports,
- 7 Audit information from log tapes,
- 8 Outs cashed report,
- 9 Manual Cash Council Report

R 1979 d 274, eff July 18, 1979

See 11 N J R 269(b), 11 N J R 401(b)

Amended by R 1982 d 183, eff June 21, 1982

See 14 N J R 91(a), 14 N J R 661(a)

(a)4viii and ix added

Amended by R 1991 d 547, effective November 4, 1991

See 23 N J R 2266(b), 23 N J R 3340(a)

Deleted (a), 1 and 2

Recodified 3 and 4 as (a) and (b)

**13:70-29.56 Super-Six**

(a) The Super-Six (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the Super-Six races by the permitholder. The principle of a Super-Six is in effect a contract by the purchaser of a Super-Six ticket to

select the winners of each of the six races designated as the Super-Six

(b) The Super-Six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The Super-Six pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) Super-Six tickets shall be sold in not less than \$1.00 denominations and only from machines capable of issuing six numbers.

(d) Races in which Super-Six pools shall be conducted shall be approved by the Commission and clearly designated in the program.

(e) The design of Super-Six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) The Super-Six pari-mutuel pool shall be calculated as follows

1 100 percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the Super-Six.

2 In the event there is no pari-mutuel ticket held which correctly designates the winner of all races comprising the Super-Six, 25 percent of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the most winning selections of the six races comprising the Super-Six, and the remaining undistributed 75 percent of said pool shall be carried over and added to the pool on the next day on which wagering is conducted.

3 If, on the last day on which the system of wagering is conducted at a horse race meeting, no bettor selects the winning horses in those races, the total amount of the pool which exists on that day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races. In no event shall any part of the pool be carried over to the next year's race meeting.

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Super-Six race as a single wagering interest for the purpose of the Super-Six pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(h) At any time after wagering begins on the Super Six pool should a horse, entire betting entry or field be scratched or declared a non starter in any Super Six race, no further tickets selecting such horse, betting entry or field

shall be issued Wagers upon such horse, betting entry or field, for purposes of the Super Six pool shall be deemed wagers upon the "designated horse" who is the actual favorite evidenced by total amounts wagered in the win pool at the close of wagering on that race or the track operator may allow patrons the option of selecting an alternate betting interest in that race. In the event of a money tie, the tied horse, betting entry or field with the most inside post position shall be designated.

(i) After off-time, there shall be no refund in either of the above cases, provided for in subsection (h) of this section.

(j) For the purpose of this section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the Stewards.

(k) If, for any reason, any race or races of a Super-Six program is cancelled and declared "No Race," the Super-Six pool shall be distributed to the holders of the most winning selections of the remaining races pursuant to (f)1 and 2 above. In the event the Stewards cancel or declare as "No Race" three or more of the Super-Six races for any given date, all pari-mutuel tickets for that Super-Six pool shall be refunded and the Super-Six cancelled for that day.

(l) In the event of a dead heat for win between two or more horses in any Super-Six race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Super-Six pari-mutuel pool.

(m) No person shall disclose the number of tickets sold in the Super-Six pool or the number or amount of tickets selecting winners of Super-Six races prior to the time the Judges have declared the last Super-Six race on any given date official.

(n) No pari-mutuel ticket for the Super-Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Super-Six, except for refunds as required by this section.

(o) This rule shall be prominently displayed throughout the betting area of each association conducting a Super-Six program and in the official racing program.

(p) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of Super-Six pools will be final.

R 1980 d 286, eff July 8, 1980

See 12 N J R 494(a)

Emergency Amendment, R 1986 d 334, effective July 17, 1986 (expires September 15, 1986)

See 18 N J R 1619(a)

Readoption of Concurrent Proposal, R 1986 d 411, effective September 15, 1986

See 18 N J R 1619(a), 18 N J R 2054(b)

Amended by R 2001 d 247, effective July 16, 2001

See 33 N J R 1337(b), 33 N J R 2493(b)

Rewrote (h)

### 13:70-29.57 Pick-Seven

(a) This section codifies procedures to allow New Jersey to participate in a nationwide common pool in a Pick-Seven Wager in the Breeders' Cup.

(b) The payoff is calculated as follows:

1 Wagers select first-place finishers for seven Breeders' Cup races. The net pool is divided into major (75 percent) and minor (25 percent) shares. The major share is distributed to the ticket(s) correctly selecting the first-place finishers in all seven races and calculated using the net pool pricing method. The minor share is distributed to tickets correctly selecting the first-place finishers in the most (but not all) of the seven races and calculated using the net pool pricing method.

2 To determine the net pool, there shall be a deduction from gross wagers in each jurisdiction in an amount equal to the applicable takeout for that jurisdiction. The remaining amount of the wagers from all jurisdictions is combined to form the total net pool, on the basis of which a base payout price is determined. Each jurisdiction's winning payout price is determined by applying that jurisdiction's takeout rate to the base price. Each jurisdiction's individual rules relating to breakage and uncashed winning tickets shall also apply. Any other questions that arise not specifically covered in this section shall be covered by the rules of racing of the New Jersey Racing Commission.

(c) Dead heat procedures are as follows:

1 If there is a dead heat for first in any race, the winning combinations shall include all wagers selecting any dead heat finishes.

(d) No ticket sold procedures are as follows:

1 If no ticket is sold correctly selecting the seven first-place finishers, then the entire net pool will be distributed to the wagers selecting the most official winners of the seven Breeders' Cup races.

(e) Refund procedures are as follows:

1 If three or more races are cancelled, then the entire Pick-Seven pool shall be refunded.

(f) The effect of a cancelled race on the pool is as follows:

1 In the event that one or more of the races, comprising the Pick-Seven, is cancelled for any reason, the distribution of the net amount subject to distribution in the Pick-Seven pool shall be among the holders of the pari-mutuel tickets which currently designate the most official winners in all remaining races comprising the Pick-Seven.



(g) The number of entries (or starters) required is as follows

1 As long as at least one horse remains within an entry or the field, that betting interest will not be deemed a scratch. If a betting interest is scratched or declared a non-starter, the actual favorite as evidenced by Breeders' Cup host track win pool at the start of the race will be substituted. If the win pool amounts are equal, the substitute will be the lowest program numbered betting interest.

New Rule, R 1992 d 200, effective May 4, 1992  
See 23 N J R 1769(b), 24 N J R 1800(b)

### 13:70-29.58 (Reserved)

### 13:70-29.59 Cancellations

(a) Cancellations of mutuel tickets are prohibited on wagers purchased on the current race once the patron has left the window on all types of wagers where odds or probable payouts are displayed to the public.

(b) Mutuel clerks shall be permitted to cancel current race mutuel tickets during the delay period provided it is the last transaction before the bell sounds signaling the end of wagering. If it is determined by the Executive Director of the Racing Commission or his or her designee that mutuel clerks are abusing this cancellation privilege, they will be subject to fine and/or suspension.

(c) No cancellation of mutuel tickets is permitted after the delay period.

(d) Cancellation of all advance wagers is permitted up until the race immediately preceding the advance wager becomes official.

(e) Mutuel clerks are permitted to cancel mutuel tickets purchased at self-service terminals provided they are advance wagers or wagers where odds or probable payouts are not displayed to the public.

New Rule, R 1991 d 542, effective November 4, 1991  
See 23 N J R 2267(a), 23 N J R 3340(a)

### 13:70-29.60 Expiration of mutuel tickets

(a) All mutuel tickets shall expire six months and one day from the day of issuance (that is, tickets purchased on January 1 will expire at the close of business on July 1).

(b) Vouchers issued on or after May 26, 2006, where issued at a permitholder's racetrack premises, shall expire three years and one day from the date of issue (for example, a voucher issued on July 1, 2006 will expire at the close of business on July 1, 2009).

New Rule, R 1991 d 543, effective November 4, 1991  
See 23 N J R 2267(b), 23 N J R 3340(a)  
Amended by R 2002 d 347, effective November 4, 2002  
See 33 N J R 3625(a), 34 N J R 3782(a)

Deleted "and vouchers" following "tickets" throughout  
Amended by R 2007 d 111, effective April 16, 2007

See 38 N J R 4820(a), 39 N J R 1488(a)

Inserted designation (a), in (a), substituted "on" for "of" preceding "July 1", and added (b)

### 13:70-29.61 Superfecta

(a) The superfecta (or other approved name) is a form of pari-mutuel wagering where each bettor selects, in order, the first, second, third and fourth placed horses in the designated superfecta race. The superfecta pool shall be held entirely separate from all other pools, and is not part of a daily double, exacta or other wagering pool.

(b) Superfecta tickets shall be sold in not less than \$1.00 denominations.

(c) Races in which superfecta pools shall be conducted shall be approved by the Commission and shall be clearly designated in the program.

(d) If a horse is scratched or declared a non-starter, no further superfecta tickets may be issued designating such horse and all superfecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

(e) Where a field in a superfecta race is fewer than six at wagering time, said race shall not be run as a superfecta. A late scratch after wagering starts will not affect the superfecta.

(f) The net superfecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

1 As a single price pool to those whose combination finished in correct sequence as the first four different betting interests, but if there are no such wagers, then

2 As a single pool to those whose combination included, in correct sequence the first three different betting interests, but if there are no such wagers, then

3 As a single price pool to those whose combination included, in correct sequence, the first two different betting interests, but if there are no such wagers, then

4 As a single price pool to those whose combination correctly selected the first place betting interest only but if there are no such wagers, then

5 The entire pool of superfecta wagers shall be refunded for that contest.

(g) If less than four different betting interests finish the race and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of different betting interests completing the race shall be ignored.

(h) If there is a dead heat for first involving

1 Contestants representing four or more different betting interests, all of the wagering combinations selecting the four betting interests which correspond with any of the

betting interests involved in the dead heat shall share in a profit split

2 Contestants representing three different betting interests, all of the wagering combinations selecting the three dead-heated different betting interests, irrespective of order, along with the fourth place different interest shall share in a profit split

3 Contestants representing two different betting interests, both of the wagering combinations selecting the two dead-heated different betting interests, irrespective of order, along with the third place and fourth place different betting interest shall share in a profit split

(i) If there is a dead heat for second involving

1 Contestants representing three or more different betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three different betting interests involved in the dead heat for second shall share in a profit split

2 Contestants representing two different betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated different betting interests, irrespective of order, and the fourth place betting interest shall share in a profit split

(j) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the different betting interests involved in the dead heat for third share in a profit split

(k) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three different finishers, in correct sequence, along with any of the different betting interests involved in the dead heat for fourth shall share in a profit split

New Rule, R 1994 d 92, effective February 22, 1994

See 25 N J R 5450(a), 26 N J R 1106(c)

Petition for Rulemaking

See 35 N J R 279(b), 897(b)

Amended by R 2003 d 490, effective December 15, 2003

See 35 N J R 3462(a), 35 N J R 5549(b)

In (e), substituted "six" for "seven"

### 13:70-29.62 Distribution of funds derived from casino simulcasting in lieu of N.J.S.A. 5:12-203g(2)

(a) Pursuant to N J S A 5 12-204, the formula contained in N J S A 5 12-203g(2) is superseded and revised as set forth in this section as to running races, and as set forth in N J A C 13 71-27 60 as to harness racing. Of that amount remaining after the deduction of the amounts under subsections a, b, c, d, e, f and paragraph g(1) of N J S A 5 12-203, 43 percent shall be paid to the New Jersey Racing Commission and shall be distributed, in the following year, as provided herein to New Jersey racetracks conducting running races and to New Jersey racetracks conducting harness racing as set forth in N J A C 13 71-27 60. Such monies shall be used for payment as purse money and for programs designed to aid horsemen and horsemen's organizations as provided in

section 46b(1)(d) or 46b(2)(d) of P L 1940, c 17 (N J S A 5 5-66), section 5b(2) of P L 1982, c 201 (N J S A 5 5-98), or section 7f(2)(b) of P L 1971, c 137 (N J S A 5 10-7), in the case of running races. This money shall be distributed to those racetracks conducting running races in accord with the percentages set forth in (b) and (c) below, using the formula set forth in (d) below. Where a New Jersey permitholder conducts both running races and harness races, this section shall be applicable to the permitholders running races and N J A C 13 71-27 60 shall be applicable to the permitholder's harness races.

(b) Of the monies referred to in (a) above, and pursuant to N J A C 13 71-27 60, 60 percent of the total shall be distributed to permitholders conducting running races and 40 percent of the total shall be distributed to racetracks conducting harness races for 1998 and 1999.

(c) Following 1999, of the monies referred to in (a) above, and pursuant to N J A C 13 71-27 60, 50 percent of the total shall be distributed to permitholders conducting running races and 50 percent of the total shall be distributed to racetracks conducting harness races.

(d) The formula upon which the monies referred to in (a) above is to be distributed to the New Jersey racetracks conducting running races, under either (b) or (c) above, whichever is applicable shall be as follows:

$$A/B = C/D$$

where

A = the total amount distributed by each racetrack conducting running races, pursuant to section 46b(1)(d) or 46b(2)(d) of P L 1940, c 17 (N J S A 5 5-66), section 5b(2) of P L 1982, c 201 (N J S A 5 5-98), or section 7f(2)(b) of P L 1971, c 137 (N J S A 5 10-7), during the preceding calendar year, plus any additional amounts paid out by each racetrack for overnight purses during the preceding calendar year from the permitholders' share of the pari-mutuel pool,

B = the total amount distributed by all racetracks conducting running races Statewide pursuant to section 46b(1)(d) and 46b(2)(d) of P L 1940, c 17 (N J S A 5 5-66), section 5b(2) of P L 1982, c 201 (N J S A 5 5-98), and section 7f(2)(b) of P L 1971, c 137 (N J S A 5 10-7), during the preceding calendar year, plus any additional amounts paid out by racetracks for overnight purses during the preceding calendar year from the permitholder's share of the pari-mutuel pool,

C = the amount to be distributed to each racetrack conducting running races from the total moneys available for distribution pursuant to this section,

D = 60 percent (50 percent after 1999) of the total amount of moneys available for distribution pursuant to this section.

New Rule, R 1998 d 87, effective February 17, 1998

See 29 N J R 4397(a), 30 N J R 702(a)

**13:70-29.63 Handicapping contests**

(a) Notwithstanding any other provision of law to the contrary, a permit holder, casino simulcasting licensee or a combination thereof may operate a handicapping contest at which the participants may be charged an entry fee. The contest must be conducted in accordance with the provisions of this rule.

(b) The operator of a handicapping contest shall distribute all of the entry fees as prizes to the winners of the contest where the contest consists of a single contest, as opposed to a series. Where a handicapping contest series is offered, which means a series of individual contests concluding with a final contest in the series, the operator may retain an amount not to exceed 25 percent of the entry fees from the individual handicapping contests preceding the last contest in the series. However, the total portion of entry fees retained by the operator shall be distributed to the winner or winners of the last contest in the series. Nothing in this section shall preclude an operator from providing additional prizes or promotions.

(c) Operators must apply to and receive the approval of the New Jersey Racing Commission to conduct a handicapping contest in New Jersey. The operators must secure the Commission's written approval of the rules and the payment of prizes prior to the acceptance of any entry fees regarding said contest.

(d) The horse races that are the subject of the handicapping contest must be races on which the operator of the contest is authorized to conduct wagering.

(e) The operator of a handicapping contest must apply to the Racing Commission for approval of each and every contest.

(f) An entrant must personally place all wagers. No person shall directly or indirectly act as a transmitter, intermediary, or agent in placing wagers for the entrant.

(g) Winners of wagers where taxes apply are solely responsible for the reporting, signing and deductions made to the appropriate State or Federal tax agencies.

(h) Employees or their families of the venue conducting a handicapping contest are not eligible to participate in any tournament.

(i) Denominations of wagers and types of pools wagered must be agreed to in contract form between the contest venue and the racetracks participating in a handicapping contest.

(j) Racetracks, for the purpose of this section, are defined as both in and out-of-State.

(k) All track rulings are official in the event of scratches and disqualifications.

New Rule, R 2003 d 211, effective May 19, 2003

See 34 N J R 3924(a), 35 N J R 2250(a)

Public Notice Receipt of Petition for Rulemaking Handicapping Contests

See 38 N J R 850(a)

Petition for Rulemaking Racing Commission thoroughbred racing action on rulemaking petition regarding handicapping contests

See 38 N J R 1353(a)

Public Notice Racing Commission Thoroughbred Racing Notice of Action (Final) on Petition for Rulemaking

See 38 N J R 2534(b)

Amended by R 2006 d 320, effective September 5, 2006

See 38 N J R 1793(a), 38 N J R 3627(a)

Rewrote (b)

**13:70-29.64 The Choose (N)**

(a) The Choose (N) is a wager which requires that a patron select the first place winners in each of (N) races, with the letter (N) representing the number of races comprising the wager. The number of races comprising the Choose (N), and thus representing the letter (N), shall be determined by the racing association (licensee) offering the Choose (N). The number of eligible races, from which a patron in his or her discretion may place a Choose (N) wager, may equal or exceed the number of races comprising the wager (N) and shall be determined by the licensee. For example, where a licensee determines that the Choose (N) shall consist of selecting the first place winners in five races (that is, a Choose (5)), with nine eligible races for the patron to select from, the patron would be required to select the first place finishers in any five of the nine eligible races. A licensee may not offer a Choose (N) unless the format associated with the particular Choose (N) wagering event is first approved by the Racing Commission Executive Director (Executive Director), as required by (l) and (m) below. In approving any request of a licensee associated with a Choose (N), the Executive Director may impose such conditions as are consistent with the best interests of racing and the interests of the wagering public.

(b) The races eligible for a Choose (N) may be conducted on the same day or may extend over any number of days as determined by the licensee, and some races may be closed to Choose (N) wagering at the discretion of the licensee. The eligible races to a Choose (N) need not be consecutively contested races. In a Choose (N), the first race wagered upon by a patron as part of the wager may begin with any of the eligible races provided that the total number of eligible races remaining uncontested at the time the wager is placed equals or exceeds the number of races comprising the Choose (N). For example, in a Choose (6) with 10 eligible races, the following would be examples of permissible wagers assuming none of the 10 eligible races have been conducted, a patron could select one horse as the first place winner in any six of the 10 eligible races (for example, the patron could wager on races 1 through 6, races 2 through 4 and 6 through 8, etc.), and, assuming races 1 and 2 of the 10 eligible races have been conducted, the patron could select one horse to finish first in any six of the remaining eight eligible races (for example, the patron could wager on races 4 through 9, race 3, 5 and races 7 through 10, etc.). However, assuming the first

five or more of the 10 eligible races in this example have been contested, a patron could not place any Choose (6) wager because the wager requires the selection of the first place finishers in six separate races

(c) Each Choose (N) wagering pool shall be maintained separately from all other wagering pools offered by the licensee, and the proceeds to be paid on winning Choose (N) wagers shall be made only from the Choose (N) wagering pool. The Choose (N) wagering pool shall close after each Choose (N) eligible race, but shall reopen with respect to subsequent eligible races for the particular Choose (N) provided there are at least as many races remaining as required to be selected on a winning Choose (N) ticket. Following the conduct of all eligible races comprising any Choose (N), the Choose (N) wagering pool shall be distributed as follows

1 A Choose (N) with no "carryover amount" requires that the "net wagering pool," which for purposes of this section means the amount of dollars wagered for the particular Choose (N) to be returned to the wagering public as winnings, be distributed immediately following the last eligible race of the particular Choose (N) offering. In such case, the Choose (N) "net wagering pool" shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select each first place winner in each race (N) from the eligible races comprising the Choose (N). If no Choose (N) ticket correctly selects each first place winner in each race comprising the Choose (N), the "net wagering pool" of a Choose (N) with no "carryover amount" shall be equally distributed to the ticket holder or holders selecting the greatest number of first place winners of the races comprising the Choose (N).

2 A "carryover amount" is the portion of a Choose (N) "net wagering pool" which, in circumstances as set forth in this section, is carried over and added to the wagering pool in one or more designated subsequent Choose (N) offerings that also have a "carryover amount" feature. In an initial offering of a Choose (N) with "carryover amount" feature, as no "carryover amount" has then accumulated, 100 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N). However, if no Choose (N) ticket correctly selects the first place winner in each race comprising any Choose (N) with "carryover amount" feature, 25 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the remaining 75 percent of the "net wagering pool" for that particular Choose (N) shall be added as the "carryover amount" portion of the wagering pool for a designated subsequent Choose (N) offering of the licensee. In any Choose (N) with a "carryover amount" feature, 100 percent of the "net wagering pool" for the particular Choose (N),

plus any accumulated "carryover amount", shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N)

1 With the written approval of the Racing Commission Executive Director, the licensee may contribute to the Choose (N) "carryover amount" a sum of money

3 A Choose (N) with "carryover amount" feature, as described in (c)2 above, may with the prior approval of the Executive Director have its carryover capped at a designated maximum dollar level, as determined by the licensee. If the cap amount has not been reached, and no Choose (N) ticket correctly selects the first place winner in each race comprising the Choose (N), 25 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the remaining 75 percent of the "net wagering pool" for that particular Choose (N) shall be added as the "carryover amount" portion of the wagering pool for a designated subsequent Choose (N) offering of the licensee. If the "carryover amount cap" is reached, no additional money shall be added from the "net wagering pool" to the carryover amount in any subsequent Choose (N). In such event, and where no Choose (N) ticket correctly selects the first place winner in each race comprising the Choose (N) where the "carryover amount cap" has been reached, 100 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the capped carryover amount shall be applied to a subsequent Choose (N) offering designated by the licensee. In any Choose (N) with a "carryover amount cap" feature, regardless of whether the cap amount has been reached, the "net wagering pool" for the particular Choose (N), plus any accumulated "carryover amount", shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N).

1 A request to place a cap on a Choose (N) "carryover amount" may be approved by the Executive Director in the following circumstances: at the time a licensee first requests authorization to offer a Choose (N) pursuant to (l) below (that is, where the licensee seeks approval to offer a Choose (N) with "carryover amount cap" feature), and, where the licensee has previously had approved Choose (N) with "carryover amount" feature, where a carryover amount exists as a result of no one winning a prior Choose (N) offering, and the licensee seeks to impose a cap on the "carryover amount"

11 With the written approval of the Executive Director, the licensee may contribute to the Choose (N) "carryover amount cap" a sum of money up to but not exceeding the designated cap

(d) Notwithstanding (c)2 and 3 above, a Choose (N) with "carryover amount" or Choose (N) with "carryover amount cap," with the prior approval of the Executive Director, may be designated for "specified date distribution" at the conclusion of a specified Choose (N) wagering event. In such case, the "net wagering pool," plus the "carryover amount" or "carryover cap amount" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets

which have correctly selected the first place finishers in each race (N) comprising the Choose (N). If on the specified date of distribution no Choose (N) ticket correctly selects the first place winners in each race comprising the "specified date distribution" Choose (N) wager, the "net wagering pool," plus the "carryover amount" or "carryover cap amount" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets selecting the greatest number of first place winners in each race (N) comprising the Choose (N). A licensee's request for "specified date distribution" shall be approved by the Executive Director where the licensee establishes to the Executive Director's satisfaction



that the "specific date distribution" is consistent with the best interests of racing and the best interests of the wagering public

(e) Notwithstanding the provisions of (c)2, (c)3 and (d) above, a Choose (N) "carryover amount" or "carryover amount cap" shall not extend beyond the last date of any race meeting where Choose (N) wagering is offered, except for reasons beyond the control of the licensee and upon the approval of the Executive Director. On the last day of the final Choose (N) at any race meeting, the "net wagering pool," plus the "carryover amount" or "carryover amount cap" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets which have correctly selected the first place winners in each race (N) comprising the Choose (N). If no Choose (N) ticket correctly selects the first place winners in each race comprising the Choose (N) wager on the last date of any race meeting where Choose (N) wagering is offered, the "net wagering pool," plus the "carryover amount" or "carryover amount cap" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets selecting the greatest number of first place winners in each race (N) comprising the Choose (N).

1. If the licensee contends that for reasons beyond its control the "carryover amount" with or without cap cannot be distributed on the last date of any race meeting where Choose (N) wagering is offered, the Executive Director upon written application of the licensee may approve the "carryover amount" or "carryover amount cap" being applied to a Choose (N) offering in the next racing meeting of the licensee where the licensee establishes to the Executive Director's satisfaction that the reasons for the request are beyond the control of the licensee, and to grant the request would be consistent with the best interests of racing and the best interests of the wagering public. An example of a valid reason beyond the control of the licensee would be where inclement weather resulted in the cancellation of racing on the last day of the race meeting where Choose (N) wagering is offered, the Choose (N) with "carryover amount" or "carryover amount cap" was scheduled for offering on that day, and the Choose (N) could not reasonably be rescheduled during the same race meeting.

(f) Those horses constituting an entry or field shall race in any Choose (N) eligible race as a single wagering interest for purposes of the Choose (N) wager and Choose (N) wagering pool calculations. At any time after wagering has begun on a Choose (N) eligible race, a scratch of any part of the entry or field selection shall have no effect with respect to the status of the entry or field as a viable wagering interest. At any time after wagering has begun on a Choose (N) eligible race, if any horse, entire entry or entire field selection is declared a non-starter or scratched, no further tickets selecting such shall be issued and wagers upon such selection shall be deemed as a wager upon the horse, entry or field on which the most money has been wagered in the win pool at the close of win betting for that Choose (N) eligible race. However, in the event of a

tie with regard to such monies wagered, and subject to the approval of the Racing Commission Executive Director pursuant to (l) below, either the horse with the most inside post position or the horse with the lowest program number shall be designated.

(g) If there is a dead heat for win between two or more horses in any Choose (N) eligible race, all such horses shall be considered as the first place winning horse in that race for the purpose of distributing the Choose (N) wagering pool.

(h) If for any reason the condition of the turf requires a change of the racing surface in any Choose (N) eligible race, and such a change of the racing surface was not advertised to the wagering public prior to the close of wagering for the first eligible race of a Choose (N), the Racing Commission Board of Stewards shall declare the race where the surface was changed a "no contest" race for purposes of the Choose (N). In such case, the wagering pool shall be distributed consistent with (i) below.

(i) If for any reason one or more of the Choose (N) eligible races are cancelled or declared a "no contest," the ramifications thereof on the Choose (N) offering and Choose (N) wagering pool shall be approved by the Executive Director pursuant to (l) below, and made available to the public at least 24 hours prior to the commencement of wagering on the related Choose (N) offering. Following a declaration of the race as a "no contest" race for any reason, no Choose (N) tickets shall be sold selecting a horse scheduled to compete in the "no contest" race.

(j) Choose (N) tickets shall be sold in minimum denominations approved by the Executive Director. The physical design of Choose (N) tickets shall be distinguishable in appearance from other parimutuel tickets sold, and the Executive Director shall approve said design. The approved ticket design shall be used for each Choose (N) wager offered, and the approved design of the Choose (N) ticket shall not be changed for any Choose (N) unless first authorized by the Executive Director. The Executive Director shall approve such a request if the licensee establishes to the Executive Director's satisfaction that the approval is consistent with the best interests of racing and the best interests of the wagering public.

(k) The licensee may suspend a previously approved Choose (N) with the prior approval of the Executive Director. In such event, any "carryover amount" with or without cap shall be held, and the "carryover amount" shall be maintained until the suspended Choose (N) is reinstated. In approving such suspension, based upon the circumstances present and the length of suspension period proposed by the licensee, the Executive Director may impose conditions including that the carryover amount be placed in an interest bearing account with interest accruing to the carryover wagering pool.

(l) Races in which Choose (N) wagering is permitted shall be approved in advance by the Executive Director. A licensee

desiring to offer a Choose (N) must file a written approval request with the Executive Director at least 15 days prior to the commencement of public wagering on the proposed Choose (N), and the licensee may not offer public wagering on the proposed Choose (N) until written approval of the Executive Director is issued. The written approval request of the licensee shall contain a detailed description of the proposed Choose (N), including

- 1 The minimum monetary denomination of the proposed wager,
- 2 The number of races comprising the letter (N) in which a patron must select each first place winner,
- 3 The number of eligible races upon which the Choose (N) may be placed,
- 4 The identity of the specific eligible races including the date or dates on which they are to be conducted,
- 5 Whether the proposed Choose (N) will have a "carryover amount" or "carryover amount with cap" (and, if so, the cap amount),
- 6 Whether any "specified date distribution" is proposed for any carryover feature,
- 7 Whether the horse with the most inside post position or the horse with the lowest program number will be designated pursuant to (f) above,
- 8 The ramifications to the Choose (N) offering and Choose (N) wagering pool if there is a cancellation or "no contest" as required by (i) above,
- 9 The patron base to which the wager will be offered (for example, to racetrack patrons, account wagering patrons, casino simulcast facility patrons, simulcast outlets, off-track wagering facility patrons), and
- 10 The method and time of advertisement of the Choose (N) rules to the wagering public

(m) After determining that the proposed Choose (N) wager complies with this section in all aspects, the Executive Director shall approve the request of the licensee under (l) above to offer the Choose (N) wager. Any approval shall be subject to the condition that the rules of the Choose (N) be made available to the public at least 24 hours prior to commencement of wagering. Although a Choose (N) wager may be advertised to the public prior to the licensee obtaining such approval, any advertisement must contain language that "the offering of this wager is contingent upon and subject to the prior approval of the New Jersey Racing Commission."

(n) No employee or agent of the licensee, and no employee or agent of the totalisator operator, shall provide information to any person regarding covered combinations, amounts wagered on specific combinations, or number of tickets sold, outside the performance of their normal employment responsibilities.

(o) If circumstances occur which are not specifically addressed by this rule, questions arising thereby shall be resolved by the Racing Commission Board of Stewards in accordance with the general pari-mutuel practice as set forth in this Chapter. The Racing Commission Board of Stewards shall resolve any question regarding the distribution of the Choose (N) wagering pool consistent with this section.

(p) The penalties for violation of this section shall be as set forth in N J A C 13 70-31 3

New Rule, R 2006 d 82, effective February 21, 2006  
See 37 N J R 3786(a), 38 N J R 1216(a)

### 13:70-29.65 The "Group Bet"

(a) The "Group Bet" is a wager which requires that a patron select one of two groups of horses in a particular race, with the letter (A) representing one group of horses and the letter (B) representing the second group of horses. The "Group Bet" constitutes a win wager on each participant in the selected group and therefore, in order to win a "Group Bet" wager, one horse in the particular group selected by the patron must win the race. In each race where the "Group Bet" is offered, standard win wagering shall also be offered, and the minimum permissible wager for the "Group Bet" shall be the same as the minimum permissible standard win wager. In addition to standard win wagering being offered in any race where the "Group Bet" is offered, the racing association may in its discretion offer any other wager authorized by this Chapter.

(b) The horses comprising Group (A) and Group (B) shall be selected by the racing association offering the "Group Bet." The horses comprising each group shall number two or more horses, and the number of horses in each group need not be the same. In each race where a racing association offers a "Group Bet," in addition to selecting the horses comprising Group (A) and Group (B), the racing association shall select one horse which shall not be a member of either group (that is, the "non-group horse"). Each horse in a race where the "Group Bet" is offered must be a member of Group (A), a member of Group (B), or the sole "non-group horse." If the "non-group horse" wins the race, a patron who bet on Group (A) or Group (B) would lose his or her "Group Bet" wager. The identity of the horses comprising Group (A) and Group (B), and the identity of the horse comprising "the non-group horse," shall be advertised to the public in the race program and in any other manner approved by the Racing Commission Executive Director pursuant to (g) below.

(c) The racing association offering the "Group Bet," rather than designating each group of horses as Group (A) or Group (B), subject to the approval of the Racing Commission Executive Director pursuant to (g) below, may designate a particular name for each group.

(d) "Group Bet" wagers shall be combined into, and become a part of, the standard win wager pool for the particular race where the "Group Bet" is offered. The takeout



rate for a "Group Bet" wager shall, therefore, be the same as that applied to the standard win wager pool. The winning payout for a "Group Bet" wager shall be the same no matter which member of the particular group wagered upon wins the race.

1 The monies wagered as a "Group Bet" shall be allocated to the standard win wagering pool as follows. The racing association shall cause "Group Bet" wagers to be allocated to the win wagering pool for each horse within the specific group subject of the "Group Bet" wager, in proportion to the monies wagered upon each such horse to win the race in the standard win wagering pool. Specifically, this win pool wager allocation for an individual horse within a particular group shall be determined by adding the total monies wagered on all horses comprising the group (that is, Group (A) or Group (B)) as standard win wagers, then dividing such figure into the total amount wagered on the individual horse within the group (that is, Group (A) or Group (B)) as standard win wagers, and then multiplying the determined figure for that individual horse by the total wagered on the group to which it belongs as "Group Bets." For example, assume a race where the "Group Bet" is offered has five entries with horse 1 being the "non-group horse," horses 2 and 3 comprising Group (A), and horses 4 and 5 comprising Group (B). Assume further that, at the close of wagering, the following total wagers have been placed: \$1,000 in standard win wagers on horse 1, \$1,333 in standard win wagers on horse 2, \$1,000 in standard win wagers on horse 3, \$1,000 in standard win wagers on horse 4, \$667.00 in standard wagers on horse 5, \$1,000 in "Group Bet" wagers on Group (A), and \$1,000 in "Group Bet" wagers on Group (B). Applying the above described formula to Group (A), the win pool allocation for Group (A) would equal \$571.00 for horse 2 (that is, the total standard win pool wagers for each horse in the group ( $\$1,333/\text{horse 2} + \$1,000/\text{horse 3} = \$2,333$ ), divided into the standard win wager total for horse 2 ( $\$2,333$  divided into  $\$1,333/\text{standard win wager total for horse 2} = 571$ ), times the total wagered on the Group ( $571 \times \$1,000/\text{total wagered on Group (A)} = \$571.00$ ), and \$429.00 for horse 3.

2 Although the allocation described in (d)1 above shall be made as soon as possible after wagering has closed on the race, because the amount of money wagered upon each horse to win in any race is subject to change prior to the closing of the wagering pool, such allocation shall periodically be revised during the wagering process. Although the minimum wager for a "Group Bet" shall be the same as the minimum permissible wager for a standard win wager, such allocations may be made in fractional amounts less than the minimum permissible standard win bet wager.

3 The "Group Bet" probable win payout amount for each group shall be displayed to the public on a periodic basis prior to the closing of the wagering pools. Following the closing of the wagering pools, the actual win payout for any winning group shall be displayed to the public. The

probable win payout amounts and actual win payout amount for a "Group Bet" shall be displayed to the public based upon a \$2.00 wager, by the same method by which the probable win payout amounts and actual win payout amount for a standard win wager is displayed to the public.

4 The actual payout for a winning "Group Bet" shall be determined by multiplying the standard dollar win payout price for the race winner by the dollar amount allocated to the win wagering pool for the race winner (from the total dollar amount wagered upon the Group as "Group Bets" to which the race winner belongs), and then dividing the determined figure by the total wagered upon the Group (as "Group Bets") to which the race winner belongs. For example, and using the same hypothetical race example set forth in (d)1 above, after applying applicable breakage and assuming horse 2 wins the race, the standard win bet payout would be approximately \$3.30 per dollar wagered and the "Group Bet" payout would be approximately \$1.80 per dollar wagered (that is,  $\$3.30$  (standard win payout price) multiplied by  $\$571.00$  (amount allocated to the win wagering pool for horse 2 from the total dollar amount wagered upon Group (A) as "Group Bets"), which determined amount ( $\$1,884.30$ ) is divided by  $\$1,000$  (total bet on Group (A) as "Group Bets").

(e) In the event of a dead heat for win between two or more horses in the same group, the "Group Bet" winning payout shall be calculated in the same manner as if there was one winner of the race and such winner was a member of such group. In the event of a dead heat for win between one or more members of either group and the non-member of the group, or between one or more members of different groups, the "Group Bet" payout shall be determined in the same manner as the calculation of the win payoff, that is, by dividing the "net win wagering pool" (that is, for purposes of this section, the total win wagering pool, which includes standard win wagers and "Group Bet" wagers, less takeout).

(f) In the event the "non-group horse" is scratched or declared a non-starter, group betting shall cease and all "Group Bet" wagers previously placed on the race shall be refunded. In the event of a scratch or a declaration of non-starter of all of the members of Group (A) or all of the members of Group (B), group betting on the race shall cease and all "Group Bet" wagers previously placed on the race shall be refunded. In the event of a scratch or declaration of non-starter of a member of Group (A) or a member of Group (B), monies previously allocated to the scratched horse or non-starter shall be reallocated amongst the remaining member or members of that particular group.

(g) A racing association may not offer a "Group Bet" unless the format associated with the particular "Group Bet" wagering event is first approved by the Racing Commission Executive Director (Executive Director). A racing association desiring to offer a "Group Bet" must file a written approval request with the Executive Director at least three days prior to the commencement of public wagering on the proposed

“Group Bet,” and the licensee may not offer public wagering on the proposed “Group Bet” until written approval of the Executive Director is issued. The written approval request of the racing association shall contain the date of and race where the “Group Bet” is proposed to be offered, the name of each group, in the event the racing association intends to identify each group by a designation other than Group (A) and Group (B), the patron base to which the wager will be offered (for example, to racetrack patrons, account wagering patrons, casino simulcast facility patrons, simulcast outlets, off-track wagering facility patrons), and the method and time of advertisement of the “Group Bet” rules to the wagering public. Such a request may be approved by the Executive Director, subject to a determination by the Executive Director that the proposed “Group Bet” complies with this section in all aspects. In approving any request of a racing association related to a “Group Bet,” the Executive Director shall impose such conditions as are consistent with the best interests of racing and the interests of the wagering public. Any approval shall, however, be subject to the condition that the rules of the “Group Bet” be made available to the public at least 24 hours prior to the commencement of wagering. Although a “Group Bet” may be advertised to the public prior to the racing association obtaining such approval, any advertisement must contain language that “the offering of this wager is contingent upon and subject to the prior approval of the New Jersey Racing Commission.”

(h) In the event circumstances occur which are not specifically addressed by this section, questions arising thereby shall be resolved by the Racing Commission Board of Stewards in accordance with the general pari-mutuel practice as set forth in this Chapter. The Racing Commission Board of Stewards shall resolve any question regarding the distribution of the wagering pool consistent with this rule.

New Rule, R 2006 d 83, effective February 21, 2006  
 See 37 N.J.R. 3790(a), 38 N.J.R. 1219(a)  
 Petition for Rulemaking  
 See 48 N.J.R. 230(a), 467(b), 864(a)

**13:70-29.66 Requirements under which permitholders may request Racing Commission approval for new pari-mutuel wagers**

(a) The Racing Commission may approve or disapprove, at a public meeting, applications from permitholders for new forms of pari-mutuel wagering consistent with the best interests of racing. All applications must be filed with the Racing Commission on a form provided by the Racing Commission a minimum of 30 days prior to a scheduled public meeting and must include the following items before it will be considered by the Racing Commission:

- 1 A detailed description of the proposed wager along with the permitholder’s rules of the wager including, but not limited to, the following:
  - 1 The minimum dollar amount of the wager,
  - 11 The minimum number of starters,

- 111 Carry-over provisions, if any,
  - iv The method of pool distribution, and
  - v A description of all contingencies, including how the wager is handled in the event of a scratch, dead heat, race cancellation or change of surface, etc.
- 2 The application shall describe the provisions that will be implemented by the permitholder to notify the public of the new wager and of the permitholder’s rules of the wager, as well as when the wager will be offered, provided it is approved by the Racing Commission, and
- 3 The application shall include a certification from the totalisator company confirming the wager has been successfully programmed, tested and conforms with the permitholder’s rules of the wager in all respects.

New Rule, R 2007 d 112, effective April 16, 2007  
 See 39 N.J.R. 24(a), 39 N.J.R. 1488(b)

**SUBCHAPTER 29A SINGLE-POOL WAGERING**

**13:70-29A.1 Applicability of rules in this subchapter**

The rules in this subchapter are applicable to Racing Commission-approved single-pool wagering events. Single-pool wagering events shall also be governed by the rules set forth in this chapter, unless such rules are superseded by the rules in this subchapter. If there is a conflict between a rule in this subchapter, and any other rule set forth in this chapter, the rule set forth in this subchapter shall apply.

**13:70-29A.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Multi-pool traditional wagering” means the form of parimutuel wagering traditionally associated with horse race wagering in this State, as authorized by this chapter, and the varieties of wagers authorized for such wagering, including, but not limited to, trifecta, exacta, win, place, and show.

“Odds calculation engine” means a computer and its related hardware and software components, which, upon prior approval of the Racing Commission, may interface with the totalisator to receive wagering data from the totalisator, to perform single-pool wagering odds calculations, to calculate payoffs for winning single-pool wagering tickets, and after performing these functions, to then return the single-pool wagering odds calculation information to the totalisator. An odds calculation engine may be part of the totalisator or integrated within the totalisator, or it may be a separate component to the totalisator.

“Single-pool wager placement type” means a special form of wager to be specified by a patron at the time that he or she places a wager on a single-pool wager variety. Single-pool wager placement types authorized by this subchapter are a

"combination wager," a "multiple race wager," a "limit wager" an "all-or-none wager," and such additional single-pool wager placement types that may be approved by the Racing Commission pursuant to N.J.A.C. 13:70-29A.7.

"Single-pool wager variety" means any wager variety authorized by this chapter for multi-pool traditional wagering, including, but not limited to, win, place, show, exacta, trifecta, and superfecta, and such additional wager varieties that may be authorized for single-pool wagering by the Racing Commission pursuant to N.J.A.C. 13:70-29A.7.

"Single-pool wagering" means the form of wagering authorized by this subchapter where the cumulative proceeds of different single-pool wager varieties, including, but not limited to, trifecta, exacta, win, place, and show, on one or more races, are combined to form a single wagering pool, and following the deduction of the required takeout from the resulting single wagering pool proceeds, and applying parimutuel properties, the remaining balance of the proceeds are distributed to those individual winning ticket holders for the race or races whose cumulative wagers formed the single wagering pool

"Single-pool wagering event" means a horse race wagering event, which, following approval by the Racing Commission of the race or races to be used to form the event, the single-pool wager placement types to be used to form the event, and the single-pool wager varieties to be used to form the event, may be offered for wagering to the public by a single-pool wagering outlet

"Single-pool wagering outlet" means the following entities authorized by the Racing Commission to offer single-pool wagering events: a racetrack permit holder, an off-track wagering license holder, the account wagering licensee, and, subject to any required approval of the New Jersey Casino Control Commission, any Atlantic City casino authorized to participate in casino simulcasting

"Single-pool wagering provider" means a person, persons, association, partnership, organization, or other entity who is the operator of the odds calculation engine. The single-pool wagering provider may or may not also be the operator of the totalisator

"Single wagering pool" means the single wagering pool formed as a result of a Racing Commission-approved single-pool wagering event.

"Single wagering pool unawarded surplus" means the unawarded surplus, which might arise in connection with a single-pool wager variety for a race, which single-pool wager variety and race is part of a Racing Commission-approved single-pool wagering event. For example, if no wager on a "place" single-pool wager variety was a winner, a single wagering pool unawarded surplus would arise because no winning bettor would be available to collect the portion of the funds, within the single wagering pool, arising from the

inclusion within the pool of wagers placed for that single-pool wagering "place" variety

"Totalisator," means a computer situated within the hub facility, which, among other things, directly or indirectly through one or more other totalisators receives pari-mutuel wagering information, calculates payoffs for winning pari-mutuel tickets, generates reports with respect to such information, and in the event that the transmission of data from a sending or host track has been interrupted, automatically ceases wagering in accordance with the internal control procedures of the hub facility. The totalisator, for purposes of single-pool wagering, interfaces with the odds calculation engine and receives single-pool odds calculation information from it. The totalisator may from time-to-time perform certain functions of the odds calculation engine, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, or in the event of a mechanical breakdown of the odds calculation engine

### 13:70-29A.3 Licensing of single-pool wagering provider, principals, and employees

(a) The single-pool wagering provider shall be licensed as a vendor, pursuant to N.J.A.C. 13:70-4.1. In order for the application of a single-pool wager provider to be considered complete, the following documents must be submitted with its application for licensure, and such application and documents must be found to be complete by the Racing Commission Executive Director

1. Written internal control procedures, consistent with N.J.A.C. 13:70-29A.4,
2. A written evaluation of the accuracy and reliability of the odds calculation engine, at cost to the applicant and performed by an independent testing facility acceptable to the Racing Commission Executive Director, as determined on a case-by-case basis, which includes a mathematical analysis of the odds calculation engine;
3. A fully executed contract, between the single-pool wager provider, and a single-pool wagering outlet, which provides for the offering of single-pool wagering events to the public,
4. Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a fully executed contract between the single-pool wager provider and totalisator operator, which contract is to address the interface between the totalisator and odds calculation engine, the specific single-pool wagering-related reports that are to be maintained by the totalisator operator, the specific single-pool wagering-related reports to be maintained by the single-pool wagering provider, and related terms,

5. Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a certification from a high managerial agent of the totalisator operator, indicating that the totalisator operator has reviewed the internal control procedures of the single-pool wagering provider, and as a result of that review, is of the opinion that the implementation of said procedures will not be inconsistent with the operation of the totalisator, and

6. A written list identifying all principals of the single-pool wagering provider, all the employees of the single-pool wagering provider, and those principals and employees who will have access to the odds calculation engine. The Racing Commission Executive Director, in his or her discretion, may require such persons to secure a Racing Commission "certificate of identification" license pursuant to N.J.A.C. 13:70-4 1(a)5.

**13:70-29A.4 Written internal control procedures requirement for the single-pool wagering provider**

(a) The single-pool wagering provider shall maintain written internal control procedures that address the following areas

1. Procedures to demonstrate that the odds calculation engine is subject to an actively managed security policy, which meets auditable recognized information security management standards. The security procedures shall comply and conform to the existing security requirements of the totalisator and hub facility, that is, the in-State location where the totalisator is located;

2. Procedures to effectively operate the odds calculation engine in connection with single-pool wagering, and to protect the fiscal soundness, technical reliability, and integrity of single-pool wagering;

3. Procedures to insure that the odds calculation engine hardware and networked communication infrastructure between the odds calculation engine and totalisator support redundancy sufficient to prevent the implementation from being subject to any single point of failure,

4. Procedures to insure that any extensions of the totalisator requirements, as a result of interfacing with the odds calculation engine, or as a result of changes to hardware or software to the odds calculation engine, including alterations to the calculation engine algorithm or odds calculation engine system software, shall result in successful testing of both the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and

such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification consistent with this paragraph shall be provided to the Racing Commission,

5. Procedures to insure that any extensions of the odds calculation engine system requirements, as a result of interfacing with the totalisator, or as a result of changes to hardware or software to the totalisator, shall result in successful testing of the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator system or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification consistent with this paragraph shall be provided to the Racing Commission,

6. Procedures to insure the secure maintenance of a written record documenting access to the odds calculation engine, including its software, hardware, and any peripheral devices,

7. Procedures to insure that the odds calculation engine allows for an independent integrity check of its devices and software, including the ability to read the critical software files or code of the odds calculation engine for the purpose of performing a cryptographic hash to create an electronic signature of the software, and

8. Procedures to insure that data for reports and logs are maintained directly or through backup for a period equal to the totalisator system's data retention period, which time period shall be identified as part of the procedure

(b) Where the odds calculation engine is to operate as a separate computer component to the totalisator, or by a single-pool wagering provider other than the totalisator operator, the internal control procedures of the single-pool wagering provider shall additionally address the following areas:

1. Procedures setting forth a defined protocol by which the odds calculation engine and totalisator shall communicate, which communication protocol shall employ methods of error detection and handling;

2. Procedures setting forth a documented method for odds calculation responsibilities to fall back to the totalisator in the event of communication failure;

3. Procedures to insure that logs, automated or otherwise, are maintained showing the detected communication failures and mechanical breakdowns, and if discernible, the cause of the failure. Such procedures shall further insure that logs, automated or otherwise, are maintained showing the resolution or restoration of communications after such failures. Logs shall include times and dates of any failure, and the times and dates of the restoration of communication, and

4. Procedures to allow for the totalisator to perform certain functions of the odds calculation engine where within the existing technological capabilities of the totalisator, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, and in the event of a mechanical breakdown of the odds calculation engine

**13:70-29A.5 In-State requirement for odds calculation engine; dedicated requirement for odds calculation engine; access by Racing Commission**

(a) The odds calculation engine, including its related hardware and software components and peripheral devices, shall be physically located within the State of New Jersey. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the single-pool wagering provider, shall be stored in a secure fashion at the same in-State location where the odds calculation engine is located. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the totalisator operator, shall be stored in a secure fashion at the same in-State location where the totalisator is situated. The odds calculation engine may be located, but is not required to be located, at the same in-State location where the totalisator is located

(b) The odds calculation engine shall be dedicated to its functions consistent with this subchapter, and absent approval of the Racing Commission, shall not be part of a larger computer system designed to perform any other functions or responsibilities not the subject of this subchapter.

(c) The Racing Commission, and its authorized employees and agents, shall have absolute and on-demand access to the in-State location where the odds calculation engine is situated, to the odds calculation engine system, and to all reports related to the conduct of single-pool wagering maintained or required to be maintained by the single-pool wagering provider or totalisator operator.

**13:70-29A.6 Petitions to the Racing Commission to offer a single-pool wagering event**

(a) A petition for approval to conduct a single-pool wagering event shall be in writing, and submitted to the Racing Commission for approval in advance of the event

offering, by a single-pool wagering outlet. The petition shall set forth the race or races used to form the event, the single-pool wager placement type or types to be offered as part of the event, and the single-pool wager variety or varieties to be offered as part of the event. The petition shall explain, consistent with N.J.A.C. 13:70-29A.8, how any unawarded surplus is proposed to be distributed. The petition will further specify whether the odds calculation engine will directly support and conduct the calculation of odds in connection with the proposed single-pool wagering event, or whether the totalisator will be responsible for supporting and calculating some or all of such odds for any aspect of the proposed single-pool wagering event. The petition shall further specify, consistent with N.J.A.C. 13:70-29A.9, the method proposed by the single-pool wagering outlet to calculate the odds in the event of a dead heat finish in connection with any race or wager subject of the proposed single-pool wagering event

(b) Where the petition of a single-pool wagering outlet, to conduct a single-pool wagering event, seeks approval for a number of races to form the event, which number of races has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said number of races has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(c) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager placement type to form the event, which single-pool wager placement type has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said single-pool wager placement type has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(d) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager variety to form the event, which single-pool wager variety has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the application shall include documentation from the single-pool wagering provider evidencing that said single-pool wager variety has been the subject of successful testing

of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis

(e) Where a petition seeking Racing Commission approval to conduct a single-pool wagering implicates (b), (c), or (d) above, the petition of the single-pool wagering outlet shall include any certifications required by N.J.A.C. 13:70-29A.4(a)4 and 5

(f) Where a petition seeking Racing Commission approval to conduct a single-pool wagering event implicates N.J.A.C. 13:70-29A.12(b), the petition shall set forth the take-out structure for the proposed single-pool wagering event

#### **13:70-29A.7 Single-pool wager placement types; single-pool wager varieties**

(a) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to, and approval of the Racing Commission pursuant to N.J.A.C. 13:70-29A.6, may offer the single-pool wager placement types listed in this subsection, and such other single-pool wager placement types as the Racing Commission determines are consistent with the best interests of racing, and consistent with the technological ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets

1. A "combination wager" means a wager placed on one or more horses and shall be a winning wager only if the horses selected finish in any of the positions selected as part of the wager. For example, a combination wager to select two of the top three finishers would be a winning wager only if both selected horses finish the race in any combination of first through third.

2. A "multiple race wager" means a wager on the outcome of multiple races. This wager may include any combination of number of races, on races contested at one or multiple racetracks, provided that each combination offered for wagering shall have its own associated odds

3. A "limit wager" means a wager placed on an outcome that has associated with it specified odds or higher odds. A limit wager, once placed, only enters the single wagering pool to the extent that the actual odds calculated for the wager equal or exceed the odds specified as part of the limit wager when placed. Because a limit wager is removed from the single wagering pool to the extent that the calculated odds move below the odds specified as part of the limit wager when placed, a partial fill of the placed wager may result.

4. An "all-or-none wager" means a limit wager in which the wager must be able to be placed within the single wagering pool in its entirety, or the wager may not be accepted

(b) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to and approval of the Racing Commission pursuant to N.J.A.C. 13:70-29A.6, may offer any wager variety authorized by this chapter for multi-pool traditional wagering, and such additional single-pool wager variety or varieties that the Racing Commission determines is consistent with the best interests of racing and consistent with the technological ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets

#### **13:70-29A.8 Single wagering pool unawarded surplus**

The distribution of any single wagering pool unawarded surplus, which could arise in connection with a single-pool wagering event, shall be subject to the approval by the Racing Commission at the time it considers any petition of a single-pool wagering outlet for a single-pool wagering event. The single-pool wagering outlet shall have the burden to demonstrate, to the satisfaction of the Racing Commission, that any single wagering pool unawarded surplus will be distributed in a fair and consistent fashion to persons who have wagered on the same race, or races, resulting in the single wagering pool unawarded surplus

#### **13:70-29A.9 Calculation of odds in the event of a dead heat finish**

(a) In the event of a dead heat for any position in any race comprising a single-pool wagering event, the payoff shall be calculated using either of the two methods set forth below, as approved by the Racing Commission

1. The method set forth in N.J.A.C. 13:70-29.46, or

2. The payoff for each winning wager, in the event of a dead heat finish involving two horses, shall be equal to  $\frac{1}{2}$  of the expected payout for each horse involved in the dead heat. In the event of a dead heat finish involving three or more horses, the payout for each winning wager shall be divided equally for each horse involved in the dead heat.

#### **13:70-29A.10 Notification to public of single-pool wagering event; display of odds information**

(a) A single-pool wagering outlet shall provide sufficient notice to the public of all single-pool wagering events, whether offered in connection with live racing or simulcasting. The public notification shall be included in the race program, unless otherwise approved by the Racing Commission, and shall identify the races, the single-pool wager varieties, and the single-pool wager placement types included in the single-pool wagering event

(b) The odds information for all single-pool wager varieties forming a single-pool wagering event shall be displayed to the public consistent with N.J.A.C. 13:70-29.8, unless the Racing Commission approves such other method. Such odds information shall be displayed in a continuously updated manner, unless otherwise approved by the Racing Commission.

**13:70-29A.11 Single-pool wagering with out-of-State racetracks**

The Racing Commission may approve a single-pool wagering event imported from an out-of-State racetrack, or exported to an out-of-State racetrack, provided that such single-pool wagering event is consistent with law. Any petition to the Racing Commission to approve such a single-pool wagering event shall contain a certification, signed by a high managerial agent of both the single-pool wagering outlet and single-pool wagering provider, that the proposed single-pool wagering event is consistent with the law of such other jurisdiction or jurisdictions.

**13:70-29A.12 Take-out structure for single-pool wagering events; calculation of net pool amount**

(a) Where a Racing Commission-approved single-pool wagering event includes a single-pool wager variety, which same variety is also authorized by this chapter for multi-pool traditional wagering events, the take-out for such single-pool wagering variety shall be the same as that applied in multi-pool traditional wagering.

(b) Where a Racing Commission-approved single-pool wagering event includes a single-pool wager variety, which variety is not authorized by this chapter for multi-pool traditional wagering, the takeout rate for such single-pool wager variety shall be determined by the single-pool wagering outlet petitioning the Racing Commission for approval of the single-pool wagering event, but in no case shall the take-out rate be less than 17 percent or greater than 25 percent of the portion of the single wagering pool comprising said single-pool wager variety.

(c) Where a Racing Commission-approved single-pool wagering event is imported from another jurisdiction as a simulcast event, the take-out rate governing that race in the sending jurisdiction shall be applied.

(d) In no case shall any take-out rate for any single-pool wager variety be inconsistent with the take-out rate percentages provided for in P.L. 1940 c. 17 (N.J.S.A. 5:5-22 et seq.).

(e) To arrive at the net pool amount for a single-pool wagering event, the take-out authorized by this section shall first be applied to and deducted from the total wagered on each single-pool wager variety for each race comprising the single-pool wagering event. The total amount wagered on each horse race wager variety shall then be divided into the corresponding net pool amount, which calculation results in

the payoff price for each horse race wager variety for each race forming the single-pool wagering event.

**13:70-29A.13 Integration of single-pool wagering data with Racing Commission mutual system**

Any data necessary for the Racing Commission computerized mutual system to reconcile wagering information, and to insure that the distribution of wagers made is consistent with law, shall be made available to the Racing Commission by the single-pool wager provider or totalisator operator, as appropriate. In the event that any resulting hardware or software changes are required to be made to the Racing Commission computer system, the single-pool wager provider shall be directly responsible for all related costs incurred by the Racing Commission. Nothing contained in this section shall preclude the single-pool wager provider from contracting with any other person or entity to reimburse any such costs to it.

**13:70-29A.14 System failure for single-pool wagering event**

Where, due to any system failure in connection with a Racing Commission-approved single-pool wagering event, including as a result of a system failure of the odds calculation engine, the totalisator, or any interface between the odds calculation engine and the totalisator, odds cannot be calculated or wagers cannot be processed utilizing the single-pool wagering system, such odds shall be calculated utilizing the multi-pool traditional wagering system. In the event that the multi-pool wagering system cannot be utilized, the rules in effect governing totalisator failure for multi-pool traditional wagering shall apply.

**SUBCHAPTER 30 INITIAL TRACK APPLICATION**

**13:70-30.1 Permit to hold race meetings**

(a) No license or permit shall be transferable or assignable in any manner or in any particular.

(b) An application for a permit to conduct a horse race meeting shall be filed on form R-1 in the case of harness races and on form R-2 in the case of running races, which forms shall be prescribed and furnished by the commission. The commission may require from time-to-time additional information which shall be attached to, and made a part of, and filed with the application. The application and additional information shall be submitted in affidavit form, sworn to and subscribed before a person legally competent to take oaths. The application shall be filed with the commission prior to August 1, of any year.

(c) The applicant shall furnish, at his expense, such data as the commission shall require to enable it to carry out fully and effectually all the provisions and purposes of the law which may include, but shall not be limited to, the following

1 Blueprints and specifications of the track and its surface, and blueprints and specifications of buildings and grandstands; and

2. Surveys, studies and analyses by competent and qualified experts which may be required by the commission to ascertain such factors as proposed attendance, traffic flow, income or any and all matters necessary for the commission to make a determination with respect to the matter of the application

(d) When, in the judgement of the commission, the services of special legal counsel are necessary to carry out fully and effectually all the provisions and purposes of the law and to serve the public interest, the commission may request the Attorney General to appoint such counsel and the applicant shall pay the reasonable expenses to his services. Special counsel shall submit, in affidavit form, a detailed accounting of his services to the Attorney General, who shall certify said accounting to the commission upon being satisfied that it is reasonable and necessary to carry out fully and effectually the purposes of this act. The commission shall, in no event, require payment for such services without the said approval of the Attorney General.

(e) In any case where the commission may require expenses by the applicant, pursuant to this request, the commission may, in its discretion, require the applicant to give bond or other satisfactory security to guaranty payment of the aforesaid expenses

(f) The application for a permit to hold or conduct horse race meetings within the State of New Jersey shall include, but not be limited to, the following information

1 The name of the person, association or corporation making such application,

2. Post office address of the applicant,

3 If the applicant is a corporation or an association, the names and addresses of the officers and directors thereof and the name and address of each owner or holder, directly or indirectly, of any share of stock or certificate or other evidence of ownership of any interest in such corporation or association;

4 If the applicant is a partnership, it shall furnish the names and addresses of all general and limited partners,

5. In the case of a corporate applicant, the date of incorporation, name of the state in which incorporated, and a copy of the original certificate of incorporation and of any amendments thereto;

6 The dates on which it is intended to conduct or hold such horse race meeting and the hours of each racing day between which it is intended to hold or conduct horse racing at such meeting,

7. The location of the place, track or enclosure where it is proposed to hold or conduct such horse race meeting;

8 Detailed information and specifications of the track, buildings and grandstand possessed or to be constructed by the applicant, including a blueprint of the track and specifications of the construction and of the surface of same, and blueprints and detailed architect's specifications of the construction of any buildings and grandstands of the applicant. The commission reserves the right to reject inadequate or unsatisfactory specifications or to demand additional information and specifications from the applicant,

9. A financial statement of the applicant, certified by a certified public accountant of New Jersey,

10. A statement by a certified public accountant of New Jersey showing details of all financing arrangements made or contemplated by the applicant in connection with the construction of the race track buildings and grandstand,

11 Any other information which is set forth on form R-1 or form R-2 or as may be required by the commission

(g) The application, if made by an individual, shall be signed and verified under oath by such individual, and, if made by two or more individuals or a partnership shall be signed and verified under oath by all of the individuals or by all of the members of the partnership, whether general or limited, as the case may be. If the application is made by an association or corporation, it shall be signed by the president or vice president thereof and attested by the secretary or assistant secretary under the seal of such association or corporation, if it has a seal, and shall be verified under oath by one of the officers signing the same.

(h) In addition to the above requirements the applicant shall comply with the following

1 Every applicant shall furnish to the Commission, under oath, a list of the names, addresses and dates of birth of every person, entity or organization who or which has any interest whatsoever in the applicant, the proposed race track, or the proposed horse race meetings, and a detailed account of the nature and extent of said interest. Each such person, entity or organization who or which has such an interest shall furnish a statement, under oath, to the Commission, setting forth that he is acting solely in his own behalf and is a real party in interest, or if he is acting jointly with or solely on behalf of any person, entity or organization, or if he is not a real party in interest, then he shall state the name, address and date of birth of the real property or other party or parties in interest for whom he is acting. In the event that the application and its attachments do not identify any person, entity or organization who or which has any direct or indirect interest in the applicant, proposed race track or proposed horse race meetings, the application may be denied

2 Every applicant member, partner, officer, director, stockholder and person having any direct or indirect interest in the applicant and every real party in interest in



the applicant shall furnish a detailed statement, under oath, of his experience and background in racing and of his business and financial background including a financial statement.

3. Every applicant shall furnish with its application the fingerprints of each applicant member, partner, officer, director, real party in interest, stockholder and of every person who has any direct or indirect interest whatsoever in the applicant, on forms provided by the Commission

4. Every applicant member, partner, officer, director, real party in interest and stock holder shall furnish a statement, under oath, to the Commission, describing any and all direct or indirect interests that he presently has, or previously had, in any other racing organization, association or race track, presently existing or which has been in existence in any part of the world.

(i) If there is any false statement or omission of any material fact in the application or in the additional information required by these rules or by the Commission, the application may be denied.

(j) The Commission shall designate a certified court reporter to take and record the proceedings at the public hearing on the application. Within ten days following the date of the public hearing the applicant shall, at its own expense, furnish to the Commission an original and four copies of a transcript of the record of the proceedings.

(k) Within 15 days after the filing of an original application, the Commission shall determine whether the same is in due form and upon being satisfied thereof shall set a date not later than September 15 next when a public hearing shall be held on such application.

(l) The public hearing shall be held in the county wherein it is proposed to conduct the race meeting for which the permit is sought, at such place as may be designated by the Commission in writing to the applicant. Notice of the time and place of the hearing shall be served on the applicant by the Commission by mailing the same postage paid by certified mail to the applicant at the address indicated in the application

(m) The Commission shall cause a display advertisement approximately 11 inches by 8 inches in size to be published at least once in a daily newspaper and at least once in a weekly newspaper published or circulated, if none be published, in the county wherein it is proposed to conduct the race meeting for which the permit is sought. Such advertisements shall be published at least 15 days before the date of such public hearing and shall contain the following:

1. The name and address of the applicant,
2. The time and place of the hearing;
3. The nature of the permit applied for;

4. A statement to the effect that the purpose of the hearing is to assist the Racing Commission in making a determination whether or not it shall grant a permit to conduct a horse race meeting during the times and at the place indicated in the application;

5. Such other information as is determined to be necessary by the Commission in order to apprise the public as to the purpose of the hearing.

(n) The advertisements for the public hearing shall be prepared and placed by the Commission, but shall be paid for by the applicant prior to the time of the public hearing. The applicant shall produce proof to the Commission prior to the hearing that it has paid for the advertisements

(o) The hearing shall be recorded by a certified court reporter of the State of New Jersey, who shall be sworn by the Chairman of the Racing Commission at the beginning of the hearing.

(p) The public hearing shall be held before the Racing Commission. A majority of the Commission shall constitute a quorum for the purpose of the hearing. The Chairman of the Commission shall conduct the hearing, or may designate the counsel assigned to the Racing Commission by the office of the Attorney General to conduct the hearing

(q) The Commission may continue such hearing from time to time if it deems it to be necessary in the public interest, or for purposes of a more thorough investigation of the application. In conducting the hearing the Commission shall not be bound by technical rules of evidence, but all evidence offered before the Commission shall be reduced to writing and shall, with the petition and exhibits, if any, and the findings of the Commission, be permanently preserved and shall constitute the record of the Commission in the matter of the pending application. Any of the parties affected by such hearings may be represented by counsel and shall have the right to introduce evidence.

(r) Each member of the commission shall have power to administer oaths and examine witnesses and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, records, correspondence and other evidence at the designated place of hearing. Such subpoena shall be authenticated by the seal of the commission and any parties to a proceeding before the commission may secure from its subpoenas without charge. Misconduct on the part of a person attending a hearing, or the failure of a witness, when duly subpoenaed, to attend, give testimony or produce any records, shall be punishable in accordance with law by the county court of the county wherein the offense is committed. The commission shall certify such misconduct, failure to attend or produce records, to such county court.

(s) The commission, or any member thereof, or any applicant, may in connection with any hearing before the commission cause the deposition of witnesses within or without

the State to be taken on oral or written interrogatories in the manner prescribed by statute for depositions in suits at law in the courts of record in this State.

(t) The commission, or a majority thereof, shall determine whether a permit to hold or conduct a running race meeting or harness race meeting, as the case may be, is provisionally granted pending approval thereof by the legal voters of the county and of the municipality in which it is proposed to hold or conduct such race meeting. The commission shall make its determination not less than 30 days before the next ensuing general election following the date of public hearing. If the commission acts favorably on such application, it shall in writing certify to the county clerk of the county in which it is proposed to hold or conduct such horse race meeting that such permit has been provisionally granted.

(u) The actual costs and expense of the commission incurred in connection with any such hearing or investigation of the application shall be paid by the applicant upon the commission's delivering to the applicant a statement thereof. The commission, in its discretion, may require the applicant, before the hearing as heretofore provided, to give a surety bond or other satisfactory assurance that such applicant will pay all costs of such hearing.

## SUBCHAPTER 31. VIOLATIONS

### 13:70-31.1 Liability

Any person or association licensed by the commission or any person or association subject to the jurisdiction of the commission violating any of its rules or regulations shall be liable to the penalties herein provided, unless otherwise limited in and by the rules and regulations of the commission. The penalties provided herein are in addition to those which may be imposed under N.J.A.C. 13.70-1, 3, 16, and 23.

#### Case Notes

Jockey breathalyzer and urine test regulations valid as reasonable under the Fourth Amendment, penalties for violation *Shoemaker v Handel*, 619 F Supp 1089 (D.N.J. 1985), affirmed 795 F 2d 1136 (3rd Cir 1986) certiorari denied 107 S Ct 577, 479 U.S. 986, 93 L Ed 2d 580

### 13:70-31.2 Attempt to violate

Any attempt to violate the law or any of the rules and regulations of the commission falling short of actual accomplishment shall constitute and shall be punishable as if consummated.

### 13:70-31.3 Penalties

(a) The penalties for violation of the law, the rules and regulations or the directives of the Commission shall be as follows.

1. Denial, revocation or suspension of license;

2 Monetary fines not exceeding \$50,000 for each violation. The stewards may not impose directly a fine in excess of \$5,000,

3 Suspension from one or more activities at one or more tracks;

4 Expulsion from racing in New Jersey;

5 Forfeiture of purse;

6 In addition to the foregoing, the commission may impose as a condition to licensing such conditions as it shall deem appropriate to secure compliance with the rules, regulations and directives of the commission.

(b) The penalties provided above, where applicable, shall be extracted from all persons and/or associations, whether licensed by the commission or not.

As amended, R 1982 d 183, effective June 21, 1982

See 14 N.J.R. 91(a), 14 N.J.R. 661(a)

(a)2 "\$5,000" was "\$2,000"; "\$500 00" was "\$250 00"

Amended by R 2004 d 155, effective April 19, 2004

See 35 N.J.R. 4182(a), 36 N.J.R. 1952(a).

In (a)2, increased the fine amounts

#### Case Notes

Owner/driver/trainer's license suspended, failure to report suspicion that veterinarian "milkshaked" horse *Telymonde v New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 42.

Parimutuel clerks had their licenses suspended and were subjected to fines for punching or accessing winning tickets *Sauter v New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 38

Horse trainer fined for employing farmhand who had been indefinitely suspended *New Jersey Racing Commission v Wendling*, 94 N.J.A.R.2d (RAC) 35.

Veterinary horse doctor suspended, failure to testify as to what substance he injected into a horse *New Jersey Racing Commission v Kates*, 94 N.J.A.R.2d (RAC) 29

Horse trainer license suspended upon his first offense *Montgomery v New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 27.

Foreign substance in horse's system, 30 day suspension of trainer's license *Fusco v New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 15

Evidence failed to support suspension of jockey *Charis v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 6.

Horse trainer properly suspended when horse tested positive for caffeine *Campitelli v New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 2

## SUBCHAPTER 32 "SELF-EXCLUSION LIST" RULES

### 13:70-32.1 "Self-exclusion list" rules incorporated herein by reference

The Racing Commission rules, at N.J.A.C. 13.74A, Self-Exclusion List, set forth rules and procedures allowing for individuals to voluntarily place themselves on a list of per-

sons to be excluded from thoroughbred racetracks licensed pursuant to this chapter (N J A.C. 13:70, Horse Racing); excluded from standardbred or harness racetracks licensed pursuant to N.J.A.C. 13.72, Harness Racing; excluded from off-track wagering facilities licensed pursuant to N.J.A.C.

13-74; and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to N J A C 13 74 All rules in N J A.C. 13-74A are applicable to this chapter and are incorporated herein by reference



**CHAPTER 71**

**HARNESS RACING**

**Authority**

N J S A 5 5-30

**Source and Effective Date**

Effective August 28, 2017  
See 49 N J R 3362(a)

**Chapter Expiration Date**

Chapter 71, Harness Racing, expires on August 28, 2024

**Chapter Historical Note**

Chapter 71, Harness Racing, was filed and became effective prior to September 1, 1969

Subchapter 14, Claiming, was repealed and Subchapter 14, Claiming, was adopted as new rules by R 1980 d 95, effective February 27, 1980 See 11 N J R 463(a), 12 N J R 208(c)

Subchapter 3, Appeals, was repealed and Subchapter 3, Appeals, was adopted as new rules, and Subchapter 24, Authorized Agents, Subchapter 25, Vendors, Subchapter 26, Illegal Practices, Subchapter 27, Mutuels, and Subchapter 28, Initial Track Application, were adopted as R 1982 d 109, effective April 5, 1982 See 13 N J R 820(a), 14 N J R 347(a)

Pursuant to Executive Order No 66(1978), Subchapter 5, Tracks, Subchapter 9, Veterinarians and Veterinarians Certificates, Subchapter 21, Placing Conditions and Purses, and Subchapter 23, Stimulations and Tests, were readopted as R 1983 d 295, effective July 8, 1983 See 15 N J R 685(a), 15 N J R 1256(a)

Pursuant to Executive Order No 66(1978), Subchapter 7, Licensing, Subchapter 8, Officials, and Subchapter 17, Starting, were readopted as R 1984 d 103, effective March 19, 1984 See 16 N J R 221(a), 16 N J R 742(a), 16 N J R 1360(a)

Pursuant to Executive Order No 66(1978), Subchapter 4, Definitions, expired on December 19, 1984

Subchapter 4, Definitions, was adopted as new rules by R 1984 d 621, effective January 21, 1985 See 16 N J R 2976(a), 17 N J R 204(b)

Subchapter 23, Stimulation and Tests, was repealed and Subchapter 23, Medication and Testing Procedures, was adopted as new rules by R 1985 d 58, effective February 19, 1985 See 16 N J R 3182(a), 17 N J R 471(a)

Pursuant to Executive Order No 66(1978), Subchapter 14, Claiming, was readopted as R 1985 d 137, effective February 25, 1985 See 17 N J R 57(a), 17 N J R 710(c)

Pursuant to Executive Order No 66(1978), Chapter 71, Harness Racing, was readopted as R 1990 d 126, effective January 25, 1990 See 21 N J R 3861(a), 22 N J R 667(a)

Subchapter 29, Sulky, was adopted as R 1994 d 143, effective March 21, 1994 See 26 N J R 95(a), 26 N J R 1357(a)

Pursuant to Executive Order No 66(1978), Chapter 71, Harness Racing, was readopted as R 1995 d 103, effective January 25, 1995 See 26 N J R 4744(a), 27 N J R 733(b)

Pursuant to Executive Order No 66(1978), Chapter 71, Harness Racing, was readopted as R 2000 d 35, effective December 22, 1999 See 31 N J R 3050(a), 32 N J R 322(a)

Subchapter 30, "Self-Exclusion List" Rules, was adopted as R 2004 d 399, effective October 18, 2004 See 36 N J R 2980(a), 36 N J R 4828(a)

Chapter 71, Harness Racing, was readopted as R 2005 d 234, effective June 17, 2005 See 37 N J R 419(a), 37 N J R 2696(b)

Chapter 71, Harness Racing, was readopted as R 2011 d 016, effective December 7, 2010 See 42 N J R 1488(a), 43 N J R 57(a)

Subchapter 27A, Single-Pool Wagering, was adopted as new rules by R 2013 d 069, effective April 15, 2013 See 44 N J R 3049(a), 45 N J R 929(a)

In accordance with N J S A 52 14B-5 1b, Chapter 71, Harness Racing, was scheduled to expire on December 7, 2017 See 43 N J R 1203(a)

Chapter 71, Harness Racing, was readopted, effective August 28, 2017 See Source and Effective Date

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## SUBCHAPTER 1 GENERAL RULES

## 13:71-1.1 General provisions

(a) The rules, regulations and conditions under which all horse racing shall be conducted in the State of New Jersey are prescribed by the racing law and by the New Jersey Racing Commission

(b) If at any time there is a conflict between the rules of the New Jersey Racing Commission and the rules of the United States Trotting Association, the rules of the Commission shall govern

(c) The Executive Director or his or her designee shall possess the same authority of the Racing Commission stewards and judges with respect to all provisions contained in the Administrative Code governing racing in New Jersey

Amended by R 1992 d 88, effective February 18, 1992  
See 23 N J R 3432(a), 24 N J R 647(b)  
Added (c)

#### Law Review and Journal Commentaries

Horse Drugging—The New Jersey Trainer Absolute Insurer Law  
Luke P Iovine, III John E Keefe, Jr, 1 Seton Hall J Sport L 61 (1991)

#### Case Notes

Private harness track required to abide by the rules and regulations of the United States Trotting Association, subject to conflict with Commission rules *Marzocca v Ferone*, 186 N J Super 483, 453 A 2d 228 (App Div 1982) certification denied 91 N J 574, 453 A 2d 884, affirmed in part, reversed in part 93 N J 509, 461 A 2d 1133 (1983)

#### 13:71-1.2 Owners and trainers

All owners and trainers of horses and their stable employees are subject to the laws of the State of New Jersey and the rules promulgated by its Racing Commission immediately upon acceptance and occupancy of stabling accommodations from or approved by an association or upon making entry to run on its track Said owners and/or trainers shall furnish to the Racing Commission a badge list of all employees Said owners, trainers and stable employees shall abide by said laws and rules and accept the decision of the stewards on any and all questions to which their authority extends, subject to their right of appeal to the Racing Commission

#### Case Notes

Determination by the Board of Judges of the N J Racing Commission suspending a trainer for 15 days and fining him for violating certain regulations governing medication and trainer responsibility was approved by an ALJ on findings that it was not necessary to show that the challenged medication was administered to the horse while it was in the custody of the trainer nor that the trainer knew or suspected the existence of a foreign substance in the horse's system because the regulation at issue imposed strict liability regardless of individual knowledge or fault *Ford v N J Racing Comm'n*, OAL DKT NO RAC 06047-15, 2017 N J AGEN LEXIS 656, Initial Decision (August 28, 2017)

Preponderance of the credible evidence supported the determination of the Board of Judges for the N J Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate *Auciello v N J Racing Comm'n*, OAL DKT NO RAC 13638-14, 2016 N J AGEN LEXIS 764, Initial Decision (September 6, 2016)

Horse trainer's license was properly suspended for a one-year period by reason of the trainer's failure to assure that his horse was protected from exposure to banned substances, in this case methylhexanamine. The fact that the trainer insisted that he did not know how the exposure occurred was itself proof that he had not complied with the regulatory requirement that he protect and guard his horses against the administration of any drugs and other foreign substances The imposition of the suspension was also appropriate given the fact that the trainer was absolute insurer of and was responsible for the condition of a horse within his care and custody Under these facts, both the imposition of a fine and the imposition of a one-year suspension of his license were appropriate *Wisher v N J Racing Comm'n*, OAL DKT NO RAC 15445-13, 2015 N J AGEN LEXIS 269, Initial Decision (April 30, 2015)

#### 13:71-1.3 Race participants and patrons

Every person participating in and every patron of a licensed race meeting shall abide by said laws and rules, and accept the stewards' decisions on any and all questions to which their authority extends subject to the right of appeal to the Racing Commission

#### Case Notes

Rule cited as example of Commission's reliance on conventional law enforcement services, denial of groom's license held arbitrary as the Rehabilitated Convicted Offender Act applies to Commission's licensing function *Maetia v New Jersey Racing Commission*, 183 N J Super 397, 444 A 2d 55 (App Div 1982), affirmed 93 N J 1, 459 A 2d 295 (1983)

#### 13:71-1.4 Discharge of groom or attendant; notice

When an owner or trainer discharges a groom or other attendant, or when a groom or other attendant voluntarily leaves the employ of an owner or trainer, the said owner or trainer shall immediately notify the track security of such discharge of or resignation by such employee The failure to so notify the track security shall subject the owner or trainer to a fine or suspension or both

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
"security" was "police"

#### 13:71-1.5 Notification to track security on discharge of groom

When a groom or other attendant is discharged by or voluntarily leaves the employ of an owner or trainer he shall immediately notify the track security of his discharge or resignation The failure to so notify the track security shall subject the groom or other attendant to a fine or suspension, or both

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
"security" was "police"

#### 13:71-1.6 Language

No person shall use improper, profane or indecent language to a racing official

#### 13:71-1.7 Disturbing the peace

No person shall in any manner, or at any time, disturb the peace or make himself obnoxious on the grounds of an association

#### 13:71-1.8 Handbooks

No person shall make a handbook or a foreign book on the ground of an association nor shall any person solicit for or bet with a handbook or foreign book on the grounds of an association or fair race

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
Section substantially amended

#### 13:71-1.9 (Reserved)

**13:71-1.10 Reciprocity**

Full force and effect shall be given to the denial, revocation or suspension of any license by any other racing commission or turf governing body

As amended R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
Section substantially amended

**13:71-1.11 Unrecognized meetings**

Any person who participates in an unrecognized meeting anywhere, either as a racing official or as an owner, trainer or driver, may be adjudged guilty of conduct detrimental to racing

**13:71-1.12 Suspended person or horse**

No person or horse ruled off by, or under suspension by, any recognized turf authority, trotting association included, shall be admitted to the grounds of any association

**Case Notes**

Suspension and fine imposed on a horse trainer based on his racing of a horse in New Jersey while the horse was on the Delaware Harness Racing Commission's Steward's List was proper because Del Harness Comm'n R 3 2 8 prohibited the racing of a Steward's List horse anywhere, not just in Delaware, and the trainer knew or should have known this, among other things, one of the trainer's New Jersey violations provided strong evidence of the custom of reciprocity among racing jurisdictions *Waite v State*, 2009 Del Super LEXIS 37 (2009)

**13:71-1.13 Narcotic or drug convictions**

No person who has been convicted for illegal possession, sale or distribution of narcotics or hallucinogenic drugs or other "controlled dangerous substances" as defined by Title 24 of the New Jersey Statutes shall be permitted on the grounds of any association

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
Section substantially amended

**13:71-1.14 Crimes regarding moral turpitude**

No person shall be employed in any capacity whatsoever at any place, track or enclosure where a horse race meeting is permitted who has been convicted of a crime involving moral turpitude

**13:71-1.15 Reinstatement of horses**

When a person is ruled off a course or suspended, every horse owned in whole or part by him shall be ineligible to be entered or to start in any race until said horse has been reinstated either by the rescinding of his owner's penalty or by his transfer through bona fide sale to any ownership acceptable to the stewards

**13:71-1.16 Qualifications for reinstatement**

When a person is ruled off a course or suspended, any horse which is under his care, management, training or superintendence shall not be qualified to be entered or to start in any race until said horse has been reinstated by the rescinding of said person's penalty or by the placement of the horse in the hands of a licensed trainer and the approval of the transfer by the stewards

**13:71-1.17 Recision of penalties**

When a person is ruled off a course or suspended, he shall not be qualified, whether acting as agent or otherwise, to subscribe for or to enter or run any horse in any race either in his own name or in that of any other person until the rescinding of that person's penalty

**13:71-1.18 (Reserved)**

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

**13:71-1.19 Stewards determination of fines**

The steward and the Board of Judges may fine, suspend or rule off any person who, in their opinion, has acted to the detriment of racing or violated the rules

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

"Stewards" changed to "steward", "Board of Judges" added

**Case Notes**

While the Racing Commission approved in the main of the factual determinations of an ALJ arising out of a raid on an off-track stabling facility that yielded, inter alia, prohibited items including 30 injectable bottles, 83 single needles and 44 syringes with needles, the Commission expressly rejected the ALJ's conclusion that certain counts were properly merged under the criminal law doctrine of merger for the purpose of determining the proper penalty because the merger doctrine did not apply. Specifically, the possession of impermissible substances and, separately, the possession of instruments of injection were each their own violation. Moreover, the possession of each injectable bottle constituted a separate offense from the possession of prohibited liquids therein. Because each such violation was not a "lesser included offense" of the other violation, the ALJ erred in using the merger doctrine as a basis for a substantial reduction of the penalty. *Depietro v N J Racing Comm'n*, OAL Docket No. RAC 11899-18, 2021 N J AGEN LEXIS 148, Final Agency Determination (May 21, 2021)

Horse-trainer's claim that the N J Racing Commission had a duty to show scientifically that the alleged drug or drugs that was found in the blood of horses trained by him enhanced the horses' performance was rejected because N J imposed strict liability on a trainer when prohibited drugs were found in a horse trained by them without regard for the impact, of the prohibited substance on a horse's performance. Such liability was properly imposed where, as here, a trainer claimed but did not prove a defect in the chain of custody of the samples on which the Commission relied. Not only was the trainer properly suspended and fined but the horses properly were disqualified from sharing in any purses. *Watson v N J Racing Comm'n*, OAL DKT NO RAC 12951-16, 2018 N J AGEN LEXIS 230 Initial Decision (April 2, 2018)

Horse trainer's license was properly suspended for a one-year period by reason of the trainer's failure to assure that his horse was protected from exposure to banned substances, in this case methylhexanamine. The fact that the trainer insisted that he did not know how the exposure

occurred was itself proof that he had not complied with the regulatory requirement that he protect and guard his horses against the administration of any drugs and other foreign substances. The imposition of the suspension was also appropriate given the fact that the trainer was absolute insurer of and was responsible for the condition of a horse within his care and custody. Under these facts, both the imposition of a fine and the imposition of a one-year suspension of his license were appropriate. *Wisher v. N.J. Racing Comm'n.*, OAL DKT NO RAC 15445-13, 2015 N.J. AGEN LEXIS 269, Initial Decision (April 30, 2015).

Veterinarian's actions in giving a loaded hypodermic syringe to an assistant trainer and instructing him to give an injection to a horse, which horse later died, violated the prohibition, in N.J.A.C. 13:71-23.9 against anyone other than a veterinarian possessing such an item, as did the failure by the veterinarian and the head trainer, who was not even on the property at the time that the injection was given, to file an equine fatality report in compliance with N.J.A.C. 13:71-20.24. While the conduct of all three individuals was detrimental to racing within the meaning of N.J.A.C. 13:71-1.19 and sanctions were properly imposed, the lengthy suspensions imposed by the Racing Commission were too harsh and shorter suspensions were ordered by the Administrative Law Judge. *Henriksen v. N.J. Racing Comm'n.*, OAL Dkt Nos RAC 7539-12 RAC 7540-12, and RAC 7541-12 (Consolidated), 2013 N.J. AGEN LEXIS 28, Initial Decision (January 31, 2013).

Veterinarian's use of non-FDA-approved drug for his own horse at his own farm in another state, not conduct detrimental to racing. *Chovanes v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 5.

**13:71-1.20 Authority to impose penalties; report; payment**

(a) The authority of the steward and the Board of Judges shall extend to any and all situations which are not specifically covered by these rules.

(b) No race official other than the steward, the Board of Judges, and the starter shall have the right to impose a fine or suspension, in the first instance (see N.J.A.C. 13:71-3, Appeal for exception). A race official imposing a fine or suspension shall report it promptly to the Executive Director of the Racing Commission and the race secretary, in writing. All fines imposed shall be paid to the race secretary within 48 hours after the imposition thereof. Fines collected by the race secretary shall be paid promptly to the Racing Commission. An unpaid fine may not be rescinded except with the approval of the Racing Commission.

As amended, R 1982 d 109, effective April 5, 1982  
 See 13 N J R 820(a), 14 N J R 347(a)  
 Amended by R 1990 d 126, effective February 20, 1990  
 See 21 N J R 3861(a), 22 N J R 667(a)  
 Added reference to N J A C cite for appeals

#### Case Notes

Racing judge's alleged inability to vote as he wished in penalty adjudications due to interference of state racing commission's executive director did not violate his First Amendment rights, racing judge's vote in any particular penalty case was not compelled expression on political or ideological matter, and penalty votes were not relevant to racing commission's ability to self-govern *Latessa v New Jersey Racing Comm'n*, C A 3 (N J)1997, 113 F 3d 1313

Imposition of penalty by State Steward proper *Gallo v New Jersey Racing Commission*, 6 N J A R 381 (1983)

#### 13:71-1.21 Financial irresponsibility

No licensee shall accumulate unpaid obligations or default in obligations, or issue drafts or checks that are dishonored or payment refused, or otherwise display financial irresponsibility reflecting on the track or the sport

#### 13:71-1.22 Designation of Commission agents

In enforcing the racing laws and the rules and regulations of the Commission, the Commission may designate enforcement personnel assigned to it by the New Jersey Department of Law and Public Safety. Such personnel, while so acting, shall be designated as agents of the Commission

R 1976 d 125, effective April 22, 1976  
 See 8 N J R 47(b), 8 N J R 308(a)

#### 13:71-1.23 Modification of penalties

The Commission may modify on its own motion any penalty or decision imposed by a racing official pursuant to the rules and regulations as herein contained

New Rule, R 1982 d 109, effective April 5, 1982  
 See 13 N J R 820(a), 14 N J R 347(a)

#### Case Notes

Initial Decision (2006 N J AGEN LEXIS 465) adopted, which determined that it was well within the Commission's jurisdiction and authority to enhance penalty from \$500 to \$2,500 where trainer had driven in a careless and reckless manner *N J Racing Comm'n v Parker*, OAL Dkt No RAC 2581-03, Final Decision (July 26, 2006)

#### 13:71-1.24 Smoking prohibited

Smoking is prohibited under the shed row of any barn. Persons found violating this rule will be reported to the judges and shall be subject to a fine of \$25 00 for the first offense, \$50 00 for the second offense and to suspension for the third or subsequent violation

R 1982 d 109, effective April 5, 1982  
 See 13 N J R 820(a), 14 N J R 347(a)  
 R 1983 d 337, effective August 15, 1983  
 See 15 N J R 873(b), 15 N J R 1383(a)

#### 13:71-1.25 Horsemen associations

(a) It shall be the intent of this section to establish guidelines that ensure that funds allocated to the horsemen's organizations by statute (N J S A 5 5-66) are used to finance programs to benefit all New Jersey horsemen and that administrative and overhead costs are reasonably related to such programs

(b) Funds allocated to the horsemen's organizations by statute must be used to benefit all New Jersey horsemen. Membership in the horsemen's organizations shall not be a condition for receiving benefits

(c) Amounts collected as voluntary dues from members are excluded from this rule. However, funds acquired from sources other than the statutory allocation to these associations must be kept separate and apart from funds obtained from the statutory allocation

(d) The horsemen's organizations shall maintain adequate records concerning receipt of and distribution of funds allocated to them by statute. The New Jersey Racing Commission shall have access to all records maintained by the horsemen's organizations which relate directly or indirectly to funds allocated by statute

(e) The horsemen's organizations shall submit detailed budgets to the Racing Commission by December 15 of each year, for the following calendar year, identifying the source and use of funds and any surplus or deficit that may result. The budget must include the actual prior year's expenses in each category for comparison purposes. In addition, quarterly budget reports must be filed with the Commission 45 days after the close of each quarter. These reports must reflect actual income and expenses to date, as well as projected income and expenses for the remainder of that year. Prior approval must be obtained from the Commission for all expenditures that exceed the approved budget levels

(f) Audited financial statements, including balance sheet, income statement and source and use of funds, prepared by a certified public accountant of New Jersey, must be filed with the Commission by February 28 of each year for the preceding calendar year

(g) Funding for benevolent programs, including but not limited to pension plans, health and life insurance plans, etc will be considered reasonable if such program funding on an annual basis is at least 70 percent of the total statutory allocation. Whether or not a program will be considered a "benevolent program" will be decided upon application to the Racing Commission. Annual benevolence program funding below 70 percent of the total statutory allocation requires justification satisfactory to the Commission. The administrative costs and overhead expenses of administering the horsemen's organizations', including benevolent programs may not exceed 30 percent of the total allocated by statute unless and to the extent specifically authorized in advance by the Racing Commission

(h) General administration and overhead expenses are considered reasonable if they are less than 30 percent of the statutory allocation. Funding above 30 percent of the total statutory allocation requires justification satisfactory to the Commission. Within this category, expenses for travel, entertainment, meals and lodging are considered reasonable if they conform to the horsemen's organizations' travel and expense reimbursement guidelines on file and approved by the Commission. For expenses in excess of amounts allowed under these guidelines, the Racing Commission may require special justification and/or prior approval.

(i) Payments to national programs are allowed only to the extent that the horsemen's organizations can clearly show that the payments benefit all New Jersey horsemen, not just members of these organizations.

(j) If the accumulated surplus exceeds \$250,000 at the end of a calendar year, horsemen's organizations are required to utilize the amount in excess of the \$250,000 for new or expanded benevolent programs or justify to the Racing Commission why they do not intend to utilize the excess funds.

(k) Violation of this section may subject the organization to a fine not to exceed \$1,000 per violation.

New Rule, R 1988 d 76, effective February 16, 1988

See 19 N J R 856(a), 20 N J R 405(b)

Amended by R 1988 d 401, effective August 15, 1988

See 20 N J R 1174(a), 20 N J R 2071(a)

Substantially amended

Amended by R 1989 d 109, effective February 21, 1989

See 20 N J R 2997(a), 21 N J R 451(d)

Repealed old (j) and substituted new (j)

### **13:71-1.26 Commission employees/appointees; prohibited affiliations with permitted racetracks**

No employee or appointee of the New Jersey Racing Commission shall provide any services to a permitted racetrack facility in this State, whether or not for compensation, where those services are outside the scope of his or her duties on behalf of the Commission.

New Rule, R 1993 d 686, effective December 20, 1993

See 25 N J R 4459(a), 25 N J R 5939(a)

### **13:71-1.27 Rules of practices and procedures**

This section and N J A C 13 71-1 28 through 1 36 shall constitute rules governing the practices and procedures of the Commission. The rules of practices and procedures in this subchapter shall apply to all practices and procedures that are not otherwise addressed by the rules in this chapter. When an appeal of a licensee is transmitted to the Office of Administrative Law, or the Commission elects to hear the appeal as a contested case, the provisions of the Administrative Procedure Act, N J S A 52 14B-1 et seq and 52 14F-1 et seq, and the Uniform Administrative Procedure Rules, N J A C 1 1 shall govern the proceedings.

New Rule, R 2008 d 340, effective November 17, 2008

See 40 N J R 4300(a), 40 N J R 6635(a)

### **13:71-1.28 Liberal construction of rules of practice and procedure**

(a) The rules governing the practices and procedures of the Commission in this subchapter, N J A C 13 71-1 27 through 1 36, shall be liberally construed to permit the Commission and its Executive Director to discharge the Commission's statutory and regulatory functions and to secure just and expeditious determinations of matters before the Commission.

(b) The Executive Director may, upon notice to all parties given the statutory right to participate in a proceeding before the Commission by N J S A 5 5-22 through 160 or 5 12-191 through 210, relax the application of these rules when, in his or her discretion, factors including, but not limited to, fundamental fairness, the need for expeditious action and party requests for more time would warrant doing so.

(c) In any matter that arises, which is not governed by the rules of practices and procedures in this subchapter, the Executive Director shall have the authority to exercise his or her discretion in deciding whether to place the matter on the meeting agenda and present it to the Commission.

New Rule, R 2008 d 340, effective November 17, 2008

See 40 N J R 4300(a), 40 N J R 6635(a)

### **13:71-1.29 Notice of proceedings before the Commission**

When acting to carry out its statutory authority in matters that are not "contested cases," as defined in N J S A 52 14B-2(b), the Commission shall provide written notice to all interested parties informing them of the issues to be considered and the date upon which it is anticipated that the Commission will act. This notice shall be sent by the Commission, to the extent possible, at least 30 days prior to the anticipated date of action unless unforeseen or exigent circumstances necessitate otherwise. "Interested parties" shall be those persons or entities that are identified by statute and given the express authority to submit applications, comments or other information to the Commission for its consideration before or when reaching a decision at a scheduled meeting.

New Rule, R 2008 d 340, effective November 17, 2008

See 40 N J R 4300(a), 40 N J R 6635(a)

### **13:71-1.30 Opportunity to submit information to the Commission**

(a) When providing notice pursuant to N J A C 13 71-1 29, the Commission shall inform the interested parties, as defined therein, that they shall have the opportunity to submit information regarding their position on the matter to the Commission for its consideration. To be considered, all such information shall be filed and received by the Commission within 15 days after the date of notice.

(b) At least 10 days prior to the date upon which it is anticipated that the Commission will act, the Commission shall provide copies by facsimile of all information received

from interested parties, in accordance with (a) above, to all other interested parties. In the discretion of the Executive Director, the Commission may allow further written comment from the interested parties before the date upon which the Commission is scheduled to act. Under such circumstances all interested parties shall be notified in writing of their ability to do so.

(c) If the date upon which the Commission is scheduled to act is unavoidably delayed, the Commission shall notify the interested parties of the date upon which the Commission anticipates that it will act on the matter. At the rescheduled meeting, the Commission shall consider all information submitted to it pursuant to this rule.

(d) The Commission may, in its discretion, allow an interested party to comment verbally prior to Commission action at the scheduled public meeting. All requests to be heard verbally shall be filed with and received by the Commission at least seven days prior to the scheduled meeting. If the Commission grants the request of one interested party to be heard verbally at the meeting, it shall grant the requests of all of the other interested parties to be heard. The Commission may, in its discretion, limit the amount of time allotted for the verbal comments of each interested party.

(e) Any person or entity who has not been designated as an interested party by the Commission and does not have a statutory right to be heard on a specific matter before the Commission in accordance with N J A C 13 71-1 29, may, at least 14 days prior to the meeting upon which the specific matter is scheduled, request, in writing, the opportunity to be heard at the meeting. All such requests shall be considered by the Executive Director who shall, in the exercise of his or her discretion, determine whether this person or entity has a sufficient interest in, or possesses important information on, the matter before the Commission, which would warrant the opportunity to be heard. Alternatively, the Executive Director may, in his or her discretion, refer the request to be heard to the Commission for decision at the scheduled meeting.

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N J R 4300(a), 40 N J R 6635(a)

### **13:71-1.31 Requests to place issues on the meeting agenda for the Commission's consideration**

Other than petitions for rulemaking, which are governed by N J A C 13 1D-1 1, any person or entity with an identifiable interest in horse racing, or the parimutuel wagering attendant upon it, may request in writing that a specified issue be placed before the Commission at one of its meetings. All such requests are to be considered by the Executive Director who shall, in the exercise of his or her discretion, determine whether the matter should be placed upon the agenda of a Commission meeting. If the Executive Director determines that the matter should be heard by the Commission, he or she shall determine at which meeting it will be addressed. Alte-

rnatively, the Executive Director may, in his or her discretion, refer the request to the Commission for decision.

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N J R 4300(a), 40 N J R 6635(a)

### **13:71-1.32 Annual disbursement of Casino Simulcasting Special Fund monies**

(a) The rules of practices and procedures (N J A C 13 71-1 27 through 1 36) set forth in this subchapter shall be applicable to the annual disbursement of Casino Simulcasting Special Fund (CSSF) monies pursuant to N J S A 5 12-205. The disbursement of CSSF monies, which does not constitute a contested case as defined in N J S A 52 14B-2(b) or require a public hearing, shall be considered and decided at a public meeting of the Commission.

(b) "Interested parties" for the purpose of the disbursement of CSSF monies shall include all permitted New Jersey racetracks, the horsemen's organization, which represents a majority of the owners, breeders and trainers of standardbred horses in this State and the horsemen's organizations, which represent a majority of the owners, breeders and trainers of thoroughbred horses in this State.

(c) The written submissions of each permitted New Jersey racetrack shall, to the extent it wishes to present information for the Commission's consideration, set forth detailed facts in support of any claim that

- 1 The racetrack's financial well-being has been negatively impacted by casino simulcasting, and
- 2 The racetrack is financially distressed.

(d) The written submissions of each horsemen's organization shall, to the extent the organization wishes the Commission to consider it, set forth detailed facts as to how it will use the monies to fund a project that will be beneficial to the racing industry in New Jersey. The information submitted to the Commission shall detail clearly all aspects of the proposed project, how the project will benefit the horse racing industry in this State and how the requested funds will be used. Failure to submit such detailed information may result in a decision by the Commission that it is unable to disburse CSSF monies for the project.

(e) The amount of CSSF monies to be disbursed, pursuant to N J S A 5 12-205d, to permitted New Jersey racetracks and the horsemen's organizations shall lie within the Commission's discretion and be in such amounts as the Commission deems appropriate.

(f) The Commission's Order of Disbursement of CSSF monies shall constitute a final decision of the agency and any appeal of such Order shall be made to the Appellate Division of the Superior Court of New Jersey upon notice to the Commission and all other recipients of CSSF monies.

1 Because of the recipients' need to rely upon timely receipt of the monies disbursed and the statute's requirement of annual distributions, the Commission shall not grant any request to stay or escrow the amounts disbursed pending appeal

2 In the event that the court alters the amount disbursed to an interested party on appeal, the Commission shall effectuate any such modification in the next annual disbursement of CSSF monies. No recipient shall be required to return a prior year's disbursement of CSSF monies unless the amount available in the next annual disbursement is insufficient to cover the modifications ordered by the court or unless exigent circumstances warrant otherwise

(g) The Commission may order a recipient to return any or all of the CSSF monies disbursed to it if information comes to the attention of the Commission that the recipient is not using the monies for the purposes or projects intended or the recipient is otherwise misusing or unable to account for such monies

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N J R 4300(a), 40 N J R 6635(a)

### 13:71-1.33 Annual allocation of race dates

(a) The rules of practices and procedures, N J A C 13 71-1 27 through 1 36, set forth in this subchapter shall be applicable to the annual allocation of racing dates. The allocation of racing dates, which does not constitute a contested case as defined in N J S A 52 14B-2(b) and does not require a public hearing, shall be considered and decided at a public meeting of the Commission

(b) "Interested parties" for the purpose of the allocation of racing dates shall include all permitted New Jersey racetracks

(c) Applications for racing dates shall be made on the form prescribed by the Commission, which shall be mailed to all of the permitted racetracks on or before October 1 of each year

(d) Applications for racing dates shall be filed with the Commission before October 15 of each year and shall be acted upon by the Commission at a meeting of the Commission to be held not later than December 1 of the same year

(e) In the event that any such application is filed with the Commission on or after October 15 of any year, the Commission shall act upon the same at a meeting of the Commission to be held not later than 60 days following the filing of such application

(f) All applicants for racing dates may be present in person or through an agent or counsel and be heard by the Commission with respect to such allotment at the Commission's scheduled meeting

(g) In allocating racing dates, the Commission shall endeavor to allot to each applicant, subject to the restrictions set forth in N J S A 5 5-43 et seq., the dates requested in the respective applications, after giving due consideration to all of the factors involved and the interests of such respective applicants and the public

(h) For the purposes of this section the "public interest" shall include considerations related to the following factors

1 Protecting the State's revenues from racing and generating additional revenues to the State, its agencies and subdivisions,

2 Providing for continuity of racing and year-round racing, so as to promote the racing industry and maintain and enhance the employment, which it provides in this State,

3 Providing a recreational opportunity for residents in the several areas of the State where licensed tracks are situated, and

4 Maintaining and improving this State's competitive position with regard to neighboring racing states

(i) A permitholder may reject any or all of the racing dates allotted by the Commission

1 If racing dates are rejected, any or all of the remaining permitholders may amend their applications to request the dates rejected

2 Should more than one permitholder seek to obtain the same rejected dates, the allocation of such shall lie within the Commission's discretion as most appropriate for providing continuity of racing in the State and furthering the public interest

3 The Commission shall not allocate any of the rejected racing dates to any permitholder, which has been determined to be in violation of the Racing Act, N J S A 5 5-22 et seq

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N J R 4300(a), 40 N J R 6635(a)

### 13:71-1.34 Waiver of the Commission's rules

(a) Any person or entity desiring a waiver or release from the express provisions of the Commission's rules in this chapter, N J A C 13 70, 13 72 and 13 74 shall submit a written request to the Commission, to the attention of the Executive Director, in accordance with the provisions below. Any such request shall set forth in detail all facts that support the necessity of the requested relief and identify all persons or entities who might be affected if the relief were granted

(b) The Commission may, within its discretion, grant a waiver from specific provisions of its rules if it determines

1 That such a waiver will benefit the horse racing industry in this State,



2 That such a waiver is consistent with the intent of, if not the letter of, its rules, or

3 Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes, the public interest or the integrity of the sport

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above

(d) The Commission shall not grant a waiver of its rules where to do so would be contrary to or inconsistent with an applicable statute

(e) All decisions on requests for waiver shall be made at a public meeting of the Commission

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N.J.R. 4300(a), 40 N.J.R. 6635(a)

**13:71-1.35 Procedure for modification of penalties**

(a) The Commission may modify any penalty or decision imposed by a racing official either on its own motion or when requested to do so by the Executive Director. The application of this rule applies to the modification of penalties prior to the transmittal of the matter to the Office of Administrative Law as a contested case. The Commission's modification of any penalty or decision recommended by the Administrative Law Judge in an initial decision shall continue to be governed by the applicable provision of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) At least 15 days before the scheduled meeting at which the issue of modification will or may be addressed, the Commission shall notify the licensee involved and allow him or her to submit in writing any information he or she wishes the Commission to consider. All such submissions shall be filed with the Commission at least 5 days prior to the meeting.

(c) In deciding whether to modify such penalty or decision, the Commission shall consider factors, which may include

1 Penalties imposed by the Commission in similar matters,

2 Whether the actions of the licensee placed the safety of other race participants at risk,

3 Whether the actions of the licensee had the potential to jeopardize the health of any race horse,

4 The extent to which the licensee's actions constituted conduct detrimental to the sport

5 The extent to which the licensee's actions had a negative impact on the integrity of the sport

6 Whether the actionable conduct of the licensee appears to be an isolated incident or a pattern of disregard of the Commission's rules

(d) In deciding whether to modify such penalty or decision, the Commission shall consider the evidence before the racing official and any information submitted by the licensee pursuant to (b) above. In considering such evidence, the Commission may rely upon a staff summary and analysis of the evidence below.

(e) When modifying a penalty or decision, the Commission shall issue a written ruling setting forth the modification and the basis of its decision.

(f) Nothing in this section shall be interpreted as meaning that the Commission's authority to impose penalties is limited to licensees. The Commission's regulatory authority to issue penalties extends to all persons or entities engaging in conduct that requires licensure.

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N.J.R. 4300(a), 40 N.J.R. 6635(a)

**13:71-1.36 (Reserved)**

New Rule, R 2008 d 340, effective November 17, 2008  
See 40 N.J.R. 4300(a), 40 N.J.R. 6635(a)  
Repealed by R 2010 d 246, effective November 1, 2010  
See 42 N.J.R. 1334(a), 42 N.J.R. 2635(c)  
Section was "Representation by attorney"

**13:71-1.37 Continuation of certain race events in event of declared state of emergency**

(a) In the event that a state of emergency is declared due to the failure to enact a general appropriation law by the deadline prescribed by the New Jersey Constitution, which prevents employees of the Racing Commission from performing their normal duties, a holder of a permit to conduct a horse race meeting may continue to hold scheduled races and simulcast operations for a period not to exceed seven calendar days.

(b) A permit holder wishing to be eligible to continue to hold scheduled races and simulcast operations pursuant to (a) above shall provide advance notice to the Commission on or before June 1st identifying all persons who will be hired pursuant to (d) and (e) below. Such notice shall be provided to the Racing Commission in writing in each and every calendar year in which the permit holder wishes to be considered eligible to continue to race in the event that a state of emergency may be declared. The permit holder shall identify in that notice which of the previously scheduled races will be held during the seven-day period.

(c) A permit holder conducting a horse race meeting pursuant to (a) above shall comply with all relevant provisions of the New Jersey Constitution and all relevant statutes and rules. In addition, the permit holder shall maintain detailed, written records of that compliance.

(d) A permit holder who chooses to race and continue simulcast operations shall ensure that qualified persons are hired to fill the necessary regulatory positions set forth in (e) below, in order for racing to continue. Persons hired by the permit holder shall be able to serve in these positions without an impermissible conflict of interest or violation of the ethics laws. The permit holder shall specify the qualifications and experience of each person on the list and identify the regulatory position to be filled by each identified person.

(e) The permit holder shall ensure that the following positions shall be filled with qualified persons at each track that is racing pursuant to (a) above:

- 1 Three Stewards/Judges,
- 2 Four Veterinarians,
- 3 Two Mutuel Managers,
- 4 Eight Specimen Collectors, and
- 5 One Investigator

(f) All personnel hired to fill the positions set forth in (e) above shall be present at all races held by the permit holder and shall be responsible for insuring compliance with all applicable statutory and regulatory provisions.

(g) All samples collected for all race meetings held pursuant to (a) above shall be maintained at the track in a manner designed to insure their integrity and preservation. All samples shall be sent to the State Police Equine Testing Lab for analysis once the state of emergency has been terminated.

(h) Any application for a stay of any penalty previously imposed by the Racing Commission, or of a penalty that is imposed by the stewards or judges during the period covered by this section (which application is filed during the period covered by this section) shall be addressed directly to the Superior Court, Appellate Division.

New Rule, R 2011 d 018, effective January 3, 2011  
See 42 N J R 1851(a), 43 N J R 57(b)

### **13:71-1.38 Cancellation of racing to protect the health, safety, and welfare of racing participants**

In the event a permit holder decides to conduct races, the Executive Director shall have the authority to order the postponement or cancellation of racing for any reason determined to pose a serious risk to the health, safety, and welfare of the equine and human race participants, including, but not limited to, extreme weather conditions, such as high heat and humidity.

New Rule, R 2020 d 113, effective October 19, 2020  
See 51 N J R 1750(a), 52 N J R 1940(a)

## **SUBCHAPTER 2 VIOLATIONS**

### **Cross References**

Judges and patrol judges, see N J A C 13 71-8 5

### **13:71-2.1 Liability**

Any person or association licensed by the Commission or any person or association subject to the jurisdiction of the Commission violating any of its rules or regulations shall be liable to the penalties herein provided, unless otherwise limited in and by the rules and regulations of the Commission.

### **13:71-2.2 Attempt to violate**

Any attempt to violate the law or any of the rules and regulations of the Commission falling short of actual accomplishment shall constitute an offense and shall be punishable as if consummated.

### **13:71-2.3 Penalties**

(a) The penalties for violation of the law or the rules of the Commission shall be as follows:

- 1 Denial, revocation or suspension of license,
- 2 Monetary fines not exceeding \$50,000 for each violation. The steward and board of judges may not impose directly a fine in excess of \$5,000.
- 3 Suspension from one or more activities at one or more tracks,
- 4 Expulsion from racing in New Jersey,
- 5 Forfeiture of purse,
- 6 In addition to the foregoing, the Commission may impose as a condition to licensing such conditions as it shall deem appropriate to secure compliance with the rules, regulations and directives of the Commission.

(b) Any penalty of suspension from driving shall commence after a hearing before the judges and shall be served on a continuing basis. Where the term of suspension equals or is less than the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates where live racing there occurs. Where the term of suspension exceeds the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates so as to encompass the maximum number of live race days there possible. However, where the term of suspension cannot be imposed consistent with the formulas set forth in this subsection due to the suspension of racing at the track where the infraction occurred, or where the judges determined that the application of such formulas would otherwise not be practical, the judges shall, in

their discretion, determine the continuous dates over which the suspension is to be served. There shall be exceptions for stakes, futurities, early closures or feature races during the period of suspension as set forth below.

1 The board of judges may permit a driver serving a suspension of 10 days or less to drive in a designated race during the suspension if

i The race has been specified as a designated race by the racing secretary of the association before the inception of the race meeting at the association,

ii The race has been approved as a designated race by the board of judges officiating at the meeting,

iii The driver, before the beginning of the suspension, satisfactorily demonstrates to the board of judges that the driver is scheduled to drive a horse in the designated race, and

iv The driver agrees to serve an additional racing day of suspension in place of the day on which the driver drives in the designated race.

(c) The penalties provided above, where applicable, shall be exacted from all persons, whether licensed by the Commission or not.

As amended, R 1976 d 125, effective April 22, 1976  
 See 8 N.J.R. 47(b), 8 N.J.R. 308(a)  
 As amended, R 1976 d 292, effective September 16, 1976  
 See 8 N.J.R. 250(c), 8 N.J.R. 483(a)  
 As amended, R 1982 d 109, effective April 5, 1982  
 See 13 N.J.R. 820(a), 14 N.J.R. 347(a)  
 Amended by R 1993 d 484, effective October 4, 1993  
 See 25 N.J.R. 2647(b), 25 N.J.R. 4600(c)  
 Amended by R 2001 d 250, effective July 16, 2001  
 See 33 N.J.R. 1338(a), 33 N.J.R. 2493(c)  
 In (b), inserted "as set forth below" at the end of the introductory paragraph, and added 1  
 Amended by R 2004 d.156, effective April 19, 2004  
 See 35 N.J.R. 4183(a), 36 N.J.R. 1952(b)  
 Rewrote (a)2

**Case Notes**

ALJ rejected a challenge of a trainer to a \$1000 fine imposed on him after a post-race drug test of a horse under his care revealed the presence of cocaine and benzoyllecgonine (BZE). Even though the source of the contamination was a groom who had used cocaine earlier in the day, the trainer was properly fined because applicable rules imposed strict liability on a trainer for any contamination regardless of the actual source, and a \$1000 fine was appropriate under these facts. *Harrison v N J Racing Comm'n*, OAL DKT NO RAC 03001-18, 2019 N.J. AGEN LEXIS 78, Initial Decision (January 30, 2019)

Determination by the Board of Judges of the N J Racing Commission suspending a trainer for 15 days and fining him for violating certain regulations governing medication and trainer responsibility was approved by an ALJ on findings that it was not necessary to show that the challenged medication was administered to the horse while it was in the custody of the trainer nor that the trainer knew or suspected the existence of a foreign substance in the horse's system because the regulation at issue imposed strict liability regardless of individual knowledge or fault. *Ford v N J Racing Comm'n*, OAL DKT NO RAC 06047-15, 2017 N.J. AGEN LEXIS 656, Initial Decision (August 28, 2017)

Initial Decision (2008 N J AGEN LEXIS 756) adopted, which determined that appropriate penalty for positive drug test (for Propranolol Bromide) was suspension of 90 days and fine of \$2,500, not the increased penalty of \$5,000 and one year imposed by the Racing Commission. *Synnefias v N J Racing Comm'n*, OAL Dkt No RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008)

Initial Decision (2008 N J AGEN LEXIS 756) adopted, which determined that the Racing Commission's authority to modify penalties is not absolute. *Synnefias v N J Racing Comm'n*, OAL Dkt No RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008)

Initial Decision (2006 N J AGEN LEXIS 819) adopted, which concluded that denial of owner/driver/trainer license application was appropriate, although applicant's ongoing efforts to remain drug free should be commended, applicant had been in violation of several regulations since the 1993 revocation of his licensure, including transporting race horses, working at an unlicensed farm and training facility, and, most notably, training and racing horses under his sister's name. *Parolari v N J Racing Comm'n*, OAL Dkt No RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006)

Racing Commission has the authority to issue a suspension regardless of if the trainer's license has expired. *N J A C 13 71-2.3* crystallizes the Commission's broad authority in regulating people in the racing industry regardless of license status. *Colasanti v N J Racing Comm'n*, OAL Dkt No RAC 0716-04, 2005 N.J. AGEN LEXIS 1331, Final Decision (November 21, 2005)

First driver pulling in front of second horse and causing second driver to take evasive action constituted interference, suspension ordered. *LaChance v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 13

Veterinarian's use of non-FDA-approved drug for his own horse at his own farm in another state, not conduct detrimental to racing. *Chovanec v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 5

**13:71-2.4 Betting restrictions; owner, trainer and driver**

No owner, trainer or driver of a horse entered in a race shall bet or cause any other person to bet on his behalf on any horse other than his own horse. In the case of exotic pools all tickets purchased by an owner, trainer or driver must include his horse entered to race.

R 1976 d 125, effective April 22, 1976  
 See 8 N.J.R. 47(b), 8 N.J.R. 308(a)



**13:71-2.5 Termination of indefinite suspension**

An indefinite suspension shall only be terminated by the New Jersey Racing Commission

R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

**13:71-2.6 Violations by track associations and penalties**

Notwithstanding any provision of N J A C 13 71-2, any track association licensed by the New Jersey Racing Commission that violates a law, rule or regulation or directive of this Commission and continues in deliberate violation for a period of 72 hours following notification from the Commission office that such violation exists, shall be subject to a fine of not more than \$5,000 per day for each and every day said track association remains in violation of the law, rule or regulation, or directive of this Commission. Any association fined pursuant to this rule may, within three days after service of such notice of the imposition of a fine or fines, request a hearing by petition in writing, which hearing shall be held within four days after the petition has been served upon the chairman or executive director of the Commission.

R 1976 d 292, effective September 16, 1976  
See 8 N J R 250(c), 8 N J R 483(a)

**SUBCHAPTER 3 APPEALS****Case Notes**

Discussion of disciplinary appeals Gallo v New Jersey Racing Commission, 6 N J A R 381 (1983)

**13:71-3.1 Right of appeal**

Any person disciplined by the board of judges, State steward or any official representing the Commission may appeal the penalty pursuant to the procedures of this subchapter

Amended by R 1991 d 380, effective August 5, 1991  
See 23 N J R 1282(a), 23 N J R 2319(a)

Added "board", "State", "the penalty pursuant to the procedures of this subchapter", deleted "pursuant to the law of New Jersey or rules of the Commission, said penalty" and "to the Commission and a hearing requested"

**13:71-3.2 Imposition of penalty; Commission**

The Commission may directly impose any disciplinary action provided for in its rules

Amended by R 1991 d 380, effective August 5, 1991  
See 23 N J R 1282(a), 23 N J R 2319(a)  
Deleted "and regulations"

**13:71-3.3 Steward or Board of Judges hearing; finality of decision absent appeal**

(a) Subject to N J A C 13 71-1 23, when the State Steward or Board of Judges conduct a hearing in the first

instance with regard to the provisions of this chapter, the respective decision of the State Steward or Board of Judges shall be final unless an appeal, in accord with N J A C 13 71-3 1 and 3.4, is filed with the Commission. The appeal hearings of such matters shall be de novo proceedings conducted by the Commission in accord with N J A C 13 71-3 5

(b) Nothing contained in this section shall in any way be construed to disallow the Commission from directly conducting a hearing with respect to the provisions of this chapter and directly imposing disciplinary action, or from modifying on its own motion any imposed penalty or decision

Repeal and New Rule, R 1991 d 380, effective August 5, 1991  
See 23 N J R 1282(a), 23 N J R 2319(a)

Former section "Exhaustion of remedies"  
Amended by R 1992 d 266, effective July 6, 1992  
See: 24 N J R 555(b), 24 N J R 2461(b)

Revised (a)  
Repeal and new rule, R 1995 d 164, effective March 20, 1995  
See 26 N J R 4969(a), 27 N J R 1193(a)  
Formerly "Stewards hearing"

**13:71-3.4 Appeal procedure**

Any appeal must be filed in writing at the office of the Commission within three days of the date of imposition of penalty by the Commission, State steward or board of judges

Amended by R 1991 d 380, effective August 5, 1991  
See 23 N J R 1282(a), 23 N J R 2319(a)

Section recodified from N J A C 13 71-3 5 Former section 13 71-3 4 was "Nature of proceedings"

Deleted "in taken to the Commission, said appeal", added "State" and "board"

**13:71-3.5 Hearings**

(a) Hearings in any appeal to the Commission shall be conducted pursuant to the Administrative Procedure Act, N J S A 52 14B and 52 14F, and the Uniform Administrative Procedure Rules, N J A C 1 1

(b) If a license has been suspended pending hearing, the hearing shall be expedited

Repeal and New Rule, R 1991 d 380, effective August 5, 1991  
See. 23 N J R 1282(a), 23 N J R 2319(a)  
Former section "Acting on appeals"

**13:71-3.6 Frivolous appeals**

Withdrawal by the appellant of a notice of appeal filed with the Commission whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the Commission shall be deemed a frivolous appeal and referred to the Steward for further disciplinary action in the event the appellant fails to show good cause to the Steward why such withdrawal should not be deemed frivolous

Amended by R 1991 d 380, effective August 5, 1991

See 23 N J R 1282(a), 23 N J R 2319(a)  
Section recodified from 13 71-3 7

### 13:71-3.7 Hearing costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to this subchapter

Amended by R 1991 d 380, effective August 5, 1991

See 23 N J R 1282(a), 23 N J R 2319(a)

Section recodified from 13 71-3 9 Deleted "the right of appeal contained in" and "and the laws of the State of New Jersey"

### 13:71-3.8 Stay pending appeals

(a) A notice of appeal filed with the Commission pursuant to this subchapter may be accompanied by a request for a stay pending a final decision by the Commission Such a request for a stay shall be made on a form prescribed by the Commission The Executive Director of the Commission may approve such stay requests in matters involving

- 1 The loss by an owner of purse money of \$250 00 or more,
- 2 A fine of \$200 00 or more,
- 3 Suspension from one or more racing activities for seven days or more

(b) Such a request for stay may be denied by the Executive Director of the Commission where to grant the same would be adverse to the best interests of racing or inimical to the integrity of the sport

Amended by R 1991 d 380, effective August 5, 1991

See 23 N J R 1282(a), 23 N J R 2319(a)

Section recodified from 13 71-3 10 Former section was "Steward's hearing"

Amended by R 1992 d 267, effective July 6, 1992

See 24 N J R 556(a), 24 N J R 2461(c)

Revised (a)

#### Case Notes

Board of Judges' ruling appealable to State Steward, to be heard in a de novo proceeding, driver's due process rights not violated by State Steward's testifying at administrative hearing *DeVitis v New Jersey Racing Commission*, 202 N J Super 484, 495 A 2d 457 (App Div 1985), certification denied 102 N J 337, 508 A 2d 213 (1985)

### 13:71-3.9 (Reserved)

Repealed by R 1991 d 380, effective August 5, 1991

See 23 N J R 1282(a), 23 N J R 2319(a)

Section was "Hearing, costs" and was recodified to 3 7

### 13:71-3.10 (Reserved)

Repealed by R 1991 d 380, effective August 5, 1991

See 23 N J R 1282(a), 23 N J R 2319(a)

Section was "Stay pending appeals" and was recodified to 3 8

#### Case Notes

Stay of suspension upon posting of necessary bond noted *Gallo v New Jersey Racing Commission*, 6 N J A R 381 (1983)

## SUBCHAPTER 4 DEFINITIONS

### 13:71-4.1 Definitions

(a) Unless defined in (b) below, words and terms used in this chapter that are defined in N J A C 13 70-2 1 shall have the meanings assigned in N J A C 13 70-2 1 unless the context clearly indicates otherwise

(b) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise

"Added money event" means event closing in the same year during which it is to be contested in which all entrance, sustaining and declaration fees received are added to the purse

"Advance wagers" means any wager placed at least one race in advance of the current race

"Age, how reckoned" means age of a horse shall be reckoned from the first day of January of the year of foaling

"Amateur driver" means a driver who has never accepted any valuable consideration by way of or in lieu of compensation for his services as a trainer or driver during the past 10 years

"Claiming race" means one in which any horse starting therein may be claimed for a designated amount in conformance with the rules Only those owners who have started or declared a horse or horses at the meeting or the authorized agents of such owners may be eligible to claim a horse The authority of an agent must be in writing and signed by the owner on whose behalf the agent is acting One copy of said authorization shall be filed with the racing secretary and one with the Racing Commission

"Commission" means the New Jersey Racing Commission

"Conditioned race" means an overnight event to which eligibility is determined according to specified qualifications Such qualifications may be based upon

- 1 Horses' money winnings in a specified number of previous races or during a specified period of time,
- 2 A horse's finishing position in a specified number of previous races or during a specified period of time,
- 3 Age,
- 4 Sex,
- 5 Number of starts during a specified period of time,
- 6 Or any one or more combinations of the qualifications herein listed,
- 7 Use of records or time bars as a condition is prohibited

"Dash" means a race decided in a single trial. Dashes may be given in a series of two or three governed by one entry fee for the series, in which event a horse must start in all dashes. Positions may be drawn for each dash. The number of premiums awarded shall not exceed the number of starters in the dash.

"Declarations" means declarations shall be taken not more than three days in advance of all races except those for which qualifying dashes are provided.

"Delay period" means the set period of time between the sounding of the bell to signal the end of wagering in each race and the time mutuel machines will not accept cancellations and are completely deactivated for the current race. This delay period can be adjusted at the discretion of the Commission from zero to 20 seconds and is available only for the protection of the mutuel clerks by permitting them to cancel wagers that patrons place and refuse to accept immediately before the beginning of the delay period.

"Disqualification" means a person disqualified shall be barred from acting as an official or from starting or driving or otherwise participating in racing. The spouse of a disqualified person is likewise barred from participation. In the case of a disqualified horse, the horse shall not be allowed to start.

"Drug" means

1 Articles recognized in the official U.S. Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, and

2 Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and

3 Articles (other than food) intended to affect the structure or any function of the body or other animals, and

4 Articles intended for use as a component of any article specified in paragraph 1, 2 or 3, but does not include devices or their components, parts or accessories.

"Early bird wagering" means wagering that occurs on races in advance of the normal time racetracks open mutuel machines for their live racing program.

"Early closing race" means a race for a definite amount to which entries close at least six weeks preceding the race. The entrance fee may be on the installment plan or otherwise, and all payments are forfeits.

"Elimination heats or dashes" means heats or dashes of a race split according to these rules, to qualify the contestants for a final heat or dash.

"Entry" means two or more horses starting in a race when owned or trained by the same person, or trained in the same stable or by the same management. Such horses are coupled as an "entry." A wager on one shall be a wager on all of them. Provided, however, that when a trainer enters two or more horses in a stake, early closing, futurity, free-for-all or other special event under bona fide separate ownerships, the said

horses may, at the request of the association and with the approval of the Commission be permitted to race as separate betting entries. The presiding judge shall be responsible for coupling horses. In addition to the foregoing, horses may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only. Entries shall not be permitted in overnight events without approval of the Commission.

"Expulsion" means the unconditional exclusion and disqualification from any participation, either directly or indirectly in the privileges and uses of the course and grounds of an association by a licensee or patron.

"Field" means when the individual horses competing in a race exceed the numbering capacity of the tote, the highest numbered horse within the capacity of the tote, and all horses of a higher number shall be grouped together and called the "field."

"Forensic analysis" means when samples are analyzed by scientifically qualified personnel within the Forensic Science Bureau of the Division of State Police.

"Futurity" means a stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.

"Green horse" means one that has never trotted or paced in a race or against time.

"Gross pool pricing" means the historic method of calculating pari-mutuel prices using the take-out and breakage rules of the host tracks jurisdiction. Pari-mutuel prices calculated using the gross pool pricing method are the same for all jurisdictions in the pari-mutuel pool.

"Guaranteed stake" means a stake with a guarantee by the party opening it that the sum shall not be less than the amount named.

"Handicap" means a race in which performance, sex or distance allowance is made. Post positions for a handicap may be assigned by the racing secretary. Post positions in a handicap claiming race may be determined by claiming price.

"Heat" means a single trial in a race two in three, or three heat plan.

"In harness" means that the horses participating are attached to a sulky. Jog carts shall not be used for racing. All sulkies used in a race must be equipped with (wheel discs) uncolored or colorless wheel discs on the inside and outside of the wheels, of a type approved by the stewards or by the Racing Commission.

"Interference" means any act, which by design or otherwise, hampers or obstructs any competing horse or horses.

"Invitation race" means a race to which only those horses named by the race secretary and listed by him with the presiding judge shall be eligible.

"Jersey Bred" means a horse dropped by a mare in the State of New Jersey, which circumstance is necessary to qual-

ify for registration with the Standardbred Breeders Association of New Jersey Such registration is a requirement for eligibility to be entered or to start in races exclusively for horses foaled in New Jersey

“Late closing race” means a race for a fixed amount for which nominations or declarations close less than six weeks and more than three days before the race is to be contested

“Law or Laws” means Chapter 17, Laws of 1940, as amended and supplemented

“Length of race and number of heats or dashes” means races or dashes shall be given at a stated distance in units not shorter than  $\frac{1}{16}$  of a mile The length of a race and the number of heats shall be stated in the conditions If no distance or number of heats or dashes are specified all races shall be a single mile dash No two-year old shall be permitted to start in a dash or heat exceeding one mile in distance Except where elimination heats or dashes are required, two-year olds may start only in races conditioned not to exceed two dashes or in a two in three race which shall terminate in three heats or dashes In two-year old races any colt may default at the end of a second heat or dash and the remaining colt shall be declared the winner Any colt withdrawing under this rule shall forfeit all right to the winners’ share of the purse or to the award of the trophy In the event all eligibles withdraw, the sponsor may retain the 10 percent and the trophy

“Maiden” means a stallion, mare or gelding that has never won a heat or race at the gate at which it is entered to start and for which a purse is offered

“Match race” means a race which has been arranged and the conditions thereof agreed upon between the contestants

“Matinee race” means a race with no entrance fee in where the premiums, if any, are other than money

“Meeting race” means the period (Sundays excluded), for which a license to race has been granted to any one association by the Commission

“Net pool pricing” means the method of calculating pari-mutuel prices established in 1995 that allow each jurisdiction to use their take-out and breakage rates to calculate a pari-mutuel price without jurisdictions altering their take-out rate and breakage rate to accommodate another racing jurisdiction’s takeout and breakage rates Pari-mutuel prices calculated using the Net Pool Pricing method may differ slightly for each jurisdiction in the pari-mutuel pool

“Off-time” shall mean the moment at which the official starter says go, officially dispatching the horses in each contest

“Overnight event” means a race for which entries close not more than three days (omitting Sundays) before such race is to be contested In the absence of conditions or notice to the contrary all entries in overnight events must close not later than 12 Noon the day preceding the race An association shall not demand entry fees from owners or trainers of horses competing in an overnight event

“Owner” means sole owner, part owner or lessee of a horse

“Paddock” means a man tight enclosure in which horses scheduled to compete in a race program are confined prior to racing under the supervision of paddock judge

“Positive analysis” means when the analyst has accumulated sufficient scientific data to specifically identify the suspected drug(s) or foreign substance(s) present in the biological test sample

“Post-mortem necropsy” means a thorough examination of a horse’s remains by a licensed veterinary practitioner to determine the cause of death and other information about the condition of a deceased horse

“Post position” means race positions shall be determined publicly by lot in the presence of one or more Judges or their deputies, and at least one trainer licensed by the Racing Commission Post positions shall be drawn at scratch time Beginning from the inside rail, the horse shall take their positions at the post in keeping with the numerical order resulting from the public drawing

“Protest” means a protest, except a protest involving fraud may be filed only by the owner (or his authorized agent), trainer or driver of a horse engaged in the race over which the protest is made or by a racing official of the meeting A protest involving fraud may be made by any person A protest, except a claim growing out of happenings in the running of the race, must be made in writing, signed by the complainant, and filed with the Judges at least 60 minutes before post time of the race in question To merit consideration, any protest over the status of an alleged maiden must be made in writing, signed by the complainant, and filed with the Judges at least two hours before and programmed post time for the race in which the protested maiden is scheduled to run A protest against a horse engaged in a race, and filed with the Judges not less than 60 minutes before post time, shall receive immediate consideration, and in default of proof within 30 minutes of post time that the horse is qualified to start, the horse may be disqualified from starting To merit consideration, a protest against the programmed distance of a race must be made at least 30 minutes before post time for that race To merit consideration, a protest against a horse based on a happening in a race must be made to the Judges before the placing of the horses for that race has been officially confirmed If a driver wishes to protest a happening in a race, he must so notify the Judges immediately after the finish of said race Before the consideration of a protest, the Judges may demand a deposit of \$25 00 to be made with the racing secretary This deposit shall be applied to the costs and expenses, as provided by this rule Any excess shall be refunded unless the protest is found to be frivolous, in which case the deposit may be assessed as a fine A person or persons lodging a protest must pay all the costs and expenses incurred in determining the objection unless his objection is upheld in which case the cost shall be paid by the offender Pending the determination of a protest, any money or prize won by a protested horse, or any other money affected by the outcome of the protest shall be



paid to and held by the racing secretary until the protest is determined. The Judges are vested with power to determine the extent of disqualification in cases of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last. A protest may not be withdrawn without permission of the Judges. No person shall make frivolous protests. The Judges shall keep a record of all protests and complaints, and of any action taken thereon, and shall report both daily to the Racing Commission.

"Race officials" includes the following, Racing Commission representative and

- 1 State steward and/or presiding judge,
- 2 Associate judges,
- 3 Finish wire judge,
- 4 Patrol judges,
- 5 Paddock judges,
- 6 Starter,
- 7 Timer,
- 8 Clerk of the course,
- 9 Race secretary,
- 10 Program Director
- 11 The Commission may adjust the above roster as it deems necessary

"Record" means the fastest time made by a horse in a heat or dash which he won or in a performance against time.

"Respiratory bleeder" means a horse that shows evidence of hemorrhaging from the blood vessels of the nose, accessory nasal cavities, the pharynx, larynx and/or lung.

"Rules" means the rules and regulations promulgated by the Commission.

"Scoring" means those preliminary practice starts taken by the horses in a race after the post parade and before they are called by the starter to line up for the start.

"Stake" means a race which shall be contested in a year subsequent to its closing in which the money given by the association conducting the same is added to the money contributed by the nominators all of which except deductions for breeders or nominators awards belong to the winner or winners. In any event all of the money contributed in nominating, sustaining and starting payments must be paid to the winner or winners.

"Suspicious analysis" means when the biological sample being tested is suspected of containing any drug(s) or foreign chemical substance(s), however, the presence of other foreign substance(s) interferes with the isolation, detection and identity of the suspected substance(s).

"Total calculator" means an electronic calculator (commonly referred to as a totalizer), the design and function of which must be approved by the Commission, installed for the

purpose of designating straight win, place and show wagering in the manner prescribed by the rules.

"Two in three" means in a two in three race, a horse must win two heats or dashes to be entitled to first money.

"Walk-over" means when only horses of the same interest start, a "walk-over" is entitled to all the stake money and forfeits unless otherwise provided in the published conditions. To claim the purse, the entry must start and go once over the course unless this requirement is waived by the judges.

"Winner" means the horse whose nose reaches the wire first. If there is a dead heat for first, both horses shall be considered winners. Where two horses are tied in the summary, the winner of the longer dash or heat shall be entitled to the trophy.

- 1 Where the dashes or heats are of the same distance and the horses are tied in the summary, the winner of the faster dash or heat shall be entitled to the trophy.

"Wire" means a real or imaginary line from the center of the judge's stand to a point immediately across, and at right angles to the track.

Amended by R 1979 d 497, effective January 1, 1980  
See 11 N.J.R. 579(a), 12 N.J.R. 91(b)  
Amended by R 1990 d 126, effective February 20, 1990  
See 21 N.J.R. 3861(a), 22 N.J.R. 667(a)

Stylistic changes and "stewards" changed to "Judges" throughout  
Amended by R 1991 d 545, effective November 4, 1991  
See 23 N.J.R. 2267(c), 23 N.J.R. 3341(b)

Added definitions for "Advance wagers", "Delay period", "Early bird wagering"

Amended by R 2000 d 35, effective January 18, 2000  
See 31 N.J.R. 3050(a), 32 N.J.R. 322(a)

Added (a), and inserted (b) designation  
Amended by R 2007 d 331, effective October 15, 2007  
See 39 N.J.R. 2599(a), 39 N.J.R. 4418(a)

Added definitions "Gross pool pricing" and "Net pool pricing"  
Amended by R 2018 d 157, effective August 20, 2018  
See 50 N.J.R. 937(a), 50 N.J.R. 1901(a)

In (b), added definition "Off-time"  
Amended by R.2021 d 099, effective September 7, 2021  
See 52 N.J.R. 1751(a), 53 N.J.R. 1507(a)

In (b), added definition "Post-mortem necropsy"

#### Case Notes

Improper eligibility protest; State Steward should have considered protest *Bunny Stables v New Jersey Racing Commission*, 3 N.J.A.R. 148 (1981).

## SUBCHAPTER 5 TRACKS

### 13:71-5.1 Policing requirements

(a) An association conducting race meetings under license from the Racing Commission shall properly police its grounds, including the stable area and paddock, and shall eject therefrom all unauthorized persons, known undesirables, touts, persons believed to be bookmakers or connected with bookmakers, persons under suspension or ruled off, persons of lewd or immoral character, and persons guilty of boisterous or disorderly conduct or other conduct detrimental to racing or the public welfare.

(b) When the State Police in the normal performance of their duties at an association meeting observe an individual deemed to be undesirable within the meaning of this rule, they will so advise the director of security and the Executive Director of the Racing Commission. The director of security shall, in writing, advise the Racing Commission and State Police within 48 hours of the action taken thereon.

Amended by R 1977 d 331, effective August 29, 1977  
See 9 N J R 345(b), 9 N J R 487(a)

Amended by R 1986 d 358, effective September 8, 1986  
Sec 18 N J R 820(a), 18 N J R 1830(a)

Deleted sentence in (a) "Where practical a of such persons "

### 13:71-5.2 Police reports

The track security police and any other law enforcement agency acting in, on or about the licensed premises of any race track, or any approved farms or stabling facilities, shall furnish two copies of their daily police report, together with any additional pertinent information available to the said police agency, obtained either orally or in writing. The two copies shall be delivered to the New Jersey State Police detail assigned to the race track at the close of each racing day. One copy, with evaluation, comments and further action by the said State Police shall be delivered to the New Jersey Racing Commission.

#### Case Notes

Rule cited as example of Commission's reliance on conventional law enforcement services, denial of groom's license held arbitrary as the Rehabilitated Convicted Offender Act applies to Commission's licensing function. *Maietta v New Jersey Racing Commission*, 183 N J Super 397, 444 A 2d 55 (App Div 1982), affirmed 93 N J 1, 459 A 2d 295 (1983).

### 13:71-5.3 Persons ejected; reports

Each association shall furnish to the commission the names and addresses of all persons ejected by the association from its grounds, together with the offense or offenses alleged against them, and any other material information relating hereto.

### 13:71-5.4 Complaints in writing

Complaints against a race official or his assistant shall be made to the stewards in writing and be signed by the complainant.

### 13:71-5.5 Attendance reports

Each association shall make daily reports to the commission of the total attendance showing number of paid admissions, established price of each class of admission, together with number of free passes.

### 13:71-5.6 Badges of admission

No badge of admission shall be issued to any owner, trainer, driver, groom, stable help, plater or other employees including concessionaires and their employees unless such person has applied for and/or been fingerprinted and/or paid to the Racing Commission the license fee required by law. Ap-

plication for licenses shall be made on forms supplied by the Racing Commission.

### 13:71-5.7 Offices and parking; Racing Commission use

Each association shall provide within its grounds approved adequate offices and parking areas as required for use and to be at the disposal of the Racing Commission and all of its representatives.

### 13:71-5.8 Free access to grounds by employees of commission

The commission shall have such employees or inspectors as provided by law, who shall perform such duties as may be assigned to them by the commission, such employees to have free access to all parts of the grounds while on duty.

### 13:71-5.9 Photographic device for finishes

The Racing Commission shall require an association to install and maintain in good service a satisfactory photographic device, and where installed, it shall be required that all finishes be recorded by the photographic device.

### 13:71-5.10 Numbers for horses

When finishes are so recorded, each horse in each race shall wear a saddle cloth number and a head number of adequate size, on the side which at the finish will be towards the camera, corresponding to his number on the official program.

### 13:71-5.11 Betting prohibited on grounds

No association shall permit on its grounds any betting or other operations in contravention of any law of the State of New Jersey or of the United States.

### 13:71-5.12 (Reserved)

Repealed by R 1996 d 396, effective August 19, 1996  
See 28 N J R 2794(b), 28 N J R 3969(c)  
Section was "Betting prohibited outside grounds"

### 13:71-5.13 Handbooking prohibited on grounds

Handbooking shall be prohibited on the grounds and its operator shall be excluded therefrom.

### 13:71-5.14 Gambling device

No gambling device, other than permitted by law, shall be permitted on the grounds.

### 13:71-5.15 Petty games of chance

Petty games of chance are prohibited.

### 13:71-5.16 Disqualified personnel kept off grounds

During the term of disqualification of any participant in racing, it shall be the duty of the association to see to it that the privileges of his admission badge are revoked, and that he is kept out of the grounds, unless otherwise permitted to enter under certain conditions and at certain times as may be provided for elsewhere in these rules.

**13:71-5.17 Ejected personnel; readmission; notice**

Any person ejected from the grounds of an association shall be denied admission to said grounds until permission for his reentering has been obtained from the official issuing the ejection order. Notification of such permission for reentry shall be filed with the Racing Commission.

**13:71-5.18 Age limits**

Any child under 18 years of age must be accompanied by an adult, parent or guardian to be admitted to any race track enclosure as a spectator during the hours when the running of races is being conducted. No person under the age of 18 shall be permitted to wager or in any manner participate in any pari-mutuel pool or system.

Amended by R 1978 d 353, effective October 2, 1978  
 See 10 N J R 349(b), 10 N J R 510(b)  
 Amended by R 1989 d 546, effective November 6, 1989  
 See 21 N J R 1972(b), 21 N J R 3476(a)

Deleted "daytime" to describe race track. Deleted text regarding requirement that children (12-16) must be accompanied by an adult to be admitted to nighttime races.

Amended by R 1993 d 485, effective October 4, 1993  
 See 25 N J R 2648(a), 25 N J R 4600(d)

**13:71-5.19 Weekly reports on employees**

(a) Each harness race track association and each concessionaire shall make weekly detailed reports and deliver such reports to the Racing Commission, of all employees (including racing officials) actually engaged during the past week, stating the name, department, license number (if license is required) and position therein, and "yes" or "no" to indicate whether a resident of New Jersey, under columns so entitled. Such lists shall be compiled by departments, and if any employee is engaged in two departments, a notation opposite his name shall so state.

(b) The weekly reports of each department shall have the following endorsement signed by the department manager:

1 The above list of employees and information contained therein is a complete report of all employees engaged in my department for the week ending, \_\_\_\_\_ 19\_\_\_\_. None of the above names appears on the security guide list for the year 19 \_\_\_\_\_. As indicated on the above list, the number of employees is as follows:

- Residents
- Nonresidents
- Exemptions requested
- Department Manager

**13:71-5.20 State Police; reports**

When the State Police in the normal performance of their duties at an association meeting determine any defect in the administrative or operational security measures necessary to properly protect the grounds, they shall report the circumstances in writing to the Executive Director of the Racing Commission with a copy to the director of security. The director of security shall respond in writing to the Racing

Commission with a copy to the State Police, without undue delay, of the action taken thereon.

R 1977 d 331, effective August 29, 1977  
 See 9 N J R 345(b), 9 N J R 487(a)

**SUBCHAPTER 6 ASSOCIATIONS**

**13:71-6.1 Employee compensation insurance**

(a) Associations are required to carry adequate compensation insurance covering all persons in their employ.

(b) Every owner shall establish a horsemen's bookkeeper account at each track association where horses he or she owns have been or will be entered to race.

(c) No owner shall be allowed to enter a horse without first paying the cost of assessment into the horsemen's bookkeeper account. Any owner failing to comply with this rule shall be subject to suspension, fine or other penalty as determined by the Racing Commission.

(d) All concessionaires shall carry workers' compensation insurance covering all employees and shall provide adequate proof of compliance which shall be in the form of:

1 A certificate of insurance, valid for the year through December 31 (for which licensing is sought), issued by an insurance company authorized to do business in the State of New Jersey.

1 A certificate, if offered and found not to be valid, may result in penalties provided in N J A C 13 71-2.3 up to and including revocation of license of the person who submitted the certificate, or

2 Proof of payment of the required premium entitling an individual or entity to participate in a workmen's compensation insurance group program.

1 Any group or organization sponsoring such a program shall guarantee worker's compensation coverage for those eligible individuals or entities which pay the required premium. A copy of the worker's compensation insurance group program and eligibility requirements shall be filed by the sponsoring group or organization with the New Jersey Racing Commission each year.

3 A certificate of compliance with this rule, issued by an insurance company authorized to do business in the State of New Jersey, must be on file with the race secretary.

(e) Compliance with this rule shall be a requirement for relicensure.

(f) Prior to the commencement of any construction, alteration, change or improvement by a permit holder of any building, structure or physical layout at, about or within its licensed premises or track enclosure by a permit holder, plans and specifications regarding such construction, alteration, change or improvement must be reviewed and approved by the Racing Commission

(g) Each association shall file a complete financial statement with the Commission on or before February 15 of the calendar year following the association's last meeting

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

(g) deleted

Amended by R 1987 d 43, effective January 5, 1987  
See 18 N J R 2117(a), 19 N J R 138(b)

Deleted text from (d) "before a license is issued"

Amended by R 1990 d 573, effective November 19, 1990  
See 22 N J R 1717(a), 22 N J R 3500(a)

Added (b), requiring proof of adequate worker compensation coverage

Amended by R 2000 d 35, effective January 18, 2000  
See 31 N J R 3050(a), 32 N J R 322(a)

Rewrote (b) through (e)

Amended by R 2002 d 70, effective March 4, 2002  
See 33 N J R 3626(a), 34 N J R 1020(a)

Rewrote (b), in (c), substituted "owner" for "trainer" and deleted "or trainer" preceding "failing to comply"

#### Case Notes

Workers' compensation policy stating that it covered all workplaces in state unless horse stable-insured had other insurance or was self-insured for such workplaces provided coverage for injury sustained by horse trainer during training session at in-state facility N J S A 34 15-87 Lohmeyer v Frontier Ins Co, 294 N J Super 547, 683 A 2d 1169 (A D 1996)

#### 13:71-6.2 Judge's stand

The judge's stand shall be so located and constructed as to afford to the officials thereupon, an unobstructed view of the entire track and no obstruction shall be permitted upon the track or the centerfield which shall obscure the official's vision of any portion of the track during the race

#### 13:71-6.3 Bona Fide contests

All races shall be bona fide contests with the winner receiving the largest share of the purse and the balance of the purse distribution made according to the order of finish. No hippodroming or other arrangement for equal distribution of the purse money among the contestants is permitted

#### 13:71-6.4 Default in payment of premiums

(a) Any association that defaults in the payment of a premium that has been raced for shall together with its officers be penalized. No deduction, voluntary or involuntary, may be made from any purse or stake or futurity other than for payments to be made to the owners, nominators or breeders of money winning horses and organizations or promotion expenses stipulated for stakes and futurities

(b) Other than a stake or futurity as covered in (a) above, no association may enter into any agreement with any organization requiring a deduction from the purse payable to owners of money winning horses, unless such agreement provides that a deduction may be made only from those owners entitled to winnings who have expressly consented to the deduction or unless provided by law

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

(b) added "or unless provided by law"

#### 13:71-6.5 (Reserved)

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

#### 13:71-6.6 (Reserved)

As amended, R 1982 d 109, effective April 5, 1982  
See 14 N J R 820(a), 14 N J R 347(a)

#### 13:71-6.7 Awards

Except as herein stated, no association shall advertise to pay any awards other than to the owners, nominators or breeders of money winning horses. Awards may be made to drivers of horses breaking or equaling track or world records, or to leading drivers at meetings

#### 13:71-6.8 Paddock

(a) Every association shall provide a paddock or receiving barn containing a minimum of 80 stalls or such number as the Commission may designate

(b) The paddock or receiving barn must be completely enclosed with a man tight fence and all openings through said fence shall be policed so as to exclude unauthorized personnel therefrom

#### 13:71-6.9 Photo finish; head numbers; saddle pads; starting gate

At all associations, a photo finish, head numbers saddle pads and a starting gate must be used. Whenever the judges use a photograph to determine the order of finish, it shall be posted for public inspection. Photo finish equipment shall not be acceptable unless it is of a type approved by the Commission

#### 13:71-6.10 Interference with race officials

Although associations are obligated to supervise their meetings, their interference with the proper performance of duties of any official is prohibited

#### 13:71-6.11 Driver's stand

Each association shall provide a stand located conveniently to the gate through which the horses enter the race track from the paddock or receiving barn, for the use of drivers scheduled to race. The location of the stand shall permit a clear and adequate view of the race course

**13:71-6.12 Paddock rules**

Horses must be in the paddock at the time prescribed by the presiding judge, but in any event not less than one hour but not more than two hours prior to post time of the race in which the horse is to compete unless required to be in the paddock pursuant to N.J.A.C. 13:71-23. Except for warm-up trips, no horse shall leave the paddock until called to the post.

As amended, R 1982 d 109, effective April 5, 1982

See 13 N.J.R. 820(a), 14 N.J.R. 347(a)

"Unless N.J.A.C. 13:71-23" added

**13:71-6.13 Admission to paddock**

(a) The persons entitled to admission to the paddock are as follows

- 1 Owners of horses competing on the date of the race and whose horses are in the paddock,
- 2 Trainers of horses competing on the date of the race and whose horses are in the paddock,
- 3 Drivers of horses competing on the date of the race and whose horses are in the paddock,
- 4 Grooms and caretakers of horses competing on the date of the race and whose horses are in the paddock,
- 5 Officials whose duties require their presence in the paddock or receiving barn,
- 6 Such other persons as are authorized by the Commission

**Case Notes**

ALJ concluded that the New Jersey Racing Commission Board was right to find that an individual who was found on the premises of a licensed racetrack was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and having engaged in conduct that was detrimental to racing. Moreover, the individual's refusal to provide his full name to a Board investigator violated regulations that required such persons to cooperate with other agencies as required. *Colasanti v N.J. Racing Comm'n*, OAL DKT NO RAC 11895-18, 2019 N.J. AGEN LEXIS 1069, Initial Decision (December 20, 2019)

**13:71-6.14 Leaving of paddock**

No driver, groom or caretaker, once admitted to the paddock or receiving barn, shall leave the same other than to warm up said horse until such race, or races, for which he was admitted is contested, provided however, that in the event of an emergency, trainers or grooms may leave the paddock but only with the permission of the paddock judge in which case the paddock judge shall maintain a written record thereof. Such record shall be delivered to the presiding judge. A trainer may leave the paddock before his horse completes its engagement, but may not return to the paddock unless approval by the presiding judge has been given.

Amended by R 1988 d 402, effective August 15, 1988

See 20 N.J.R. 1175(a), 20 N.J.R. 2071(b)

Added text "A trainer may"

**13:71-6.15 Returning to paddock**

No person except an owner, who has another horse racing in a later race, or an official, shall return to the paddock until all races of that program shall have been completed.

**13:71-6.16 Two members of a stable admitted to paddock on one day**

No more than two members of a registered stable, other than the driver, shall be entitled to admission to the paddock on any one racing day, except by permission of the presiding judge.

**13:71-6.17 Blacksmith provided by association**

During racing hours each association shall provide the services of a blacksmith within the paddock.

**13:71-6.18 Extra equipment provided**

During racing hours each association shall provide suitable extra equipment as may be necessary for the conduct of racing without unnecessary delay.

**13:71-6.19 (Reserved)**

As amended, R 1982 d 109, effective April 5, 1982

See 13 N.J.R. 820(a), 14 N.J.R. 347(a)

**13:71-6.20 Supervision of the paddock**

The paddock at all times shall be under the supervision of the paddock judge.

**13:71-6.21 Required time drivers should be present in paddock prior to race**

Drivers shall be in the paddock at least one hour before post time for the races in which they are scheduled to drive.

**13:71-6.22 Post parade from paddock**

Fifteen minutes before the post time for a heat or dash, the paddock judge shall cause all horses entered in such heat or dash to be formed in a parade line. Such horses shall be attended by their drivers unless specifically excused by the paddock judge. All horses in a heat or race shall parade from the paddock upon the track and before the grandstand not later than five minutes before post time. A horse failing to parade without being excused by the judges may be scratched from the race or its driver or trainer may be penalized. Drivers shall not engage in conversation during the post parade.

**13:71-6.23 Ambulances**

Each association shall maintain and furnish at least one adequate ambulance for the exclusive use of horses and a separate ambulance for the exclusive use of persons upon the plant grounds.

**13:71-6.24 Track entrance; Coggins test requirement for horses, ponies or equine mascot**

(a) No horse shall enter the grounds of any track association absent presentation of a valid certificate of a negative Coggins test. Said certificate shall

- 1 Identify the horse by tattoo number,
- 2 Indicate said test was performed within one year prior to the date of presentation to the racing secretary,
- 3 Indicate said test was conducted by a laboratory approved by the United States Department of Agriculture, and
- 4 Be attached to the appropriate foal certificate

(b) In the event that a horse arrives at a track association without a valid certificate of a negative Coggins test, the horse will be permitted to be stabled in an area designated by the State Veterinarian. A certificate must be presented to the Racing Secretary within 12 hours or a new certificate must be obtained as soon as possible. The State Veterinarian shall be notified immediately if any horse enters the grounds under these conditions.

(c) In the case of any pony or equine mascot, evidence of a negative Coggins test, together with a photograph of the animal, must be filed with the racing secretary.

(d) The racing secretary shall be responsible for ensuring compliance with this rule. Violation of this rule may subject the racing secretary and/or track association to penalties, provided for in these rules and regulations.

(e) This rule does not affect eligibility to race or claims. However, the trainer of a horse which races in violation of this rule without evidence of a negative Coggins test and/or a vaccination for equine encephalitis, is subject to penalties provided for in these rules.

R 1976 d 125, eff April 22, 1976  
 See 8 N J R 47(b), 8 N J R 308(a)  
 As amended, R 1983 d 13, effective February 7, 1983  
 See 14 N J R 1147(a), 15 N J R 158(c)  
 Deleted old text and added new text  
 Amended by R 1986 d 415, effective October 6, 1986  
 See 18 N J R 402(b), 18 N J R 1448(b), 18 N J R 2055(a)  
 New Rule was proposed at 18 N J R 402(b)  
 Amendments to the new rule were proposed at 18 N J R 1448(b), and adopted at 18 N J R 2055(a)

**13:71-6.25 Ownership approval**

No person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in any association or corporation which has been or shall be granted a permit to hold or conduct a horse race meeting without first obtaining the approval of the New Jersey Racing Commission pursuant to these rules and regulations. For purposes of this section "person" shall be construed

to include the spouse and/or children of any such applicant and compliance with this section shall be required of all such persons holding any interest whatsoever whenever the total interest held by such persons as an aggregate exceeds the five percent requirement. Failure to comply with this regulation shall subject the applicant to disqualification and the permit holder to the penalties and sanctions provided by law.

R 1984 d 44, effective February 21, 1984  
 See 15 N J R 1928(b), 16 N J R 378(a)

**13:71-6.26 Annual listing of shareholders**

Racing associations shall file on an annual basis with the commission a list of all persons possessing directly or indirectly any shares of stock or certificates or other evidence of ownership of any interest in any association or corporation. Said filing shall take place prior to June 1 of each calendar year.

R 1984 d 44, effective February 21, 1984  
 See 15 N J R 1928(a), 16 N J R 378(a)

**13:71-6.27 Application forms; approval**

Approval may only be given to such persons who make application therefor on the form prescribed by the New Jersey Racing Commission and only when such application is filed with the Director of the Racing Commission properly completed and executed in all respects.

New Rule, R 1984 d 44, effective February 21, 1984  
 See 15 N J R 1928(a), 16 N J R 378(a)

**13:71-6.28 Investigation**

The commission may investigate the applicant or any person named in the application, with respect to such person's criminal record, subversive activities record and any other reports concerning such persons, in order to determine whether the applicant or a person for whom ownership is directly or beneficially to be held has not been convicted of a crime of moral turpitude, has not violated any rules and regulations previously or presently prescribed by the New Jersey Racing Commission, and who possesses sufficient moral responsibility so as not to be detrimental to the best interests of racing in New Jersey.

New Rule, R 1984 d 44, effective February 21, 1984  
 See 15 N J R 1928(a), 16 N J R 378(a)

**13:71-6.29 Review of application approval**

Applications may be approved, after due consideration by the Executive Director of the Racing Commission to whom such power is delegated, but the New Jersey Racing Commission may, in its discretion, review any such findings made by the Executive Director to determine whether any applicant merits approval.

New Rule, R 1984 d 44, effective February 21, 1984  
 See 15 N J R 1928(b), 16 N J R 378(a)

**13:71-6.30 Application denials; notice**

When an applicant, after due consideration, cannot be approved for reasons expressed in N J S A 5 5-22 et seq, as amended and supplemented, or if, in the opinion of the New Jersey Racing Commission, approval of such person will be detrimental to the best interests of racing in New Jersey, or if an applicant will hold ownership for another whose interest is beneficial, indirect or otherwise and the indirect or beneficial owner could not qualify, to hold direct ownership for reasons expressed herein, the Commission may disapprove such applicant by notifying by registered mail the Secretary of the association or corporation licensed to conduct a horse race meeting. Such disapproved person may request, and the Commission shall hold, a hearing which request and hearing shall be made and had as provided for in N J S A 5 5-22 et seq.

New Rule, R 1984 d 44, effective February 21, 1984  
See 15 N J R 192(a), 16 N J R 378(a)

**13:71-6.31 Horsemen's bookkeeper account**

(a) Each track association shall establish a horsemen's bookkeeper account to hold monies deposited by standardbred owners. The horsemen's bookkeeper shall maintain a record of each account crediting such account, as applicable, with all earnings, awards or deposits. The horsemen's bookkeeper shall also deduct payments as directed by the account holder or his or her authorized agent and collect assessments for the cost of workers' compensation insurance coverage pursuant to this chapter and the rules promulgated by the New Jersey Horse Racing Injury Compensation Board set forth at N J A C 13 73.

(b) The horsemen's bookkeeper at each racetrack in New Jersey shall transmit on a weekly basis all monies collected for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall deposit these monies in a separate account for the use of the Board.

New Rule, R 2000 d 35, effective January 18, 2000  
See 31 N J R 3050(a), 32 N J R 322(a)  
Amended by R 2002 d 70, effective March 4, 2002  
See 33 N J R 3626(a), 34 N J R 1020(a)

In (a), substituted "13 73" for "13 70A-1 1, et seq", deleted (b) and (c), and recodified existing (d) as (b).

**SUBCHAPTER 7 LICENSING**

**13:71-7.1 Persons required to have licenses; fingerprints and photographs**

(a) The following persons shall be required to take out a license from the New Jersey Racing Commission and the annual fee therefor shall be as follows:

1	Driver/Trainer	\$50 00
2	Owner	\$50 00

3	Pari-Mutuel Employee	\$25 00
4	Stable Employee	\$ 5 00
5	Stable Name	\$50 00
6	Starter	\$10 00
7	Plater	\$20 00
8	Timer	\$10 00
9	Vendor	\$50 00
10	Identification License	\$10 00
11	Authorized Agent	\$50 00
12	Veterinarians	\$50 00

(b) All persons licensed by the Commission and all employees of the racing associations and/or employees of contractors doing work for the track associations will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprints and card checks. The Commission will direct the fee, which will be consistent with the charge set by the reviewing agency for the type of inquiry requested, for example, State, Federal, State and Federal, name check. Owners who, because of extenuating circumstances, cannot come into New Jersey to be fingerprinted and photographed during a racing year, will be issued conditional licenses only and will not be permitted access to the stable area or paddock at any New Jersey track until photographed and fingerprinted by the Racing Commission. Holders of a conditional license will not be eligible for passes at any of the tracks in New Jersey.

Amended by R 1977 d 8, effective January 17, 1977  
See 8 N J R 531(c), 9 N J R 94(d)  
Amended by R 1979, d 14 effective April 12, 1979  
See 11 N J R 21(b), 11 N J R 258(a)  
Amended by R 1983 d 104, effective April 4, 1983, operative January 1, 1984  
See 14 N J R 1445(a), 15 N J R 554(a)  
Fees increased and (b) added  
Amended by R 1985 d 640, effective December 16, 1985 (operative January 1, 1986)  
See 17 N J R 2364(a), 17 N J R 2996(b)  
(a)12 added, (b) substantially amended  
Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)  
"Fingerprints and photographs" added to tagline  
Amended by R 1993 d 52, effective January 19, 1993  
See 24 N J R 4023(a), 25 N J R 314(b)  
Revised (a)

**Case Notes**

ALJ concluded that the New Jersey Racing Commission Board was right to find that an individual who was found on the premises of a licensed racetrack was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and having engaged in conduct that was detrimental to racing. Moreover, the individual's refusal to provide his full name to a Board investigator violated regulations that required such persons to cooperate with other agencies as required *Colasanti v N J Racing Comm'n*, OAL DKT NO RAC 11895-18 2019 N J AGEN LEXIS 1069, Initial Decision (December 20, 2019).

**13:71-7.2 False or misleading statements**

Any person making any false, untrue or misleading statement on an application for a license or registration or in a

written or oral examination in connection with such an application may be disciplined as provided for in this chapter

Amended by R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
Section substantially amended

**13:71-7.3 Refusal to issue or renew license**

The Commission may refuse to issue or renew a license or may suspend or revoke a license issued pursuant to this section if it shall find that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person or persons who has been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with, or has consorted with bookmakers, touts or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepre-

sentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the Commission, or shall have violated any rule of racing which shall have been approved or adopted by the Commission, or has been guilty of or engaged in similar related or like practices

**Case Notes**

Harness rules express concern for an affinity between any applicant for licensure and another person convicted of a crime, entirely apart from the persons' marital relationship *Niglio v New Jersey Racing Commission*, 158 N J Super 182, 385 A 2d 925 (App Div 1978)

Arrest record with no convictions may not be considered by the Commission in assessing the moral character of an owner/licensee (citing former N J A C 13 71-4 2) *Costanzo v New Jersey Racing Commission*, 126 N J Super 187, 313 A 2d 618 (App Div 1974)



New Jersey Racing Commission Board approved of the determinations made by the ALJ with one exception relating to whether consideration of an applicant's expunged conviction was permissible and concluded that the applicant was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and had engaged in conduct that was detrimental to racing. The applicant also was shown to have improperly refused to provide his full name to a Board investigator, resulting in another rule violation *John Colasanti v NJ Racing Comm'n*, OAL Docket No RAC 18173-18, 2020 NJ AGEN LEXIS 42, Final Agency Determination (January 31, 2020)

The New Jersey Racing Commission (NJRC) acted properly when it exercised its discretion to deny an application for a license to work as a standardbred stable employee. Although the NJRC should not have considered the applicant's 1996 conviction for promoting gambling as a basis for denial because that conviction had been expunged, there was ample other evidence tending to show that the applicant did not possess the requisite integrity including that he had disregarded the directive of an NJRC investigator who ordered him to cease and desist from participating in the transport of certain horses in 2018. The applicant also refused to provide his name when the investigator asked him to identify himself, which conduct also suggested that he lacked integrity and was not properly granted a license. *Colasanti v NJ Racing Comm'n* OAL DKT NO RAC 18173-18, 2019 NJ AGEN LEXIS 1077, Final Agency Determination (December 20, 2019)

Initial Decision (2007 NJ AGEN LEXIS 191) adopted, which concluded that applicant for standardbred owner license submitted sufficient evidence of good moral character as required by N.J.A.C. 13:71-7.31 notwithstanding prior conviction for promoting gambling. Applicant testified that his previous gambling (record for which had been expunged) was limited to placing football bets for co-workers 17 years prior, and that he was now a 43-year-old married father of twins who owned his own business and regularly attended church. *Devine v NJ Racing Comm'n*, OAL Dkt No RAC 4449-05, Final Decision (June 25, 2007)

Obstruction of justice and perjury conviction warranted denial of driver/trainer license application despite rehabilitation. *Bonacorsa v New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 14

Commission's denial of harness driver's license not arbitrary, capricious or unreasonable, applicant's burden to demonstrate complete qualification for licensure not met, other licensing decisions not relevant to petitioner's application since decisions are based on individual records, not comparative tests. *Primeau v New Jersey Racing Commission*, 8 N.J.A.R. 509 (1985)

**13:71-7.4 Age requirements**

No application for a license will be considered for or granted to a person under 16 years of age

**13:71-7.5 Items requiring registration**

(a) The following must be registered with the Racing Commission annually and the fee payable for such registration shall be as follows

- 1 Each stable name must be duly registered with the Racing Commission. The fee shall be \$50.00
- 2 Corporate stable names must be registered with the Commission. The initial fee shall be \$50.00 and renewals thereafter shall have a fee of \$50.00
- 3 Multiple ownership initial registration with the Commission shall be \$50.00 and renewals thereafter shall also have a fee of \$50.00

**4 Partnerships (two individuals or any combination of entities and/or individuals) shall be registered with the Commission**

Amended by R 1979 d 144, effective April 12, 1979  
 See 11 N.J.R. 21(b), 11 N.J.R. 258(a)  
 Amended by R 1982 d 109, effective April 5, 1982  
 See 13 N.J.R. 820(a), 14 N.J.R. 347(a)  
 (a) 2 and 3 added  
 Amended by R 1993 d 52, effective January 19, 1993  
 See 24 N.J.R. 4023(a), 25 N.J.R. 314(b)  
 Revised (a) and (a)1, added new (a)4  
 Amended by R 1998 d 170, effective April 6, 1998 (operative January 1, 1999)  
 See 30 N.J.R. 24(a), 30 N.J.R. 1298(b)  
 In (a)4, deleted a \$25 annual fee

**13:71-7.6 Fees**

The fee shall accompany each application for licenses and/or registration. All licenses and/or registration expire December 31 of the year of issue

**13:71-7.7 Applications**

(a) All applications for owner, driver and trainer license and registration of stable name and multiple owner registration must be examined by the steward for and on behalf of the New Jersey Racing Commission. The steward shall ascertain if the applicant is qualified as to ability and integrity, and shall report his findings to the New Jersey Racing Commission

- 1 In considering each application for a license, the steward may require the applicant, as well as the applicant's endorsers, to appear before him
- 2 The burden shall be upon the applicant to show that he, she or it is qualified in every respect to receive the license applied for
- 3 Ability, as well as integrity, must be clearly shown by the applicant in order to receive the steward's recommendation to the New Jersey Racing Commission for the granting of the license

As amended, R 1982 d 109, effective April 5, 1982  
 See 13 N.J.R. 820(a), 14 N.J.R. 347(a)  
 Amended by R 1985 d 138, effective March 18, 1985  
 See 17 N.J.R. 57(b), 17 N.J.R. 711(a)  
 Added (a)1-3  
 Amended by R 1990 d 126, effective February 20, 1990  
 See 21 N.J.R. 3861(a), 22 N.J.R. 667(a)  
 Grammatical correction in (a)

**Case Notes**

The New Jersey Racing Commission (NJRC) acted properly when it exercised its discretion to deny an application for a license to work as a standardbred stable employee. Although the NJRC should not have considered the applicant's 1996 conviction for promoting gambling as a basis for denial because that conviction had been expunged, there was ample other evidence tending to show that the applicant did not possess the requisite integrity including that he had disregarded the directive of an NJRC investigator who ordered him to cease and desist from participating in the transport of certain horses in 2018. The applicant also refused to provide his name when the investigator asked him to identify himself, which conduct also suggested that he lacked integrity and was

not properly granted a license *Colasanti v. NJ Racing Comm'n*, OAL DKT NO RAC 18173-18, 2019 NJ AGEN LEXIS 1077, Final Agency Determination (December 20, 2019)

ALJ erred in finding that a petitioner had established his suitability to be licensed in the capacity of driver/trainer because, even if petitioner was not personally responsible for inducing a horse's high Base Excess/TCO2 levels during a quarantine in Delaware, petitioner failed to carry out his duties as a trainer to protect the horses within his custody and control, as evidenced in petitioner's attempt to exculpate himself by testifying that anyone had access to the horse that day and could have "milkshaked" her, petitioner was strictly liable to protect and guard the horse against the administration of any drug or substances foreign to the natural horse (rejecting 2008 NJ AGEN LEXIS 888) *Height v. NJ Racing Comm'n* (On Remand), OAL Dkt No RAC 02359-08S, 2009 NJ AGEN LEXIS 854, Final Decision (March 4, 2009)

Initial Decision (2006 NJ AGEN LEXIS 819) adopted which concluded that denial of owner/driver/trainer license application was appropriate where applicant had been in violation of several regulations since the revocation of his licensure in 1993, including transporting race horses, working at an unlicensed farm and training facility, and, most notably, training and racing horses under his sister's name *Parolari v. NJ Racing Comm'n*, OAL Dkt No RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006)

Commission's denial of harness driver's license not arbitrary, capricious or unreasonable, applicant's burden to demonstrate complete qualification for licensure not met, other licensing decisions not relevant to petitioner's application since decisions are based on individual records, not comparative tests (citing former regulation) *Primeau v. New Jersey Racing Commission*, 8 N J A R 509 (1985)

### 13:71-7.8 Liabile for all penalties

All persons listed in a registered stable shall be liable for all penalties against horses raced under such stable name. If one of the persons listed under such stable name is suspended, all the horses in such stable shall be included.

### 13:71-7.9 Changes in identities

Changes in identities must be reported immediately and approval obtained from the Commission.

### 13:71-7.10 Notice to the Racing Commission

A person who has registered under a stable name may at any time cancel it after giving written notice to the Racing Commission.

### 13:71-7.11 Changing of stable name

A stable name may be changed at any time by registering a new stable name and by paying the fee required in N J A C 13 71-7.5

### 13:71-7.12 Existing stable name

A person cannot register as his stable name one which has been registered by any other person with any association conducting a recognized meeting.

### 13:71-7.13 Registered stable; member

A person may be registered in more than one stable name. No person, however, will be permitted to enter more than one

horse, in which he has an interest, in any one race without said horse being coupled as an entry.

As amended, R 1977 d 8, effective January 17, 1977  
See 8 N J R 531(c), 9 N J R 94(d)

### 13:71-7.14 Distinguished name

A stable name shall be plainly distinguishable from that of another duly registered stable name.

### 13:71-7.15 Transfer of name

With the consent of the Racing Commission a stable name may be transferred. The fee for a transfer shall be \$10.00 and a new application must be made.

### 13:71-7.16 Corporations

(a) No license as an owner shall be granted to a corporation or to the lessee or lessor of any corporation unless all corporate officers, members of the Board of Directors, managers and stockholders directly or indirectly owning five percent or more of said corporation's issued stock have been licensed.

(b) Each such person must file an application for an owner's license.

(c) Any and all changes in either the corporate structure or the respective interest of stockholders as described in (a) above must be promptly filed with the Commission.

(d) All corporations shall race under a stable name approved by the Commission and shall be required to file application for same on a form prescribed by the Commission.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

(a) deleted and (a) through (d) added

### 13:71-7.17 Multiple ownership

Each and every multiple ownership must be registered with the Racing Commission. All multiple ownerships with the exception of partnerships wherein no more than two persons are involved shall race in a multiple ownership stable name. No license shall be granted to any partnership, syndicate or other form of multiple ownership or to the lessee of any such entity excluding corporations wherein the number of persons having a beneficial interest therein exceeds 35. Each and every partnership must be registered with the Commission.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 13 N J R 347(a)

Substantially amended

### 13:71-7.18 Multiple ownership; applications

(a) Multiple ownership applications shall, among other things, set forth the following:

- 1 The name and address of each and every person having any interest in the horse or horses involved,
- 2 The relative proportions of such interests,
- 3 To whom the winnings are payable,
- 4 In whose name the horse or horses shall race,
- 5 With whom the power of entry and declaration shall rest,
- 6 The terms of any contingency, lease or any other arrangement

**13:71-7.19 Alteration in a multiple ownership**

Any alteration in a recorded multiple ownership registration, to be effective, must be reported in writing to the Racing Commission and be signed by all the partners

**13:71-7.20 Liability**

All the parties to any multiple ownership shall be jointly and severally liable for all stakes, forfeits and other obligations

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

**13:71-7.21 Employment application blank**

(a) Every person employed at any harness race track or by any concessionaire thereof must fill out an employment or license application, which must contain a statement of permanent residence and the following questions: Have you ever been convicted of a crime? ruled off? set down for other than the usual driving infractions? Suspended or otherwise debarred from participating in racing by any racing organization, commission of other recognized turf authority in the United States or elsewhere? Has an indictment or information been returned or complaint made against you by the United States or any state, charging sale use of possession or narcotics? State full details

(b) All such employment application records must be kept by any harness race track association or by any concessionaire for a period of two years, and must be made available for inspection by the New Jersey Racing Commission, if so requested

**13:71-7.22 Nonresident defined**

(a) Any person who has voted within two years in any state other than New Jersey since casting his last vote in New Jersey, or who has made representation within two years that he is a citizen or resident of a state other than New Jersey shall be considered not a resident of New Jersey

(b) The Commission shall make decision of the citizenship and residence of each employee under the laws of the State of New Jersey and the rules, regulations and conditions of the

Commission which shall be binding upon the employees and the race track association

**Case Notes**

Finding that no domiciliary ownership or control requirements were in existence on day of race, horse not disqualified from "owned and bred" race, owner was New Jersey domiciliary on race date (also cited as N J A C 13 71-7 11). *Bunny Stables v New Jersey Racing Commission*, 3 N J A R 148 (1981)

**13:71-7.23 (Reserved)**

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

**13:71-7.24 Loss of identification card**

All persons who have in their possession an identification card issued by the New Jersey Racing Commission and lose same are subject to a fine of not less than \$2 00 or more than \$10 00, to be paid before a duplicate card can be issued

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)

Maximum and minimum fines established, change from fine of \$1 00

**13:71-7.25 Application for driver's license**

(a) Every person desiring to drive a harness horse at a race meeting licensed by the Commission shall be required to obtain a license from the Commission. Such application shall be on forms provided by the Commission, applications may be filed at any Commission office. Such license shall be presented to the clerk of the course before driving

(b) Every applicant for a license to drive a harness horse at a race meeting licensed by the Commission shall, in addition to any other requirements mentioned herein

- 1 Be at least 16 years of age,
- 2 Submit evidence of good moral character,
- 3 Have a minimum of 20-40 vision in one eye, corrected, according to certification by a licensed optometrist, or ophthalmologist. All drivers must be examined at least biannually by one of the aforementioned doctors. A proof of such examination must be submitted with the license application,
- 4 Furnish a completed application form,
- 5 When requested, submit evidence of physical and mental ability and/or submit to a physical examination,
- 6 When requested, submit to a written examination at a designated time and place to determine his qualification to drive and his knowledge of racing and the rules,
- 7 Submit evidence of ability to drive in a race and, if a new applicant, this must include the equivalent of one year's experience

(c) Any applicant who has complied with the requirements of (a) and (b) above, may be eligible for a license in New Jersey in the following categories

1 (F)(Fair) A license valid for fair meetings Drivers holding a license valid for fairs only who have driven at fairs must demonstrate an ability to drive satisfactorily before they will be granted a (Q) license valid for qualifying races

2 (Q)(Qualifying) A license valid for fairs and a license for qualifying races at pari-mutuel meetings with the approval of the Presiding Judge The Presiding Judge shall make a report to the United States Trotting Association relating to the performance of such a driver in a qualifying race Drivers holding a qualifying license must demonstrate an ability to drive satisfactorily before a Presiding Judge before they will be granted a (P) Provisional license

3 (P)(Provisional) A license valid for fairs and for pari-mutuel meetings subject to satisfactory performance and with the permission of the Racing Association In cases where drivers are Provisional (P), it shall be noted on the program Drivers holding a provisional license will not be considered for advancement to an "A" (full) license until he or she has qualified in one of the three following categories

i Had at least one year's driving experience while holding a "P" (Provisional) license plus 25 satisfactory pari-mutuel starts in the calendar year prior to application,

ii Or had less than one year's driving experience while holding a "P" (Provisional) license but with at least 50 satisfactory pari-mutuel starts and the written approval from a licensed pari-mutuel Presiding Judge

iii Or made 25 satisfactory starts at extended pari-mutuel or Grand Circuit meetings in the two calendar year period preceding date of application provided he or she has had at least 50 satisfactory fair starts

iv In all cases, an individual must have demonstrated professional competence at all times and a Presiding Judge, licensed by a Racing Commission, must have submitted a satisfactory written report certifying to such performance

4 (A) (Full) A full license for all meetings

5 (V) (Probationary) A Probationary license indicating that the driver has been guilty of rule violations and has been warned against repetition of such violations

(d) In the event any person is involved in an accident on the track, the Commission may order such person to submit to a physical examination and such examination must be completed within 30 days from such request, or his license may be suspended until compliance therewith

Amended by R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

Amended by R 1984 d 214, effective June 4, 1984

See 16 N J R 691(a), 16 N J R 1361(b)

Section substantially amended

Amended by R 1990 d 126, effective February 20, 1990

See 21 N J R 3861(a), 22 N J R 667(a)

(a)1 deleted

### 13:71-7.26 Requirements; farms or licensed tracks

(a) No horse may start in any race wherein pari-mutuel wagering is conducted unless stabled on the grounds of a racing association licensed by the Commission or at a farm or training facility licensed by the Commission Nothing in this rule shall prohibit any horse stabled outside the State of New Jersey from vanning to any racing association to start

(b) A license shall not be issued to any farm or training center not in compliance with the following requirements

1 All box stalls shall be properly ventilated and measure approximately 10 feet by 10 feet or larger

2 Arrangements for the disposal of manure and other refuse shall be made in compliance with appropriate State and municipal health codes and/or ordinances

3 Adequate spraying and/or fogging equipment must be available

4 Any farm or training center that is placed under quarantine by the New Jersey Department of Agriculture shall have their license immediately suspended Any facility whose license is so suspended, shall be afforded the right of appeal as provided for in N J A C 13 71-3

(c) Any farm or training center making application for licensure as an off-track stabling facility shall pay a \$50 00 annual license fee and be liable to inspection by the employees of the Commission and shall be required to provide unrestricted access to all stabling facilities to the employees and agent of the Commission upon demand

(d) Any horse in training or entered to start stabled on such a farm or training center must be under the care and custody of a licensed trainer It shall be the responsibility of the trainer to insure that only individuals licensed by the Commission are employed in any capacity of caretaker, groom or other attendant with respect to the care-custody and training of such a horse Nothing in this section shall be deemed to apply to brood mares, foals, weanlings, yearlings, stallions or other horses not in training

(e) It shall be the responsibility of the farm manager or training center manager to complete and file all reports required of him by the Commission It shall similarly be the responsibility of the trainer to complete and file all reports required of him by the Commission, including, but not limited to, the Equine Fatality Report (see N J A C 13 71-20 24)

(f) Failure to comply with the requirements in this section shall subject the offending party to the penalties provided for

in N J A C 13 71-2 3 Further, violation of this section may subject the offending party to suspension, revocation or denial of the farm license and/or declaration of ineligibility for stables or horses involved

New Rule, R 1984 d 214, effective June 4, 1984  
See 16 N J R 691(a), 16 N J R 1361(b)

Repealed

New Rule, R 1985 d 637, effective December 16, 1985 (operative January 1, 1986)

See 17 N J R 1393(b), 17 N J R 2996(c)

Amended by R 1993 d 52, effective January 19, 1993

See 24 N J R 4023(a), 25 N J R 314(b)

Revised (c)

Petition for Rulemaking

See 35 N J R 1741(a), 1741(b), 2956(a)

**Case Notes**

With respect to charges filed against a licensed horse trainer for allowing her spouse, a person who had been temporarily banned from the paddock, to adjust the hobbles on a horse, the N J Racing Commission rejected the ALJ's conclusion that the trainer had not violated N J A C 13 71-7 29 and found that a violation had occurred. The ALJ's interpretation of that regulation as requiring that it be shown that the licensed horse trainer had violated a formal order was incorrect, that regulation was violated when the trainer failed to comply with a paddock judge's verbal direction that her husband's presence in the paddock was unlawful and he had to be removed. By allowing her husband to remain in the paddock, the horse trainer also violated the cognate rule holding a horse trainer responsible for ensuring that only licensed individuals could act as caretakers, grooms, or other attendants. *Carotenuto v N J Racing Comm'n*, OAL Docket No RAC 04196-19, 2021 N J AGEN LEXIS 306 Final Agency Determination (August 13, 2021)

New Jersey Racing Commission rejected an administrative law judge's (ALJ's) Initial Decision and denied a trainer's application for a New Jersey driver/trainer license. The ALJ found that the applicant had submitted sufficient evidence of good moral character despite a prior violation of the law for "promoting gambling," but the Commission concluded that the ALJ completely disregarded the applicant's admission under oath that he had been training a race horse at a licensed farm in New Jersey without the required New Jersey license in direct violation of N J A C 13 71-7 26(d). *Federic Esposito v. New Jersey Racing Comm'n*, OAL DKT No RAC 3743-11S, 2013 N J AGEN LEXIS 379, Final Decision (January 2013)

Initial Decision (2006 N J AGEN LEXIS 819) adopted, which concluded that once applicant hitched the horse trailer containing race horses to his pick-up truck, he became responsible for their custody and care. The fact that licensees were passengers in the pick-up truck did not in any way excuse applicant from the requirement of being licensed, nor was he somehow excused from this requirement because he parked the trailer in a lot across the street from raceway. *Parolari v N J Racing Comm'n*, OAL Dkt No RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20 2006)

**13:71-7.27 Trainers; application for license**

An applicant for a license as trainer must be at least 18 years of age and satisfy the Commission that he possesses the necessary qualifications, both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a trainer in the preparation, training, entering and managing the horses for racing. The system of qualification employed by the United States Trotting Association may be accepted as evidence of the necessary experience

**Case Notes**

ALJ erred in finding that a petitioner had established his suitability to be licensed in the capacity of driver/trainer because, even if petitioner was not personally responsible for inducing a horse's high Base Excess/TCO2 levels during a quarantine in Delaware, petitioner failed to carry out his duties as a trainer to protect the horses within his custody and control, as evidenced in petitioner's attempt to exculpate himself by testifying that anyone had access to the horse that day and could have "milkshaked" her, petitioner was strictly liable to protect and guard the horse against the administration of any drug or substances foreign to the natural horse (rejecting 2008 N J AGEN LEXIS 888) *Height v N J Racing Comm'n (On Remand)*, OAL Dkt No RAC 02359-08S, 2009 N J AGEN LEXIS 854, Final Decision (March 4, 2009)

*Hartman v N J Racing Comm'n*, 352 N J Super 490 (App Div 2002), recognized that an owner could be subject to discipline if the owner knew or should have that a trainer whom the owner employed was unlicensed. Where Racing Commission charged 48 licensees with violations arising out of their employment of an unlicensed trainer, the issue of whether the licensees knew or should have known involved a factual issue that was not addressed by the tribunal below, making summary judgment on the issue inappropriate (withdrawing charges, however, on other grounds) *N J Racing Comm'n v Keeping*, OAL Dkt No RAC 8278-00, 2005 N J AGEN LEXIS 1332, Final Decision (September 19, 2005)

**13:71-7.28 Grooms; application for license**

An applicant for a license as a groom must satisfy the commission that he possesses the necessary qualifications, both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom. Applicants between the ages of 16 and 18 years of age must submit New Jersey "working papers" together with their application. No license shall be issued to applicants under 16 years of age

**Case Notes**

The New Jersey Racing Commission (NJRC) acted properly when it exercised its discretion to deny an application for a license to work as a standardbred stable employee. Although the NJRC should not have considered the applicant's 1996 conviction for promoting gambling as a basis for denial because that conviction had been expunged, there was ample other evidence tending to show that the applicant did not possess the requisite integrity including that he had disregarded the directive of an NJRC investigator who ordered him to cease and desist from participating in the transport of certain horses in 2018. The applicant also refused to provide his name when the investigator asked him to identify himself, which conduct also suggested that he lacked integrity and was not properly granted a license. *Colasanti v N J Racing Comm'n*, OAL DKT NO RAC 18173-18, 2019 N J AGEN LEXIS 1077, Final Agency Determination (December 20, 2019)

**13:71-7.29 Suspension or revocation of drivers—trainers or grooms licenses**

(a) The license of any driver, trainer or groom may be suspended, revoked or money fine may be imposed, at any time for

- 1 Failure to obey the instructions of a racing official,
- 2 Failure to drive in a race when programmed, unless excused by the presiding judge,
- 3 Appearing in the paddock in an unfit condition to perform his duties,

- 4 Fighting,
- 5 Assault upon any other person,
- 6 Offensive or profane language,
- 7 Smoking while on the race track in silks and during actual racing hours,
- 8 Warming up a horse without silks at any time after the admission gates are open,
- 9 Disturbing the peace,
- 10 Refusal to take a breathalyzer test when directed by the presiding judge,
- 11 Refusal, when requested by the commission, to submit evidence of physical and mental ability and/or to submit to a physical examination,
- 12 Failure to participate in post parade, unless specifically excused by presiding judge,
- 13 Any other act or conduct detrimental to the sport,
- 14 Violation of any rule of the commission,
- 15 Falsifying or misrepresenting answers on the application for license
- 16 The length of suspension of a driver may be increased up to and including an indefinite suspension by the New Jersey Racing Commission if said driver is guilty of the same infractions of the rules of racing two times or more during any calendar year

Amended by R 1976 d 125, effective April 22, 1976  
See 8 N.J.R. 47(b), 8 N.J.R. 308(a)

#### Case Notes

With respect to charges filed against a licensed horse trainer for allowing her spouse, a person who had been temporarily banned from the paddock, to adjust the hobbles on a horse, the N.J. Racing Commission rejected the ALJ's conclusion that the trainer had not violated N.J.A.C. 13:71-7.29 and found that a violation had occurred. The ALJ's interpretation of that regulation as requiring that it be shown that the licensed horse trainer had violated a formal order was incorrect, that regulation was violated when the trainer failed to comply with a paddock judge's verbal direction that her husband's presence in the paddock was unlawful and he had to be removed. By allowing her husband to remain in the paddock, the horse trainer also violated the cognate rule holding a horse trainer responsible for ensuring that only licensed individuals could act as caretakers, grooms, or other attendants. *Carotenuto v. N.J. Racing Comm'n.*, OAL Docket No. RAC 04196-19, 2021 N.J. AGEN LEXIS 306, Final Agency Determination (August 13, 2021).

While the Racing Commission approved in the main of the factual determinations of an ALJ arising out of a raid on an off-track stabling facility that yielded, inter alia, prohibited items including 30 injectable bottles, 83 single needles and 44 syringes with needles, the Commission expressly rejected the ALJ's conclusion that certain counts were properly merged under the criminal law doctrine of merger for the purpose of determining the proper penalty because the merger doctrine did not apply. Specifically, the possession of impermissible substances and, separately, the possession of instruments of injection were each their own violation. Moreover, the possession of each injectable bottle constituted a separate offense from the possession of prohibited liquids therein. Because each such violation was not a "lesser included offense" of the other violation, the ALJ erred in using the merger doctrine as a basis for a substantial reduction of the penalty. *DePietro v. N.J. Racing Comm'n.*

OAL Docket No. RAC 11899-18, 2021 N.J. AGEN LEXIS 148, Final Agency Determination (May 21, 2021).

ALJ concluded that the New Jersey Racing Commission Board was right to find that an individual who was found on the premises of a licensed racetrack was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and having engaged in conduct that was detrimental to racing. Moreover, the individual's refusal to provide his full name to a Board investigator violated regulations that required such persons to cooperate with other agencies as required. *Colasanti v. N.J. Racing Comm'n.*, OAL DKT NO RAC 11895-18, 2019 N.J. AGEN LEXIS 1069, Initial Decision (December 20, 2019).

Horse trainer prevailed on a challenge to discipline by the N.J. Racing Commission due to an altercation in which she was involved. If there was contact between the trainer's truck and another trainer, such contact was accidental, did not justify the imposition of discipline, and reversal of the order was appropriate. *Hynes v. N.J. Racing Comm'n.*, OAL DKT NO RAC 15041-16, 2018 N.J. AGEN LEXIS 629, Initial Decision (November 30, 2018).

Trainer of racehorse whose post-race urine test was positive for both morphine and hydromorphone did not intentionally administer (or allow another to administer) morphine to the horse within 24 hours of the race which it won. Rather, the horse's ingestion of morphine was unintentional and likely a result of contaminated feed. That meant that the penalty imposed by the Racing Commission was too severe and that a penalty of a 15 day suspension and a \$500 fine was more appropriately imposed. *Cassar v. N.J. Racing Comm'n.*, OAL DKT NO RAC 13660-14, 2017 N.J. AGEN LEXIS 221, Initial Decision (April 20, 2017).

Preponderance of the credible evidence supported the determination of the Board of Judges for the N.J. Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations. Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine. On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate. *Auciello v. N.J. Racing Comm'n.*, OAL DKT NO RAC 13638-14, 2016 N.J. AGEN LEXIS 764, Initial Decision (September 6, 2016).

Licensed horse trainer and two licensed horse grooms generally admitted that they had engaged in wrongdoing in connection with the injection, into two race horses, with foreign substances, and thus had engaged in conduct detrimental to racing, had violated the intent of medication rules and trainer responsibility rules, had possessed drugs or drug paraphernalia and had conspired to commit the violations. After the N.J. Racing Commission (NJRC) imposed a five-year suspension and a \$5000 fine against the trainer and a five-year suspension and a \$5000 fine against the groom (groom 1) who was the son of the trainer while imposing a one-year suspension and a \$1000 fine against the other groom (groom 2), review of the penalties was undertaken. Given the nature of the behavior of the trainer and groom 1 in actually participating in the administration of the injections, taken with their disciplinary histories, the suspensions and fines imposed by the NJRC were appropriate. However, groom 2 had a significantly lesser role in the prohibited activities, apparently limited to holding the trailer door open. That being so, groom 2 was properly suspended for one year and fined \$250. *Callahan v. N.J. Racing Comm'n.*, *Callahan v. N.J. Racing Comm'n.*, *Hollingsworth v. N.J. Racing Comm'n.*, OAL DKT NO RAC 05328-14, OAL DKT NO RAC 05333-14, OAL DKT NO RAC 05336-14 (Consolidated), 2015 N.J. AGEN LEXIS 191, Initial Decision (March 16, 2015).

Initial Decision (2009 N.J. AGEN LEXIS 572) adopted, which found that petitioner was properly assessed a \$50 fine after failing to obey the instructions of a racing official, petitioner left his vehicle in a temporary unloading zone for approximately two hours, despite the posting of signs and multiple announcements made over the loud speaker. *DePietro v. N.J. Racing Comm'n.*, OAL Dkt No. RAC 6358-08, 2009 N.J. AGEN LEXIS 927, Final Decision (August 26, 2009).

Trainer's offensive behavior warrants suspension and fine Milici v  
New Jersey Racing Commission, 97 N J A R 2d (RAC) 10

Suspended trainer was denied a new trainer's license Temmung v  
New Jersey Racing Commission, 94 N J A R 2d (RAC) 51

**13:71-7.30 Owners' application for license**

(a) Every owner desiring to enter a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission

1 No person shall have more than one trainer, training his horse or horses in which he has any interest, at any one

track in New Jersey, at the same time, without the written consent of the New Jersey Racing Commission. When a horse is shipped in for one particular race, this ruling may be waived in writing by the New Jersey Racing Commission or its representatives

(b) Such application shall be on forms provided by the commission. "Owner" includes sole owner, part owner or lessee of a horse

Amended by R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)





**13:71-7.31 Qualification for owner's license**

(a) Every applicant for a license as an owner in addition to any other requirements mentioned herein shall

1 Be at least 18 years of age unless a parent or legal guardian expressly assumes responsibility for an applicant who is under 18 years of age,

2 Submit evidence of good moral character, and

3 Furnish a completed application form

(b) Where a horse is owned jointly by two or more parties, all parties must comply with (a)1, 2 and 3 above

(c) Where a horse is owned by a corporation, all officers, directors and persons owning more than five percent of the capital stock must comply with (a)1, 2 and 3 above

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R. 667(a)

At (c) change from 10 percent ownership to 5 percent ownership

**Case Notes**

Initial Decision (2007 N J AGEN LEXIS 191) adopted, which concluded that applicant for standardbred owner license submitted sufficient evidence of good moral character as required by N J A C 13 71-7.31 notwithstanding prior conviction for promoting gambling. Applicant testified that his previous gambling (record for which had been expunged) was limited to placing football bets for co-workers 17 years prior, and that he was now a 43-year-old married father of twins who owned his own business and regularly attended church. Devine v N J Racing Comm'n, OAL Dkt No RAC 4449-05, Final Decision (June 25, 2007)

**13:71-7.32 Suspension or revocation of owner's license**

(a) The license of any owner may be suspended, revoked or a money fine may be imposed for

1 Failure to obey the instructions of a racing official,

2 Failure to race his horse when programmed, unless excused by the presiding judge,

3 Misconduct or acts detrimental to the sport,

4 Violation of any rule of the Commission,

5 Falsifying or misrepresenting answers on an application for an owner's license

**Case Notes**

Racing Commission has the authority to issue a suspension regardless of if the trainer's license has expired. Colasanti v N J Racing Comm'n, OAL Dkt No RAC 0716-04, 2005 N J AGEN LEXIS 1331, Final Decision (November 21, 2005)

Suspension of trainer's licensure was proper where trainer violated N J A C 13 71-7.32(a)(5) by falsely indicating on his application that he had never been arrested or convicted of a crime. Colasanti v N J Racing Comm'n, OAL Dkt No RAC 0716-04, 2005 N J AGEN LEXIS 1331, Final Decision (November 21, 2005)

**13:71-7.33 Reinstatement of owner's license**

A license may be reinstated by the Commission, in its discretion, upon application and upon such terms as the Commission may prescribe

**13:71-7.34 Reinstatement of license of driver, trainer and groom**

A license may be reinstated by the Commission, in its discretion, upon application and upon such terms as the Commission may prescribe

**13:71-7.35 Badges**

(a) All licensed personnel who enter the stable area of any track under the jurisdiction of the New Jersey Racing Commission in any capacity whatsoever shall wear upon their outside apparel in a prominent position the authorized badges containing picture identification supplied by the Commission. This rule shall also apply to State, track, veterinarian personnel, as well as the vendors and suppliers authorized in the stable area, and the badges shall be readily available and produced by such personnel upon request of track security, county and city police, State police, Commission inspectors and stewards at said request. Failure to comply with this rule will result in a \$5 00 fine for the first offense, \$10 00 fine for the second, \$25 00 for the third, and ejection from the grounds upon the fourth offense

1 All persons working in or about the licensed premises shall be required to be licensed in their appropriate category by the New Jersey Racing Commission

(b) Any person losing his identification license will be subject to a fine of not less than \$2 00 or more than \$10 00. The amount of fine to be determined by the New Jersey Racing Commission

Amended by R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

Amended by R 1982 d 109, effective April 5, 1982  
See 13 N J R. 820(a), 14 N J R 347(a)

"HTS" was "TRPB"

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)

"Police" changed to "security" and reference to HTS deleted in (a)  
Amended by R 1993 d 52, effective January 19, 1993  
See 24 N J R 4023(a), 25 N J R 314(b)

Revised (a)1

**13:71-7.36 Written agreements between owners and trainers**

A written agreement between owners and trainers shall be filed at the time they enter a partnership or stable name on any horse. The trainer shall be responsible for filing the written agreement with the New Jersey Racing Commission and the clerk of course at the track where said horse or horses participate within 72 hours

R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

**13:71-7.37 Collection and dissemination of Social Security numbers**

(a) The Racing Commission may request Social Security numbers to be furnished for use in determining an applicant's eligibility for licensure especially as it relates to credit checks, background checks or other such investigations, including those relative to open claiming. No application shall be denied for failure to comply with such request provided that a person may be required to submit such other information as the Commission may require in order to determine an applicant's eligibility for licensure.

(b) Any form used by the Commission to request submission of a Social Security number shall include the following:

1. A statement as to whether provision of a Social Security number is mandatory or voluntary,

2. A citation of the rule (which in the case of a request for voluntary submission shall be this section) that authorizes the Commission to request the Social Security number, and

3. A statement that the Commission will use Social Security numbers as a secondary internal identifier for the following purposes: Credit checks, background checks and other such investigations.

(c) Any Social Security number submitted to the Commission shall be concealed or removed from the document before it is made available to any agency or person outside the Racing Commission. No Social Security number shall be disclosed to any outside party, orally or in writing, except as provided by law.

New Rule, R 1995 d 165, effective March 20, 1995  
See 27 N.J.R. 44(b), 27 N.J.R. 1193(b)

**13:71-7.38 Multi-year license**

(a) The Racing Commission may issue a multi-year license which expires on December 31 of the final year. The fee is a multiple of the annual fee and in the Commission's discretion may be offered, on an optional basis, to license categories it deems appropriate.

(b) The Commission may require the multiple year licensee to complete an annual questionnaire updating certain data on the original application, or provide such other supplemental information as it determines appropriate.

(c) A multi-year license may be suspended for violations of this chapter, and the holder thereof shall be subject to such penalties and orders for relief consistent therewith. If a multi-year license is suspended, the holder thereof in the Commission's discretion may forfeit the option to obtain a multi-year license.

New Rule, R 1995 d 520, effective September 18, 1995  
See 27 N.J.R. 2371(b), 27 N.J.R. 3621(b)  
Administrative correction  
See 27 N.J.R. 3973(a)

**SUBCHAPTER 8 OFFICIALS****13:71-8.1 Race Officials**

The Commission shall have general jurisdiction over all harness horse racing activities where pari-mutuel wagering is conducted in the State of New Jersey and of all the associations, employees and patrons associated therewith.

**13:71-8.2 Required presence of officials in a race or performance against time**

In every race or performance against time, there shall be a presiding judge and two associate judges in the judges' stand.

**13:71-8.3 Appointment of State Steward**

The New Jersey Racing Commission may appoint a State Steward who shall be solely responsible to said Commission, and whose compensation shall be fixed by the Commission and paid weekly by the holder of a permit at whose harness race track such official shall serve. He shall hold a license as a presiding judge from the United States Trotting Association. He shall be the senior official at all race meetings and shall supervise the conduct of the racing. He shall at all times have access to all parts of the course, plant and grounds.

**13:71-8.4 Licensing and approval of officials**

At all harness race meetings licensed by the Commission, there shall be a State Steward, and/or presiding judge, two judges and a starter. All such officials shall be licensees of the United States Trotting Association and shall be approved by the Commission.

**13:71-8.5 Judges and patrol judges**

In addition to the officials designated in N.J.A.C. 13:71-2, the Commission may require the services of as many judges and patrol judges as it shall deem necessary. Such officials shall be licensees of the United States Trotting Association and shall be approved by the Commission.

**13:71-8.6 Submission of names of racing officials**

At least 30 days prior to the first day of a race meeting, the association shall submit in writing to the Racing Commission the names of all racing officials engaged for the meeting, and no such official shall be qualified to act until he shall have been approved by the Racing Commission. In the event of incapacitation of any such approved racing official the association may, with the approval of the Racing Commission, appoint a substitute.

**13:71-8.7 Duties of the officials**

It shall be the duty of all the aforesaid officials to enforce the rules and regulations of the Commission and the rules and regulations of the United States Trotting Association, and

they shall have the power of expulsion, suspension or fine as provided in the rules and regulations

### 13:71-8.8 License revocation of an official

Any official designated by the Commission may be removed by the Commission in its discretion. The Commission may also request the United States Trotting Association to revoke the license of any official.

### 13:71-8.9 Substitute official in case of emergency

In an emergency due to incapacity or absence, the State Steward appointed by the New Jersey Racing Commission may appoint a substitute official to serve pending a new designation by the Commission.

### 13:71-8.10 Access to course and grounds by officials

The Commission, its Executive Director, representatives, officials and employees shall at all times have full access to the course, plant and grounds, including the judge's stand.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

### 13:71-8.11 Vision examinations for officials

Before being approved by the New Jersey Racing Commission, all stewards, presiding judges, placing judges, patrol judges and starters must be examined by an optometrist or oculist. Said officials' vision must be 20-20 in both eyes or corrected to that figure, and signed statements by the examining optometrist or oculist to this effect shall be furnished to the Commission. Approved officials' vision shall be checked every year.

### 13:71-8.12 Reporting of protest and complaints by Steward

(a) The Steward and Board of Judges shall report all protests and complaints to the Racing Commission as soon as received by them and shall make prompt report to the Racing Commission of their decisions.

(b) The Steward and Board of Judges shall, after the close of each day, file with the Racing Commission a signed report of any and all infractions of the rules coming under their observance that day and shall file with the Racing Commission any and all rulings or infractions and, otherwise, as soon as said rulings are made.

As amended, R 1982 d 109, eff April 5, 1982.  
See 13 N J R 820(a), 14 N J R 347(a)  
"Stewards" changed to "steward" and "Board of Judges" added

### 13:71-8.13 Punishment for violations

The Board of Judges and steward shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions

or both for infractions. The prior record of any licensee for similar violations of the rules of this Commission or other racing commission or turf governing body may be considered in determining the extent of punishment to be imposed.

As amended, R 1982 d 109, eff April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

#### Case Notes

Preponderance of the credible evidence supported the determination of the Board of Judges for the N J Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations. Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine. On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate. *Anciello v N J Racing Comm'n*, OAL DKT NO RAC 13638-14, 2016 N J AGEN LEXIS 764, Initial Decision (September 6, 2016).

Horse trainer's license was properly suspended for a one-year period by reason of the trainer's failure to assure that his horse was protected from exposure to banned substances, in this case methylhexanamine. The fact that the trainer insisted that he did not know how the exposure occurred was itself proof that he had not complied with the regulatory requirement that he protect and guard his horses against the administration of any drugs and other foreign substances. The imposition of the suspension was also appropriate given the fact that the trainer was absolute insurer of and was responsible for the condition of a horse within his care and custody. Under these facts, both the imposition of a fine and the imposition of a one-year suspension of his license were appropriate. *Wisher v N J Racing Comm'n*, OAL DKT NO RAC 15445-13, 2015 N J AGEN LEXIS 269, Initial Decision (April 30, 2015).

### 13:71-8.14 Conflict of official's position

(a) No official, acting as a judge, shall serve as a race secretary or a clerk of the course at such meeting.

(b) No race official shall be qualified to act as such at any meeting or race where he is under suspension or the owner or otherwise interested in the ownership of any horse participating at such meeting or race.

### 13:71-8.15 Disqualification of an official

In the event of the disqualification of an official, the Commission shall be so notified. The Commission shall thereafter appoint a substitute.

### 13:71-8.16 Removal of official

Any official may be fined, suspended or dismissed by the Commission at any time for incompetency, failure to follow or enforce the rules, or any conduct detrimental to the sport. No race official shall on any day upon which he is required to officiate, drink alcoholic beverages within four hours prior to the time he should begin performing his duties as an official.

#### Case Notes

Track Program Director fined for conduct detrimental to racing for failure to notice horse's inaccurate chart and penned-in declaration form notations. *New Jersey Racing Commission v Phillips*, 1 N J A R 42 (1979).

**13:71-8.17 Breathalyzer tests for officials**

Officials, when directed by the commission or its representative, shall submit to a breathalyzer test and if the results thereof show a reading of more than 0.05 percent alcohol in the blood, a report shall be made to the commission.

**13:71-8.18 Classification of horses; conflict of interest**

No employee or officer of any association whose duties include the classification of horses shall directly or indirectly be the owner of any horse racing at such meeting, nor shall he participate financially directly or indirectly in the purchase or sale of any horse racing at such meeting.

**13:71-8.19 Admission to judge's stand**

Only the judges, the clerk of the course, the starter and timer, official announcer, officials and directors of the United States Trotting Association, and the commission or its authorized representatives shall be allowed in the judges' stand during a race.

**13:71-8.20 Decorum of officials**

All race officials shall at all times during the performance of their duties refrain from using intemperate language or from conducting themselves other than in a judicious manner. Any conduct on their part which could or does tend to detrimentally reflect upon the sport is prohibited.

**13:71-8.21 Presiding judge**

(a) The commission may designate a State steward and/or presiding judge for all licensed harness race meetings. The compensation of the State steward and/or presiding judge shall be fixed by the commission and paid by the association. The State steward shall have supervision and ultimate authority over all other race officials including the starter. He shall, in writing, notify the commission of all violations of any rules by an association, its officers or other race officials, giving detailed information thereof. A copy of such notice shall be sent by him to the United States Trotting Association. He shall be responsible for maintenance of the records of the meeting. The presiding judge shall take charge of the declaration box. In addition, he shall supervise or delegate the supervision of the following:

- 1 The maintenance of the judges' books, the stewards' list and the accident reports,
- 2 The preparation, delivery and posting of all notices of penalties, rulings and decisions relative to racing,
- 3 The procedures prescribed by these rules with respect to investigations and hearings,
- 4 The drivers meetings prescribed by the rules,
- 5 The handling of entries and declarations to start and the application of preferences to race,

6. All announcements over the public address system pertaining to the race program,

7. The admittance of persons to judges' stand subject to the direction of the commission,

8. The coupling of horses accepted for entry where it is necessary to protect the public interest,

9. The declaration as provided for under the rules of racing.

As amended, R 1976 d 125, eff April 22, 1976  
See 8 N.J.R. 47(b), 8 N.J.R. 308(a)

**Case Notes**

Board of Judges at a harness racing meeting has authority to impose fines and penalties as proscribed by the Commission, driver's due process rights not violated by track officials testifying at administrative hearing. *DeVitis v. New Jersey Racing Commissions*, 202 N.J. Super 484, 495 A.2d 457 (App. Div. 1985), certification denied 102 N.J. 337, 508 A.2d 213 (1985).

**13:71-8.22 Powers of judges**

(a) Presiding judges and associate judges shall have authority to:

1. Impose fines and penalties as prescribed by the commission,

2. Determine all questions of fact relating to a race,

3. Decide any difference between parties to a race or any contingent matter which shall arise which is not otherwise provided for in the rules,

4. Declare pools and bets "off" in case of fraud, or to declare any horse a nonstarter and to direct and refund of all wagers made thereon. All pools and bets shall follow the decision of the judges. Such decisions in respect to pools and bets shall be made at the conclusion of the race upon the observations of the judges and upon such other facts as an immediate investigation may develop. A reversal or change of decision after the official placing at the conclusion of a heat or dash shall not affect the distribution of the betting pools made upon such official placing. When pools and bets are declared "off" for fraud, the guilty parties shall be penalized,

5. Control the horses, drivers, trainers, grooms and assistants and punish any person who shall fail to obey their orders or the rules;

6. Examine under oath all parties connected with a race as to any wrong or complaint. Any person required to appear before the judges for a hearing or examination who shall fail to appear after due notice in writing shall be penalized,

7. Consider complaints of foul from the patrols or drivers in the race and no others.

**Case Notes**

Board of Judges at a harness racing meeting has authority to impose fines and penalties as proscribed by the Commission. driver's due process rights not violated by track officials testifying at administrative hearing *DeVitis v New Jersey Racing Commission*, 202 N.J. Super 484, 495 A.2d 457 (App. Div. 1985), certification denied 102 N.J. 337, 508 A.2d 213 (1985)

Preponderance of the credible evidence supported the determination of the Board of Judges for the N.J. Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations. Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine. On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate. *Auciello v N.J. Racing Comm'n*, OAL DKT NO RAC 13638-14, 2016 N.J. AGEN LEXIS 764, Initial Decision (September 6, 2016)

**13:71-8.23 Duties of judges**

(a) It shall be the duty of the judges to

1 Exclude from the race any horse that in their opinion is improperly equipped, dangerous or unfit to race. A horse is unfit to race if he is sick, blind, weak or extremely lame. No horse shall race with a tube in its throat. Where a driver or owner reports to the presiding judge that his horse is unfit to race, ill or otherwise physically incapable of racing, the presiding judge shall call for an examination of the horse by the track veterinarian and the track veterinarian shall examine such horse and submit a written report of his findings to the presiding judge.

2 Investigate any apparent or possible interference or other violation of the rules whether or not a complaint has been made by a driver,

3 Investigate any act of cruelty, seen by them or reported to them, toward a race horse during a meeting at which they officiate. If the judges find that such an act has been committed, they shall penalize the offending person,

4 Immediately thereafter or on the day of the race the judges shall fill out a complete accident report and mail the report to the United States Trotting Association,

5 Observe the performance of the drivers and the horses closely to ascertain if there are any violations of these rules. They shall exhaust all means possible to safeguard the contestants and the public,

6 Grant a hearing at a designated time in accordance with the rules before a penalty may be imposed upon any party. All three judges should be present if possible, and at least the presiding judge and one associate judge must be present at all hearings. The judges may inflict the penalties prescribed by these rules. All penalties shall be recorded as per the rules. Such penalty is effective from the time the penalized party receives notice thereof in accordance with the rules,

7 Declare a dash or heat of a race no contest in the event that a track is thrown into darkness during the progress of a race by failure of electricity

**Case Notes**

Initial Decision (2006 N.J. AGEN LEXIS 465) adopted, which determined that trainer's initial hearing was not in compliance with N.J.A.C. 13:71-8.23(a) where initial hearing was conducted before only one judge and an investigator, and neither of the parties expressly waived the two-judge requirement nor agreed to allow presiding judge to conduct the hearing on his own. *N.J. Racing Comm'n v Parker*, OAL Dkt No RAC 2581-03, Final Decision (July 26, 2006)

Initial Decision (2006 N.J. AGEN LEXIS 465) adopted, which determined that trainer's contention that second hearing was barred by the doctrine of double jeopardy was without merit because the doctrine's protections are not applicable to civil and administrative proceedings. *N.J. Racing Comm'n v Parker*, OAL Dkt No RAC 2581-03, Final Decision (July 26, 2006)

**13:71-8.24 Procedure of judges**

(a) It shall be the procedure of the judges to

1 Be in the stand 15 minutes before the first race and remain in the stand for 10 minutes after the last race and at all times when the horses are upon the track,

2 Observe the preliminary warming up of horses and scoring, noting the behavior of horses, lameness, equipment, conduct of drivers, changes in odds and any unusual incidents pertaining to horses or drivers participating in races,

3 Have the bell rung or give other notice at least 10 minutes before a race or heat. Any driver failing to obey this summons may be punished and his horse may be ruled out by the judges and considered drawn,

4 Designate one of their members to lock the pari-mutuel machines immediately upon the horses reaching the official starting point. The presiding judge shall designate the post time for each race and the horses will be called at such time as to preclude excessive delay after the completion of two courses,

5 Be in communication with the patrol judges where patrol judges are used, by use of patrol phones, from the time the starter picks up the horses until the finish of the race. Any violation or near violation of the rules shall be reported by the patrol judge witnessing the incident and a written record made of same. At least one judge shall observe the drivers throughout the stretch specifically noting any change in course, interference, improper use of whips, breaks and failure to contest the race to the finish,

6 Be in continuous communication with each other in cases where the Commission requires one of them to ride in the starting gate behind the horses for the purpose of patrolling the race. In such case, the judge assigned to the starting gate shall maintain continuous communications with a judge assigned to the judge's stand and perform all duties described by the rules,

7 Post the objection sign, or inquiry sign, on the odds board in the case of a complaint or possible rule violation, and immediately notify the announcer of the objection and of the horse or horses involved. As soon as the judges have made a decision, the objection sign shall be removed, the correct placing displayed and the "Official" sign flashed. In all instances the judges shall post the order of finish and the "Official" sign as soon as they have made their decision,

8 Display the photo sign if the order of finish among the contending horses is less than half-length or a contending horse is on a break at the finish. After the photo has been examined and a decision made, a copy or copies shall be made, checked by the presiding judge and posted for public inspection,

9 Sign the judges' book after each race, verifying the correctness of the record by the clerk of the course

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R. 3861(a), 22 N J R. 667(a)

Deleted requirement for all horses and drivers to return to judge's stand and salute before "Official" sign could be posted

### 13:71-8.25 Duties of patrol judges

(a) Where patrol judges are required by the Commission or utilized by the association on its own motion, they shall observe all activity on the race track at all times during the racing program. There shall be not less than two patrol judges. They shall immediately report to the presiding judge

1 Any action on the track which could improperly affect the result of a race,

- 2 Every violation of the racing rules,
- 3 Every violation of the rules or decorum,
- 4 The lameness or unfitness of any horse,
- 5 Any lack of proper racing equipment

(b) The patrol judges shall, furthermore

1 Be in constant telephonic communication with the judges during the course of every race and shall immediately advise the judges of every rule violation, improper act or unusual happening which occurs at their stations,

2 Submit individual daily reports of their observations of the racing to the presiding judge,

3 When directed by the Executive Director or steward of the Commission or the presiding judge, attend hearings or inquiries on violations and testify thereat under oath

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R. 820(a), 14 N J R. 347(a)  
"Director" changed from "Secretary"

### 13:71-8.26 Absent officials

If any race official is absent or incapacitated, the Executive Director of the Commission or, in his absence, the steward of the Commission may appoint a substitute at such meeting. Notice of such appointment shall be given immediately to the Commission and to the United States Trotting Association

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R. 820(a), 14 N J R. 347(a)  
"Director" changed from "Secretary"

**13:71-8.27 Starter**

The Commission shall approve and license a starter for all licensed harness race meetings. The starter shall be under the jurisdiction of the presiding judge at all times.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

**13:71-8.28 Duties of starter**

The starter shall be in the starting gate 15 minutes before the first race. He shall have control over the horses and subject to the provisions of the rules, have authority to assess fines and/or suspend drivers, with the approval of the presiding judge, for any violation of the rules from the formation of the parade until the word "go" is given. He shall notify the judges and the drivers of penalties imposed by him. He shall report violations of the rules, giving detailed information. An assistant starter approved and licensed by the Commission may be employed when an association, with the approval of the Commission, deems it necessary. The starter shall submit daily a report to the presiding judge indicating the speed of the gate at the starting point for each race.

As amended, R 1979 d 157, effective April 23, 1979  
See 10 N J R 349(a), 11 N J R 297(a)

**13:71-8.29 Duties of the clerk of the course**

(a) The clerk of the course shall

- 1 At the request of the judges assist in drawing positions
- 2 Keep the judges' book and record therein
  - i All horses entered and their eligibility numbers,
  - ii Names of owners and drivers and drivers license numbers,
  - iii A record of each heat, giving the position of the horse at the finish,
  - iv Drawn or ruled out horses,
  - v Time in minutes, seconds and fifths of seconds
- 3 Check eligibility certificates before the race and after the race enter all information provided for thereon, including the horses position in the race if it was charted
- 4 Record all protests, fines, penalties and appeals on forms provided by the presiding judge, and see that the judges' book is properly signed
- 5 Forward the judges' book from all extended pari-mutuel meetings the day following each racing day
- 6 Notify owner and drivers of penalties assessed by the officials
- 7 Upon request, assist judges in placing horses

8 After the race, return the eligibility certificate to the owner of the horse or his representative

**13:71-8.30 Duties of timer**

At each race or performance against time there shall be at least one timer in the judges' or timers' stand. He shall sign the judges' book for each race or performance against time verifying the correctness of the record. All times shall be announced and recorded in fifths of seconds. An approved electronic or electric timing device must be used. If at any time the electronic or electric timing device should fail, the decision of the manual timer as to the time of the heat or dash shall be official.

The timer shall be in the stand 15 minutes before the first heat or dash is to be contested. He shall start his watch when the first horse leaves the point from which the distance of the race is measured. The time of the leading horse at the quarter, half, three-quarters and the finish shall be taken. If odd distances are raced, the fractions shall be noted accordingly.

**13:71-8.31 Duties of paddock judge**

(a) Under the direction and supervision of the State steward and/or presiding judge, the paddock judge shall have complete charge of all paddock activities as outlined. The paddock judge shall

- 1 Get the fields on the track for post parades in accordance with the schedule given to him by the presiding judge,
- 2 Inspect horses for changes in equipment, broken or faulty equipment, head numbers and saddle pads,
- 3 Supervise paddock gate men,
- 4 Check horses and drivers in and out,
- 5 Direct the activities of the paddock blacksmith,
- 6 Immediately notify the presiding judge of anything that could in any way change, delay or otherwise affect the racing program,
- 7 See that only properly authorized persons are permitted in the paddock,
- 8 Supervise the identification of horses in the race;
- 9 Notify the presiding judge of any change of racing equipment or shoes before the race,
- 10 Inspect and supervise the maintenance of all emergency equipment kept in the paddock,
- 11 Notify the judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race,
- 12 Notify judges of all trainers and grooms who leave the paddock in an emergency,
- 13 Supervise and maintain cleanliness of paddock,

14 Supervise the conduct of all persons in the paddock,

15 The paddock judge will report any cruelty to any horse that he observes to the presiding judge

### 13:71-8.32 Program director

(a) Each association shall designate a program director

1 It shall be the responsibility of the program director to furnish the public complete and accurate past performance information as required by the rules

2 No person shall act as a program director at a pari-mutuel meeting unless he has been approved by the Commission. Approval of the Commission will be granted only to the employment of any person who, by reason of his knowledge, experience and industry, is capable of furnishing accurate and complete past performance information to the general public and whose participation will not or will not tend to be detrimental to the sport

#### Case Notes

Track Program Director fined for conduct detrimental to racing for failure to notice horse's inaccurate chart and penned-in declaration form notations. *New Jersey Racing Commission v Phillips*, 1 N J A R 42 (1979)

### 13:71-8.33 Executive Director of the Commission

The Executive Director appointed by the Commission shall be a representative at large of the Commission. He shall have general supervision over all race officials, licensees and employees or appointees of the Commission. He shall supervise the licensing of all those persons required to be licensed by the Commission and supervise the security provisions of all associations. He shall generally supervise the conduct of racing, the pari-mutuel operations and the testing of horses. He shall have the authority to conduct inquiries and in connection therewith to issue subpoenas, to compel the attendance of witnesses and the production of all relevant and material reports, books, papers, documents, correspondence and other evidence as directed by the Commission. He shall have the power to administer oaths and examine witnesses and shall submit a report of all proceedings thereon. He shall at all times have access to all parts of the course, plant and grounds, including the pari-mutuel department. The compensation of the Executive Director shall be fixed and paid by the Commission. The Commission, in its discretion, may appoint such assistants to the Executive Director or stewards as it may deem necessary who shall have the same authority as the Executive Director in his absence but such assistants or stewards shall be junior in authority to the Executive Director at all times

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)

Changed "secretary" to "Executive Director" throughout

### 13:71-8.34 Photo finish

(a) The judges shall determine the order of finish of every race contested at association tracks

(b) Every association shall provide photo finish service of a type of quality approved by the commission as an aid to the judges in determining the order of finish

(c) Whenever the judges call for a photo finish picture to determine the order of finish they shall cause the word "photo" to be flashed on the infield board and to remain there until the order of finish is determined

(d) Whenever a photo finish picture is used to determine the order of finish, such picture or true copies thereof, or projections thereof, shall be posted or projected for public inspection

(e) In the event of an electrical or mechanical failure of the photo finish camera, or if a distorted, deceptive or otherwise inadequate picture is developed, the judges shall decide the order of finish and such decision shall be final

### 13:71-8.35 Duties of race secretary

(a) The race secretary of each association must be approved by the commission and it shall be his duty

1 To receive and to keep safe the eligibility certificates of all horses competing at the race track or stabled on grounds owned or cared for by any association and to return same to the owner of a horse or his representative upon their departure from the grounds,

2 To be familiar with the age, class and competitive ability of all horses racing at the track,

3 To classify and reclassify horses in accordance with the rules,

4 To list horses in the categories for which they qualify and to cause such lists to be kept current and to be properly displayed in the room in which the declaration box is located for examination by horsemen and others,

5 To write conditions and to schedule the daily racing programs to be presented at the race track and to post same not less than 18 hours before declarations close,

6 To provide for the listing of horses in the daily program, to examine all entry blanks and declarations, to verify all information set forth therein, to select the horses to start and the also eligible horses from the declarations in accordance with the rules governing these functions,

7 To examine nominations and declarations in early closing events, late closing and stakes events, to verify the eligibility of all declarations and nominations, and to compile lists thereof for publication



**13:71-8.36 Charter**

The charting of races shall be done only by a charter approved by the commission. The charter shall be responsible for providing a complete and accurate chart. Approval of the commission will be granted only to the employment of a person who has the knowledge, training and industry to perform the duties of a charter.

**13:71-8.37 Setting and maintaining post time**

The mutuel manager shall be charged with the responsibility of setting and maintaining post time. Post time shall not be changed after being posted on the odds board without the consent of the judges.

**13:71-8.38 State Police; communication**

When the State Police in the normal performance of their duties at an association meeting observe a violation of the Racing Commission rules and regulations that may adversely affect the integrity of racing, they shall communicate the circumstances of such to the State steward and the Executive Director of the Racing Commission in writing. The State steward shall acknowledge receipt of the information from the State Police and shall respond in writing to the Racing Commission, without undue delay, of the action taken thereon.

R 1976 d 125, effective April 22, 1976  
See 8 N.J.R. 47(b), 8 N.J.R. 308(a)  
R 1977 d 331, effective August 29, 1977  
See 9 N.J.R. 345(b), 9 N.J.R. 487(a)

## SUBCHAPTER 9 VETERINARIANS AND VETERINARIANS CERTIFICATES

**13:71-9.1 Chief State Veterinarian, State Veterinarian and Associate State Veterinarians**

(a) The commission shall designate two or more duly licensed veterinarians at each association track one of whom shall be known as the State Veterinarian and the other shall be known as Associate State Veterinarians. Their compensation shall be fixed by the commission and paid by the association. The various State Veterinarians and Associate State Veterinarians shall be under the supervision of the Chief State Veterinarian who shall be designated by the Commission from among the State Veterinarians and who shall serve at the pleasure of the Racing Commission.

(b) The State Veterinarian and Associate State Veterinarian, unless otherwise directed by the commission, shall devote their time to the performance of the duties of their office and shall not render their professional services to any horsemen on the grounds of the association to which they are assigned during the course of the meeting except in cases of emergency and only as long as the emergency exists.

(c) The State Veterinarian shall have full and complete control of the detention barn and shall supervise all activities therein including the taking of pre-race and post-race blood and urine samples. Further, the State Veterinarian shall have assigned to him one or more Associate State Veterinarian(s) who shall perform his (their) duties and responsibilities under the supervision of the State Veterinarian. The Associate State Veterinarian shall, in general, familiarize himself with the racing condition of all entrants and if, in his opinion, any entrant is not in good condition to race, he shall notify the presiding judge.

(d) The duties of the State Veterinarian shall be the following:

- 1 Supervise the taking of blood, urine or such other samples from the horses as may be directed by the executive director of the commission or the presiding judge and be responsible for the proper storing and delivery thereof to the laboratory designated by the commission and the maintenance of required records,

- 2 Directly supervise personnel assigned to the chemical sample collection detail,

- 3 Examine the credentials of and approve practicing veterinarians wishing to furnish services to owners and trainers on the premises of any track association. Approval will not be granted to any veterinarian possessing a direct or indirect interest in a racing stable,

- 4 Receive, evaluate and file daily reports, made by the practicing veterinarians of all horses under treatment by them,

- 5 The State Veterinarian shall obtain blood and urine from such horses as are designated by the judges or the Racing Commission, and make such examination and tests as from time to time may be required by the judges or the Racing Commission. Costs of such tests to be borne by the association.

Amended by R 1978 d 133, effective April 19, 1978  
See 10 N.J.R. 18(a), 10 N.J.R. 261(a)  
Amended by R 1978 d 269, effective August 1, 1978  
See 10 N.J.R. 259(a), 10 N.J.R. 403(c)

**13:71-9.2 Veterinarian (practicing)**

(a) No owner or trainer shall employ any veterinarian who has not been duly licensed in accordance with the laws of the State of New Jersey. Any duly licensed veterinarian desiring to practice at the race track of an association must be approved by the Racing Commission State Veterinarian, who shall list his name with the race secretary. The association shall warn off all unlicensed veterinarians.

(b) Upon the request of the Commission, a practicing veterinarian shall furnish the original treatment record(s) and copies of all pertinent objective data and papers, along with a key to any codes, abbreviations and non-English words appearing on such record, data and papers, to the

Racing Commission or any duly authorized investigators A veterinarian shall respond to the Commission's request in full within 24 hours of notification Failure to comply with the foregoing may subject the practicing veterinarian to disciplinary action by the steward

(c) No veterinarian employed by the Racing Commission shall be permitted, during the period of his employment, to treat or prescribe for any horse, for compensation or otherwise, except in case of emergency, in which case a full and complete report shall be made to the stewards

Amended by R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

(d) added

Amended by R 1991 d 259, effective May 20, 1991  
See 23 N J R 675(a), 23 N J R 1684(c)

Deleted "or by an association" in (c)

Amended by R 2003 d 258, effective July 7, 2003  
See 34 N J R 3925(a), 35 N J R 2943(a)

Rewrote (b), deleted (d)

### 13:71-9.3 Associate State Veterinarian

(a) The duties of the Associate State Veterinarian shall be as follows

1 Observe the horses in the paddock and while warming up for the racing program and investigate into and examine such horses as appear to him, or are reported to him, to be ill or infirm, and report thereon to the presiding judge

2 Examine horses to be scratched from any race and certify that such horse is unfit to compete before it may be scratched No horse, having been scratched from a race may enter a later race without the certificate of the Associate State Veterinarian that such horse has become fit to race

(b) All horses, including ponies, and equine mascots entering the grounds of any race track in New Jersey must be accompanied by a current, valid certificate of veterinary examination

(c) A current certificate is one which has been issued within a 10-day period immediately preceding date of entry To be considered valid the certificate must contain

1 Adequate identification and/or description of the subject animal,

2 A declaration that said animal is free of apparent symptoms of an infectious or communicable disease,

3 A record of the horse's body temperature at the time the examination is conducted,

4 The signature of an accredited, licensed veterinarian who has conducted the examination

(d) Any horse accompanied by a current certificate of examination which records a body temperature reading of more than 102 degrees Fahrenheit will be denied access to the grounds of the racing association

(e) The racing association will be responsible for compliance with this rule, and will determine that each horse entering the grounds is properly certified in accordance with the provisions of this rule The racing secretary will maintain adequate records to substantiate the certification of all horses on the grounds

(f) Nothing herein contained is to be construed as a limitation on the movement of horses from one New Jersey race track to another

Amended by R 1978 d 133, effective April 19, 1978  
See 10 N J R 18(a), 10 N J R 261(a)

### 13:71-9.4 Veterinarians during racing hours

The racing association will be responsible to provide the services of a licensed veterinary practitioner for the period of one-half hour prior to the post time of the first race until one-half hour after the conclusion of the last race on the racing program

New Rule, R 1991 d 261, effective May 20, 1991  
See 23 N J R 675(b), 23 N J R 1684(d)

## SUBCHAPTER 10 PROGRAM

### 13:71-10.1 Program information

(a) A printed program shall be available to the public at all meetings where purses are offered All programs shall furnish

1 Horse's name and sex,

2 Color and age,

3 Sire and dam,

4 Owner's name,

5 Driver's name and colors,

6 Trainer's name,

7 Type of race and horses In claiming races, the price for which the horse is entered to be claimed shall be indicated If claimed later programs shall indicate the fact,

8 At least the last six performance and accurate chart lines An accurate chart line shall include date of race, size of track if other than half-mile, symbol for free-legged pacers, track condition, type of race, distance, the fractional times of the leading horse including race time, post position, position at quarter, half and three-quarter, stretch with lengths behind the leader, finish with lengths behind the leader, individual time of the horse, closing dollar odds, name of the driver, names of the horses placed first, second and third by the judges The standard symbol for "breaks" and "park-outs" shall be used where appropriate;

9 Information concerning the number of times a horse has been "parked out" and the number of "breaks" made by the horse in the current year,

10 Information indicating drivers racing with a provisional license,

11 Information indicating pacers that are racing without hobbles,

12 Summary of starts in purse races, best win, time and earning for the current and preceding year For purpose of the summary, a horse's best win may be earned in either a purse or nonpurse race It shall not, however, be earned in a time trial,

13 On a separate page, the names of State officials, as specified by the Commission, the names of the Commissioners and Commission officials, the names of the officers and directors of the association and the names of the race officials for the meeting

#### **13:71-10.2 Failure to furnish reliable program information**

Failure to furnish reliable program information may subject the association and/or program director to the penalties provided for under the law and these rules

#### **13:71-10.3 Penalized on inaccurate information**

Owners, drivers, or others found guilty of providing inaccurate information on a horse's performance, or attempting to have misleading information given on a program may be penalized

#### **13:71-10.4 Nonbetting races**

Where nonbetting races are to be held on the same day immediately before or after the regularly scheduled races and such races are scheduled before the programs are printed, the association shall make available to the public, printed program information in the same manner and form as in the case of scheduled races where purses are offered The Commission may designate additional information to be included in the program such as pertinent rules, laws or any items which may be deemed necessary

#### **13:71-10.5 Programmed Trainer**

(a) The principal trainer of a training stable must be listed as the trainer in the official program and in good standing with the Racing Commission In the event a training stable requests to list an individual in addition to or other than the principal trainer in the official program, this request must be approved by the State steward If a person other than the principal trainer is listed in the official program, no change may be made to this status without prior approval of the State steward The State steward will utilize the following criteria in determining the identity of the principal trainer or need to list someone other than or in addition to the principal trainer in the official program

1 The identity of the person who is responsible for the business decisions of the training stable including, but not limited to, business arrangements with and any payments to or from owners, veterinarians, feed companies, hiring and firing of employees, obtaining workers' compensation insurance, payroll, horsemen's bookkeeper, etc ,

2 The identity of the person responsible for communicating with the race secretaries office, stall manager, Racing Commission, owners regarding racing schedules, etc ,

3 The identity of the person responsible for the conditioning of the horses on a daily basis,

4 The identity of the person responsible for race day preparation including, but not limited to, accompanying horses to the paddock, selection of equipment, authority to warm up horses before the public, discussions of driving strategy, etc ,

5 The total number of horses in the control of the training stable Before any requests to list someone other than the principal trainer in the official program are considered, the training stable shall contain a minimum of 20 horses currently in a race mode at any one location,

6 The number of active licensed trainers on the payroll of the training stable, and

7 The number of different stabling locations

(b) Programmed trainers and principal trainers shall be held equally liable for all rule violations

New Rule, R 1992 d 388, effective October 5, 1992  
See 24 N J R 2340(a), 24 N J R 3533(b)

### **SUBCHAPTER 11 IDENTIFICATION OF HORSES AND ELIGIBILITY TO RUN**

#### **13:71-11.1 Records**

No horse will be permitted to race at an association track without an eligibility certificate, issued for the current year by the United States Trotting Association Horses must race in the name of a bona fide owner or lessee

#### **13:71-11.2 Eligible to enter race**

To be eligible to be entered or to start in races exclusively for horses foaled in New Jersey, each horse must be registered with the Standardbred Breeders Association of New Jersey. To qualify for such registration the said horse must have been dropped by a mare in the State of New Jersey "Breeder" of a horse is the owner of its dam at the time of foaling

**13:71-11.3 Examination of horse or records**

Any association official, representative of this Commission, representative of the United States Trotting Association, owner or driver, may call for information concerning the identify and eligibility of any horse on the grounds of an association and may demand an opportunity to examine such horse or his eligibility certificate with a view to establishing the horse's identity or eligibility. No owner or party controlling such horse shall refuse to afford such information, or to allow such examination, or fail to give satisfactory identification.

**13:71-11.4 Examination without cause or to embarrass**

No person shall demand the identification of a horse without cause or merely with the intent to embarrass a race.

**13:71-11.5 Unlicensed charting**

No official, clerk or person shall enter a chart line on an eligibility certificate when the race has not been charted by an approved charter.

**13:71-11.6 Withholding eligibility certificate**

No person shall withhold an eligibility certificate from the owner of a horse, after proper demand has been made for the return thereof.

**13:71-11.7 Owner's and/or trainers' report on ownership and control of horses**

(a) Within 72 hours after arrival at an association track, every owner and/or trainer shall file a list, in duplicate, in the race secretary's office, naming all horses under his ownership or control and a list of all persons to be employed by said owner and/or trainer at such race track. One copy of such list shall be maintained in the office of the race secretary and the duplicate thereof filed with the presiding judge of such meeting.

(b) Upon the change of ownership or control of any horse listed as aforesaid, the owner or trainer thereof shall forthwith file an amended statement with the race secretary. One copy of such list shall be retained by the race secretary and the duplicate filed with the presiding judge of such meeting.

**13:71-11.8 Tattoo and/or freeze brand requirements**

No horse shall be permitted to start which has not been tattooed or freeze branded, unless the permission of the presiding judge is obtained and arrangements are made to have the horse tattooed or freeze branded.

Amended by R 1995 d 615, effective December 4, 1995  
See 27 N J R 3306(a), 27 N J R 4905(a)

**13:71-11.9 (Reserved)**

As amended, R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)  
As amended, R 1982 d 109, effective April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)  
As amended, R 1983 d 13, effective February 7, 1983  
See 14 N J R 1147(a), 15 N J R 158(c)

Decreased non-racing period from 25 to 14 days for first time bleeders

Repealed by R 1988 d 246, effective June 6, 1988

See 20 N J R 507(a), 20 N J R 1207(c)

This rule "Respiratory bleeding, veterinarian's list" appears at N J A C 13 71-23 8(d)

**SUBCHAPTER 12 STABLE NAME, LEASES****13:71-12.1 Registration**

A racing, farm, corporate or stable name may be used by the owners or lessees of horses if currently registered with the United States Trotting Association. The names of all persons interested in the stable or operating thereunder shall be listed in such registry and shall not exceed 35 in number.

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)

Maximum number of names changed from 10 to 35

**13:71-12.2 Limitations**

No more than one stable may be registered under the same name. The commission may prohibit the use of any name which is misleading to the public or unbecoming to the sport.

**13:71-12.3 Liabilities**

All persons listed in a registered stable shall be liable for entry fees and all penalties against horses raced under such stable name. If one of the persons listed under such stable name is suspended, all the horses in such stable shall be included.

**13:71-12.4 Leases**

The lessee of a horse shall file with the United States Trotting Association a copy of the leasing arrangement which shall contain the name of the horse, the name and address of the owner, the name and address of the lessee, the stable name, if any, of either party, and the terms of the lease. Any horse on lease must race in the name of the lessee.

**SUBCHAPTER 13 ELIGIBILITY AND CLASSIFICATION-CONDITIONS****13:71-13.1 Registration of ownership**

All horses shall be registered in current ownership either as standard or non-standard with the United States Trotting Association and the owner or owners shall, upon request of the commission or its authorized representatives, produce a valid registration certificate issued by the United States Trotting Association.

**13:71-13.2 Sale or lease of horse endorsement**

When a horse is sold or leased after an eligibility certificate is issued for the current year, the seller or his authorized agent shall endorse the eligibility certificate to the new owner or lessee who may use it providing that he immediately sends the registration certificate for transfer or a copy of the lease to the United States Trotting Association. If the eligibility certificate is not endorsed to him, the new owner or lessee must apply to the United States Trotting Association for an eligibility certificate.

**13:71-13.3 Information where horses are raced at Canadian tracks**

Owners of horses who have raced at Canadian tracks not in membership with the United States Trotting Association, shall prior to declaration furnish the race secretary either an eligibility certificate issued by the United States Trotting Association or a Canadian eligibility certificate which has been validated by the United States Trotting Association. In either instance the eligibility certificate shall be completely filled out for the current year.

**13:71-13.4 Tampering with eligibility certificates**

No person shall tamper with eligibility certificates. Any winnings, after the tampering, may be ordered forfeited.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N.J.R. 820(a), 14 N.J.R. 347(a)

**13:71-13.5 Correction on eligibility certificate**

Corrections on said certificates may be made only by one of the judges, the Commission or a representative of the United States Trotting Association. Persons making corrections shall affix their initials and date thereon.

**13:71-13.6 Eligibility certificates from foreign countries other than Canada**

(a) No eligibility certificate will be considered valid on a horse coming from a country other than Canada unless the following information, certified by the trotting association or governing body of that country from which the horse comes, is furnished:

1 The number of starts during the preceding year, together with the number of firsts, seconds and thirds for each horse, and the total amount of money won during the period.

2 The number of races in which the horse has started during the current year, together with the number of firsts, seconds and thirds for each horse and the money won during this period.

3 A detailed list of the last six starts giving the date, place, track condition, post position or handicap, if it was a handicap race, distance of the race, his position at finish, the time of the race, the driver's name, and the first three horses in the race.

**13:71-13.7 Loss or destruction of eligibility certificate**

In the event of loss or destruction of an eligibility certificate, a replacement certificate must be secured from the United States Trotting Association.

**13:71-13.8 Telegraphic declarations**

(a) No horse shall be declared in to race except as hereinafter stated without first having an eligibility certificate placed on file with the race secretary. Declarations by telephone or wire may be sent and accepted in accordance with the rules of racing, without penalty, provided the declarer furnishes adequate program information, but the eligibility certificate must be presented when the horse arrives at the track and before he races.

(b) The race secretary shall check each certificate and certify to the judges as to the eligibility of all the horses.

**13:71-13.9 Eligibility**

For purposes of eligibility, a racing season or racing year shall be the calendar year. All races based on winnings will be programmed "Nonwinners of \$ " additional conditions may be added.

**13:71-13.10 Time records or bars prohibited**

No time records or bars shall be used as an element of eligibility.

**13:71-13.11 Date eligibility determined**

Horses must be eligible when entries close, but winnings on the closing date of eligibility shall not be considered. In mixed races, trotting and pacing, a horse must be eligible under the conditions for the gait at which it is stated in the entry the horse will perform.

**13:71-13.12 Conflicting condition**

In the event there are conflicting published conditions and neither is withdrawn, the more favorable to the nominator shall govern.

**13:71-13.13 Overnight events, standards**

The race secretary shall prescribe qualifying standards to determine whether a horse is qualified to race in overnight events at a meeting.

**13:71-13.14 Posting of overnight conditions**

Condition books shall be prepared and substituted condition races may be used only where regularly scheduled races fail to fill. Such books containing at least three days racing program will be available to horsemen at least 24 hours prior to taking declarations on races contained therein. Conditions for overnight events must be posted at least 18 hours before entries close.

**13:71-13.15 Types of races to be offered**

(a) In presenting a program of racing, the race secretary shall use exclusively the following types of races:

- 1 Stakes and futurities,
- 2 Early closing and late closing events,
- 3 Conditioned races,
- 4 Claiming races,
- 5 Preferred races limited to the fastest horses at the meeting

(b) These may be free-for-all races, JFA or invitationals. Horses to be used in such races shall be posted in the race secretary's office and listed with the presiding judge. Horses so listed shall not be eligible for conditioned overnight races unless the conditions specifically include horses on the preferred list. Twelve such races may be conducted during a six-day period of racing at tracks distributing more than \$100,000 in overnight purses during such period and not more than 10 such races shall be conducted at other tracks during a six-day period of racing, provided that at least two of these races are for three-year olds, four-year olds or combined three and four-year olds. At tracks which race less than five days per week, not more than 10 such races may be conducted during a six-day period. Purses offered for such races shall be at least 15 per cent higher than the highest purse offered for a condition race programmed the same racing week. No two-year old or three-year old will be eligible to be placed on the preferred list to race against older horses until it has won seven races lifetime unless requested by the owner or authorized agent.

As amended, R 1982 d 109, eff April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

#### 13:71-13.16 Limitation on conditions

Conditions shall not be written in such a way that any horse is deprived of an opportunity to race in normal preference cycle. Where the word "preferred" is used in a condition it shall not supersede date preference. Not more than three also eligible conditions shall be used in writing the conditions of any overnight event.

#### 13:71-13.17 Dashes and heats

Any dash or any heat shall be considered as a separate race for the purposes of conditioned racing.

#### 13:71-13.18 (Reserved)

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

#### 13:71-13.19 Selection or drawing of horses

For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that the race secretary must establish a preference system for races as provided for in the rules. However, where necessary to fill a card, not more than one race per day may be divided into not more than three divisions after preference has been applied and the divisions may be selected by the race secretary. If a claiming race is divided, all starters shall be drawn by lot from those having the necessary preference dates to be eligible.

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

#### 13:71-13.20 Posting requirements

(a) Names of all horses shall be posted by gait with the following information:

- 1 Lifetime winnings,
- 2 Season's winnings,
- 3 Winnings at the meeting,
- 4 Wins during the season,
- 5 Age, gait and sex,
- 6 Previous year's earnings,
- 7 Date of last win

(b) There shall be a separate posting of two, three and four-year olds.

#### 13:71-13.21 Rejection of declaration

(a) The race secretary may reject the declaration on any horse whose eligibility certificate was not in his possession on the date the condition book is published.

(b) The race secretary may reject the declaration on any horse whose past performance indicates that he would be below the competitive level of other horses declared, provided the rejection does not result in a race being cancelled. Before doing so, and, before post position for the race have been drawn, the owner or trainer of such horse or horses shall be called to the office and duly advised of the action about to be taken.

#### 13:71-13.22 Substitute and split races

Substitute races may be provided for each day's program and shall be so designated. A substitute race or a race divided into two divisions shall be used only if regularly scheduled races fail to fill. The practice of carrying races to the next day's program is prohibited.

#### 13:71-13.23 Opportunities to race

A fair and reasonable racing opportunity shall be afforded both trotters and pacers in reasonable proportion from those available and qualified to race. (Not more than 50 percent of any week's racing program shall be claiming races.) The Commission may, by directive, alter this ratio.

#### 13:71-13.24 Qualifying races

A horse winning a qualifying race shall not be deprived by reason of such performance of his right to start in an event limited to maidens.

## SUBCHAPTER 14 CLAIMING

**13:71-14.1 Restrictions: Claiming privileges**

Claiming privileges, other than open claiming pursuant to N J A C 13 71-14 36, are restricted to those persons who possess a current New Jersey owner's license issued by the Commission

Amended by R 1987 d 421, effective October 19, 1987 (operative December 26, 1987)

See 19 N J R 1419(b), 19 N J R 1911(b)

Added text "other than open claiming pursuant to N J A C 13 70-12 37,"

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.2 Claiming races: price and eligibility**

Except as exempted pursuant to N J A C 13 71-14 2A, any horse entered into a claiming race is subject to claim for its entered price by any person qualified under the terms of N J A C 13 71-14 1 and 14 36 No trainer or agent shall be permitted to enter a horse in a claiming race unless written permission of the owner is filed with the race secretary

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.2A Exemption from claim**

(a) A horse that is entered into any claiming race governed by this subchapter shall be exempted from any claim of title, if

1 Said horse has not started in any race for a period of 180 days from the date of the last claiming race in which the horse was a starter,

2 The owner entering a qualified horse pursuant to (a)1 above into a qualifying claims race governed by this section makes known to the Judges or their appointed deputy, at the time of entrance, that the horse being entered is qualified for exemption from claim and that the owner wishes to exercise his or her right to exempt the qualified horse from claiming, and

3 The horse is entered for a claiming price equal to or greater than the claiming price at which it last started

(b) If a horse has been exempted from claim pursuant to this section, a conspicuous notification shall be indicated in the race program

New Rule, R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Amended by R 2018 d 157, effective August 20, 2018

See 50 N J R 937(a), 50 N J R 1901(a)

In the introductory paragraph of (a), inserted "that is", and in (a)1, substituted "started" for "been entered"

**13:71-14.3 Claimed horse**

Wherever a horse has been claimed, that horse shall not leave the grounds of the meeting of the association where claimed for 60 days following the date of the successful claim unless permission to leave is granted by the Presiding Judge or the meeting ends prior to the expiration of the 60 day time

limit. For purposes of this rule, the start and end date of the meeting shall be left to the determination of the Presiding Judge or his or her designated race track official

Amended by R 1998 d 172, effective April 6, 1998

See 30 N J R 25(a), 30 N J R 1299(b)

Changed the 30 day time limit to 60 days

Petition for Rulemaking

See 42 N J R 860(a), 1635(a)

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.4 Agents**

A claim may be made by a licensed authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent

**13:71-14.5 Claiming own horse**

No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account No person shall claim a horse which he is driving in a race or which his trainer is driving in a race

As amended, R 1982 d 109, eff April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

"No person in a race" has been added

**13:71-14.6 Claimed horse: stabled**

No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Substituted the first occurrence of "claimed" for "claim"

**13:71-14.7 Number of claims**

No person shall claim more than one horse in any race No authorized agent, although representing several owners, shall submit more than one claim in any race No person shall place or cause to be placed more than one claim form in the claim box under any circumstances

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Deleted "one" preceding "race" twice, and inserted a comma following "owners"

**13:71-14.8 Form of claims**

All claims must be made in writing, on forms and in envelopes furnished by the association Both forms and envelopes must be filled out completely, and must be substantially accurate in the judgment of the Judges, otherwise, the claim may be voided at the discretion of the Judges For purpose of compliance with this rule, the name of the horse as appearing in the program shall govern

Amended by R 2016 d 179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.9 Stable claims**

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

**13:71-14.10 Agreements**

No person shall offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race, and no owner or trainer shall make any agreement for the protection of each other's horses in a claiming race

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Substituted a semicolon for a comma following "race"

**13:71-14.11 Intimidation**

No person shall attempt by intimidation or threat of bodily harm to coerce any person to enter a horse into a claiming race, to prevent any person from entering a horse into a claiming race, to prevent anyone from racing a horse in any claiming race for which it is entered, or to interfere with any claiming race or its entrants in any way

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.12 Affidavits**

The Judges and/or Steward may, at any time, at their discretion, require any person who has filed a claim to make an affidavit in writing that he or she is claiming in accordance within the rules. Failure to make an affidavit in writing or the filing of a claim, which is not made in keeping with this subchapter shall result in the claim being deemed void

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.13 No money in claim box**

No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have a credit balance in his or her account with the horsemen's bookkeeper of not less than the amount of the claim, plus the applicable post-race testing fee pursuant to N J A C 13 71-14 32, if elected, and New Jersey sales tax. No claimant shall deplete his or her account after entering a claim for any horse for a period of two hours from the time the said claim was entered. For purposes of this section, a claim shall be deemed entered at the time the Judges, or their appointed deputy, open the claim envelopes pursuant to N J A C 13 71-14 16

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.14 Time: claims**

Claims must be deposited in the claim box at least 30 minutes before post time of each race

**13:71-14.15 Irrevocability**

Claims are irrevocable and at the risk of the claimant

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Inserted "and at the risk of the claimant"

**13:71-14.16 Opening claim envelopes**

Prior to off-time, the Judges, or their appointed deputy, shall open the claim envelopes for each race, and thereafter check with the horsemen's accountant to ascertain whether the proper credit balance has been established with the association. The association shall provide an agent who shall deliver the claim box to the Judge's stand

**13:71-14.17 Title in claimed horse**

Every horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event, but title to the claimed horse shall be vested in the successful claimant from the word "go" and said successful claimant shall become the owner of the horse unless title in the claimed horse is void pursuant to this subchapter

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

Rewrote the section

**13:71-14.17A Void claims**

(a) A claim shall be void if

1 A claimed horse is excused by the Judges before the word "go",

2 The claimed horse dies during the race or, at the discretion of the State Veterinarian, has to be euthanized,

3 The claim is made by an owner in violation of N J A C 13 71-14 5,

4 Claims are made by any person in violation of N J A C 13 71-14 7,

5 The claim is voided at the discretion of the Judges pursuant to N J A C 13 71-14 8,

6 Claims are made on behalf of a stable in violation of N J A C 13 71-14 9,

7 Any person making a claim, when required to do so by the Judges and/or Steward, refuses to make affidavit in writing pursuant to N J A C 13 71-14 12,

8 The claimant's account with the horsemen's bookkeeper is insufficient to cover the cost of the claim, the cost of testing, if applicable, and the applicable New Jersey sales tax from the word "go" in the race in which the horse was claimed,

9 The claimed horse is scratched prior to off-time pursuant to N J A C 13 71-14 18 and the claimant decides not to proceed with the claim as outlined in N J A C 13 71-14 18,

10 The claimant has elected to void the claim pursuant to N J A C 13 71-14 32, or

11 A claim is not otherwise made in accordance with this subchapter



New Rule, R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)

### 13:71-14.17B Voidable claims

(a) A claim is voidable at the discretion of the successful claimant if

1 A post-race test of the claimed horse pursuant to N J A C 13 71-14 32 returns a positive finding for any drug and/or substance foreign to the natural horse. However, if the successful claimant races the horse prior to receiving the results of the post-race test, the claimant waives his or her right to void the claim. Further, if the claimant races the horse prior to receiving the results of the post-race test and the horse tests positive for any substance, including the substance that the horse tested positive for in connection with the race in which it was claimed, the claimant's trainer shall be liable for the positive post-race test in accordance with the rules of the Commission, or

2 A claimed horse, after starting in the race from which it was claimed, and at the direction of the State Veterinarian, is ordered transported or "vanned off" via race-track equine ambulance from the track. In such an instance, the claimant or his or her trainer shall have one hour from off-time of the race in which the horse was claimed to inform the judges of his or her decision to void the claim. Should the claimant or his or her trainer or representative take possession of the horse and remove it from the detention barn or should the claimant or his or her trainer fail to communicate to the judges his or her decision to void the claim within one hour from off-time, the claim shall be considered valid and the right to void the claim shall expire. Communication of the claimant's decision to void the claim may be made to the State Veterinarian who shall then log the time the decision was communicated and immediately contact the judges.

New Rule, R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)  
Amended by R 2018 d 157, effective August 20, 2018  
See 50 N J R 937(a), 50 N J R 1901(a)  
Rewrote the section

### 13:71-14.18 Scratched horse

Should a horse that has been claimed be scratched prior to off-time, the claim on that horse shall become void. However, should the claimant of the scratched horse wish to continue with his or her claim, he or she may elect to do so by informing the horsemen's bookkeeper prior to off-time of the race that he or she wishes his or her claim to remain in effect despite the horse being scratched. Upon receiving such notification from the claimant, the horsemen's bookkeeper shall immediately inform the judges of the claimant's decision to continue with the claim. Any horse drawn into a claiming race is eligible to be claimed, excepting those horses exempted pursuant to N J A C 13 71-14 2A. Horses entered in claiming races that have been cancelled by the New Jersey Racing Commission shall not be subject to claims. Any horse entered

into a claiming race due to an administrative error shall likewise not be subject to claims.

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)  
Rewrote the section

Amended by R 2018 d 157, effective August 20, 2018  
See 50 N J R 937(a), 50 N J R 1901(a)

Substituted "judges" for "Judges", and inserted the last sentence

### 13:71-14.19 Delivery to claimant

Any horse that has been claimed shall, after the race has been run, be taken to the detention barn for delivery to the claimant.

### 13:71-14.20 Delivery; written authorization

A claimed horse shall not be delivered to the successful claimant until written authorization is given by the racing secretary, or his deputy.

### 14:71-14.21 Cooling the horse

A trainer whose horse has been claimed is responsible for cooling his horse out until after the collection of any blood and/or urine specimen and he shall sign for the witnessing thereof. Failure to comply shall be subject to penalty.

### 13:71-14.22 Required delivery

No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore, the horse in question is disqualified until delivery is made.

### 13:71-14.23 Title; more than one claim

If more than one claim is filed for the same horse, title to the horse shall be determined by lot under the direction or supervision of the Judges, or their appointed deputy.

### 13:71-14.24 Engagements

When a horse is claimed, the horse's engagements are included.

### 13:71-14.25 Liens

No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder of the claim shall be filed with the racing secretary of the association conducting such claiming race.

### 13:71-14.26 (Reserved)

Repealed by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)  
Section was "Right to claim"

### 13:71-14.27 Claiming price

The claiming price of each horse in a claiming race shall be printed in the official program, and all claims for said horse shall be for the amount so designated.

**13:71-14.28 Sale of claimed horse**

No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within 30 days after the day the horse was claimed except via a successful claim in a subsequent claiming race

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)  
Rewrote the section

**13:71-14.29 Conflict of rules**

A horse claimed at a recognized meeting under rules at variance with those contained in this subchapter, shall while racing in New Jersey, serve any additional penalty imposed by the rules of the State wherein claimed

**13:71-14.30 Sex of horse claimed**

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

**13:71-14.31 Protests**

A protest to the claim of a horse must be filed with the Judges within 48 hours of the claim. No protest will be accepted after that time

**13:71-14.32 Testing**

A claimant may request, via indication on the claim form, a post-race blood and urine test be taken in full compliance with Subchapter 23 from any horse he or she claims in a race. The cost of testing pursuant to this section shall be set by the New Jersey Racing Commission and shall be paid by the claimant along with the claiming fee and applicable New Jersey sales tax. Should the test result in a positive finding, the claimant has the right to void the claim within 24 hours from the time notification of the positive finding was communicated to the claimant. The trainer at the time of entry into the claiming race shall be responsible for a positive finding of any drug and/or substance foreign to the natural horse. A claimant's election to conduct post-race testing shall not otherwise affect the transfer of ownership title pursuant to N J A C 13 71-14 17. Should the claimant not elect to conduct post-race testing, the former trainer shall conduct the horse to the detention barn after the race and the transfer of possession will occur as soon as is practicable. Should the claimed horse be selected for testing by the Commission, the cost of testing will remain the responsibility of the Commission, regardless of the claimant's indication that he or she wished to have the horse tested. The claimant shall have the right to void his or her claim should the forensic analysis of the sample so taken be positive for any drug and/or substance foreign to the horse

Amended by R 2016 d 179, effective December 19, 2016  
See 48 N J R 1597(a), 48 N J R 2828(a)  
Rewrote the section

**13:71-14.33 Optional claiming races**

Optional claiming races shall not be used unless limited to horses three years old and up

**13:71-14.34 Separation of horses**

Whenever possible, claiming races shall be written to separate horses, five years old and up, from young horses and to separate males from females. If sexes are mixed, mares shall be given a price allowance. Spayed mares shall not receive a price allowance allotted to other mares

**13:71-14.35 Mares in foal**

Mares known to be in foal shall not be entered or started (raced) in claiming races

**13:71-14.36 Open claiming**

(a) This section is not applicable to any licensed owner that has claiming privileges pursuant to N J A C 13 71-14 1

(b) Any individual or entity may claim a horse by obtaining an open claiming license pursuant to (c) below

(c) An applicant may obtain an open claiming license by complying with the following procedures

1 The applicant shall file a completed license application on the form prescribed by the New Jersey Racing Commission and will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprint card checks consistent with the charge set by the reviewing agency which provides the fingerprint card checks, according to the type of investigation requested

2 The applicant shall deposit, with the horsemen's bookkeeper, an amount no less than the minimum claiming price, plus the applicable post-race testing fee pursuant to N J A C 13 71-14 32, if elected, New Jersey sales tax, and any other applicable charges required at that race meet. Such amount shall remain on account until a claim is made. In the event the funds are withdrawn or withdrawn prior to completion of a claim, any license issued will be automatically revoked and terminated

3 The applicant shall declare a trainer, currently licensed by the New Jersey Racing Commission, who will represent the new owner once a claim is made

(d) Claiming privileges executed under this section shall be limited to one time during a race meet

(e) Unless approval has been granted by the Judges to the contrary, the claimed horse must race back at that race meet

New Rule. R 1987 d 421, effective October 19, 1987 (operative December 26, 1987)  
See 19 N J R 1419(b), 19 N J R 1911(b)  
Amended by R 1991 d 314, effective June 17, 1991  
See 23 N J R 1068(b), 23 N J R 1960(c)  
Added new (a)

Reconstructed existing (a) by deleting "A new owner who does not have claiming privileges pursuant to N.J.A.C. 13:71-14 1" and adding "Any individual or entity" for a redesignated (b).

Deleted (a)1.

Reconstructed existing (b) by deleting "A new owner" and adding "An applicant" for a redesignated (c). Recodified existing (c) and (d) as (d) and (e).

Amended by R.2016 d.179, effective December 19, 2016.

See. 48 N.J.R. 1597(a), 48 N.J.R. 2828(a).

In (a), substituted "section" for "subchapter"; rewrote (c)2; and in (e), substituted "Judges" for "judges".

### 13:71-14.37 Delivery of corticosteroid records

The previous trainer of a claimed horse shall, within 48 hours after the race from which the horse was claimed is made official, provide accurate treatment records of all corticosteroid joint injections that were administered to the horse within 30 days before the race took place to the new trainer. The previous trainer shall also deliver a copy of the records to the State Veterinarian within the same 48 hour timeframe.

New Rule, R.2016 d.179, effective December 19, 2016

See 48 N J R 1597(a), 48 N J R. 2828(a)

## SUBCHAPTER 15. STAKES AND FUTURITIES

### 13:71-15.1 Filing conditions

Annually file a copy of their conditions for approval with the commission A copy shall also be filed with the United States Trotting Association.

### 13:71-15.2 Bonds

Maintain a performance bond in the amount of the fund until such time as the race is contested. A copy of said bond shall be furnished to the commission and the United States Trotting Association.

### 13:71-15.3 Nomination list

Mail a list of the nominations within 30 days after the closing to the commission and the United States Trotting Association.

### 13:71-15.4 Financial statement

Furnish to the commission and to the United States Trotting Association an annual financial statement of each stake and futurity, and within 30 days following the day of the race submit to the commission and the United States Trotting Association a final financial statement.

### 13:71-15.5 Entry list

Mail within 20 days the complete list of all horses remaining eligible to the owners of all eligibles, the commission and the United States Trotting Association, together with a list of any nominations transferred or substituted if such is permitted by the conditions.

### 13:71-15.6 Nominations and payments

Set the nominating date and dates for all sustaining payments except the starting fee on the 15th day of the month. No sustaining payment for two-year-old races shall fall prior to January 15 of the year to be raced.

### 13:71-15.7 Date and place of event

Announce the date and place of any event as soon as racing dates for the year are allocated by this Commission and before taking sustaining payments.

### 13:71-15.8 Forms

All nominations and entry forms, list of nominators and lists of eligibles shall be on a standard 8½" x 11" paper. Such lists shall designate the owners alphabetically.

### 13:71-15.9 Estimated purse

No estimated purse shall be advertised or published which is in excess of the actual purse paid or distributed during the previous year unless increased by guaranteed added money.

### 13:71-15.10 Approval for extended pari-mutuel meetings

Effective with stakes and futurities opened in 1965 and thereafter, no stake or futurity shall be approved for extended pari-mutuel meetings if the added money is not at least 20 per cent of the purse and for all other meetings at least ten per cent of the purse shall be added.

### 13:71-15.11 Failure to make payments

Failure to make any payment required by the conditions shall constitute an automatic withdrawal from the event.

### 13:71-15.12 Where stake or futurity does not fill

All stake and futurity sponsors of presentors shall notify all nominators, the Commission and the United States Trotting Association within 20 days if the stake or futurity does not fill.

### 13:71-15.13 Barren mares

In the event that a mare nominated to a futurity proves to be barren, the nominator may receive a return of his payment, proving such return is called for in the conditions of the futurity.

### 13:71-15.14 Entries; form of entry

(a) All entries must:

1. Be made in writing on forms approved by the Commission,
2. Be signed by the owner or his authorized agent in writing, except as provided in the rules of racing;

3. State the name, license number and address of both the owner and the agent of the registered stable of the lessee;

4. State name, color, sex, age, sire and dam of the horse;

5. Name the event or events in which the horse is to be entered;

6. Comply with the provisions of the rules regarding declaration where entries are in overnight events;

7. State the name, license number and registered racing colors of the driver,

8. State the name and license number of the trainer;

9. State if pacer is racing free legged or in hopples.

**13:71-15.15 Entries and sustaining payments in early closing events, stakes and futurities**

All entries or payments except in overnight events not actually received at the hour of closing shall be ineligible, except entries and payments by letter bearing a postmark not later than the following day (omitting Sunday) or entries notified by telegraph. Where a telegram is used, it must actually be received at the office of sending at or before the hour of closing. Such telegrams must, furthermore, state the color, sex and name of the horse, the class to be entered, name and residence of the owner and the party making the entry. Whenever any entry or payment in a stake, futurity or early closing race becomes payable on a Sunday or a legal holiday that falls on Saturday, such payment is to be due on the following Monday and if made by mail the envelope must be postmarked on or before the following Tuesday. If a payment falls on a Monday that is a legal holiday, such payment is due on Tuesday, and if made by mail must be postmarked on or before the following Wednesday.

**13:71-15.16 Void entries**

All entries and payments not governed by published conditions shall be void. Proposed deviation from such published conditions is prohibited. No nominator shall be allowed privileges not in accordance with the published conditions of the race or which are in conflict with these rules.

**13:71-15.17 Nominator's guaranty**

A nominator is required to guaranty the identity and eligibility of his entries and declarations and if given incorrectly he shall be deemed guilty of a violation of these rules. A person obtaining a purse or money through fraud or error shall surrender or pay the same to the association conducting the meeting and such purse or money shall be awarded to the party justly entitled to the same. Where, however, any horse is ineligible as a result of an error of the race secretary, the association shall reimburse the owner for the resultant loss of winnings.

**13:71-15.18 Transfer to eligible event**

A horse entered in an event to which it is ineligible may be transferred to any event to which it is eligible at the same gait.

**13:71-15.19 Withholding of purse**

An association shall be warranted in withholding the premium or purse of any horse without a formal protest if it shall receive information that the entry or declaration of any horse was fraudulent or that the horse was ineligible. Such premium shall be withheld by the association pending a decision of the Commission concerning such fraud or ineligibility.

**13:71-15.20 Death**

All engagements shall be void upon the deceased or either party or horse, prior to the starting of the race, so far as they shall affect the deceased party or horse, except when assumed by the estate or where the proprietorship is in more than one person, and any survive

**13:71-15.21 Early closing events and late closing races**

(a) The sponsor shall state the place and date the event will be raced and no change in date, program events or conditions can be made after the nominations have been taken

(b) An entry blank shall be filed with the Commission and the United States Trotting Association. All nominations and payments other than starting fees in early closing events shall be advertised to fall on the first and 15th day of the month. A complete list of nominations to any late closing race or early closing event shall be published within 20 days after the date of closing and mailed to each nominator, the Commission and the United States Trotting Association. If the event does not fill, each nominator, the Commission and the United States Trotting Association shall be notified within ten days and refund of nomination fees shall accompany the notice to the nominators

(c) Unless an association submits its early closing conditions to the Commission and to the United States Trotting Association at least 30 days prior to the first publication and has such conditions approved by the Commission, the following provisions will govern transfers in the event of a change of gait

(d) If conditions published for early closing events allow transfer for change of gait, such transfer shall be to the slowest class the horse is eligible to at the adopted gait. Eligibility is to be determined at time of closing of entries and the race to which transfer may be made must be the one nearest the date of the event originally entered

(e) Two-year olds, three-year olds or four-year olds entered in classes for their age may only transfer to classes for the same age group at the adopted gait to the race nearest the date of the event originally entered. Entry fees shall be adjusted

**13:71-15.22 Withdrawals**

Where subsequent payments are required, a complete list of those withdrawn or declared out shall be made within 15 days after payment was due and the list filed with the Commission and the United States Trotting Association and mailed to every nominator

**13:71-15.23 Segregation of fees**

All fees paid in added money events, early closing events, stakes and futurities shall be segregated and held as trust funds until the event is contested. Proof of such segrega-

tion by bank letter or bank statement shall be submitted to the Commission

**13:71-15.24 Stabling**

Horses nominated and eligible to start in early closing, late closing events, stakes or futurities shall be given stable space on the grounds of the association, the day before, the day of and the day after such race

**13:71-15.25 Limitations on conditions**

Conditions of early closing or late closing events that will eliminate horses nominated or add horses that have not been nominated by reason of the performance of such horses at an earlier meeting held the same season are invalid. Early closing events and late closing events shall not have more than two also eligible conditions

**13:71-15.26 Proportion of entry fees to purse**

When entry fees exceed 85 per cent of the advertised purse value, such excess entry fees shall be added to the purse. Where the race is split into divisions, each division shall have a purse value of not less than 75 per cent of the advertised purse. However, entry fees in excess of the amount prescribed above may be used toward the amount that must be added. In all cases the sponsor shall add at least 15 per cent of the advertised purse

**13:71-15.27 Fraudulent transfer of horse**

The transfer of a horse by any person or persons under suspension, unless to a bona fide owner for a valuable consideration accompanied by the transfer of all control over such horse, shall be deemed fraudulent and an effort to circumvent said suspension. All parties thereto shall be subject to the penalties of these rules. No person shall sell a horse as being free and clear when payments are due or will become due in races of any description and to which the horse has been entered

**13:71-15.28 Entries and starters required; split races**

(a) Entries to be specified in overnight events, when race must be contested, entrance moneys

1 Associations must specify how many entries are required for overnight events and after the condition is fulfilled, the event must be contested except when declared off

2 In early closing events or late closing events, if five or more separate interests are declared in to start, the race must be contested except when declared off. Stakes and futurities must be raced if one or more horses are declared in to start except when declared off

3 In an early closing event, if less horses are declared in than are required to start and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to all the entrance money and forfeits from each horse named

**13:71-15.29 Elimination heats or two divisions**

(a) In any stake event or futurity where the number of horses declared in to start exceeds 12 on a half mile track, 14 on a 5/8 mile track or 16 on a mile track, the race may at the option of the association be raced in elimination heats or divisions. The association exercising such option, however, must do so before positions are drawn. In the event a stake or futurity is split into divisions, the added money for each division shall be at least 20 percent of all nomination, sustaining and starting fees paid into such stake or futurity.

(b) Where the race is an early closing or a late closing event, the race may be divided by lot and each division must race for at least 75 percent of the advertised purse.

(c) In an added money early closing event, the race may be divided and raced in divisions and each division raced for an equal share of the total purse if the advertised conditions so provide, provided, however, extended meetings shall add an additional amount so that each division will race for 75 percent of the advertised added money. These provisions shall apply to any stake with a value of \$20,000 or less.

As amended, R 1982 d 109, effective April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

(a) "14" deleted, "12 on mile track" added, "or" was "of"

(b) was substantially amended

Amended by R 1990 d 126, effective February 20, 1990

See 21 N J R 3861(a), 22 N J R 667(a)

Comma added in (a)

**13:71-15.30 Elimination plans**

(a) Unless the conditions provide otherwise, whenever elimination heats are required or specified in the published conditions, such race shall be raced in the following manner unless conducted under another section of this rule. That is, the field shall be divided by lot and the first division shall race a qualifying dash for 30 percent of the purse, the second division shall race a qualifying dash for 30 percent of the purse, and the horses so qualified shall race in the main event for 40 percent of the purse. The winner of the main event shall be the race winner.

(b) In the event there are more horses declared to start than can be accommodated by the two elimination dashes to satisfy the excess, the percentage of the purse raced for each elimination dash shall be determined by dividing the number of elimination dashes into 60. The main events shall race for 40 percent of the purse. Unless the conditions provide otherwise, if there are two elimination dashes, the first four finishers in each dash qualify for the final, in the event there are three or more qualifying dashes, not more than three horses shall qualify from each qualifying dash. In the event the number of starters are divided by lot and raced in two divisions with all heat winners from both divisions competing in a final heat to determine the race winner, each division shall race two heats for 20 percent of the purse each heat. The remaining 20 percent of the purse shall go to the winner of the final heat.

(d) Whenever elimination heats are required, or specified in the published conditions of a stake or futurity, such race may be raced on a three heat plan, irrespective of any provisions in the conditions to the contrary. That is, the field shall be divided by lot and the first division shall race for 30 percent of the purse, the second division shall race for 30 percent, and the horses qualifying in the first and second divisions shall race the third heat for 30 percent of the purse. If after the third heat no horse has won two heats, a fourth heat shall be raced by only the heat winners. The race winner shall receive the remaining 10 percent of the purse. The number of horses qualifying to return after each elimination heat will be the same as set out in (b) above.

(e) The judges shall draw the positions in which the horses are to start in the main event, that is, they shall draw positions to determine which of the two dash winners shall have the pole and which one shall have the second position, which of the two horses that have been second shall start in the third position and which in fourth, and so forth. All elimination dashes and the concluding heat must be programmed to be raced upon the same day or night unless special provisions for earlier elimination dashes are set forth in the conditions. In the event there are three separate heat or dash winners, and they alone come back in order to determine the race winner according to the conditions, they will take post positions according to the order of their finish in the previous heat or dash.

As amended, R 1982 d 109, effective April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

Section substantially amended

**13:71-15.31 Overnight events**

(a) No more than eight horses shall be allowed to start in overnight events upon which there is pari-mutuel wagering except with the approval of the Commission.

(b) No horse shall be entered in more than one event on the same program except where the conditions of the race provide that it shall be contested in two or more heats or dashes. "Trailers" may be permitted whenever nine or more horses are allowed to start under this section.

## SUBCHAPTER 16 DECLARATION TO START AND DRAWING HORSES

### 13:71-16.1 Declaration to start and drawing horses

(a) Declaration — Unless otherwise specified in the conditions, approval of which must be granted by the Commission, the declaration time shall be 9 00 A M prevailing times. The management shall provide a locked box with an aperture through which declarations shall be deposited. At the time specified, the presiding judge who shall be in charge thereof, shall unlock the box, assort and list the declarations found therein, immediately draw the post positions in the presence of such owners or their representatives, as may appear. However, in races of a duration of more than one dash or heat, the judges may draw positions from the stand for succeeding dashes or heats. Declarations by mail or telegraph or telephone actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. When an association requires a horse to be declared at a stated time, failure to declare as required shall be considered a withdrawal from the event.

(b) After a declaration to start has been made, no horse shall be withdrawn except by permission of the judges.

(c) Prior to the opening of the declaration box, when futurities, stakes, early closing or late closing events are programmed, the presiding judge shall communicate with the race secretary to ascertain if any declarations by mail, telegraph or otherwise are in his office and not deposited in the box. If there are such declarations, the presiding judge shall see that they are declared and drawn in the proper event. To avoid conflicts and misunderstandings when the time of declaration of any race is stated in day or hours prior to the day of the race, it shall be construed to exclude Sunday.

(d) A separate draw procedure to determine post-positions of horses in a race shall be conducted for each individual race of a race card. The results of a draw procedure shall not be applied to more than one race of a race card, nor shall such results be applied to another race that is part of another race card.

Petition for Rulemaking.  
See 37 N J R 1556(a), 2261(c), 2576(a), 3464(a), (b)  
Amended by R 2006 d 226, effective June 19, 2006  
See 38 N J R 1395(a), 38 N J R 2727(a)  
Added (d)

### 13:71-16.2 Entry box and drawing of horses at pari-mutuel meetings

(a) The entry box shall be opened by the presiding judge at the advertised time and the presiding judge will be responsible to see that at least one horseman or an official representative of the horsemen is present. No owner or agent for a horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the presiding judge, all entries shall be listed, the eligibility verified, prefer-

ence ascertained, starters selected and post positions drawn. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened to a definite time.

(b) Upon receiving a request by the race secretary, the presiding judge, at his discretion, may open the entry box prior to the time of closing and give the race secretary the opportunity to process declarations contained therein. Information as to names of horses declared shall not be given by the race secretary or his assistants until after the time for declaration has passed.

### 13:71-16.3 Error in declaration

(a) Where a horse properly declared is omitted from the race by error of the association, or its agent or employee, the horse shall be added to the race but given the outside post position provided, however, that the error is discovered prior to the printing of the official program or prior to scratch time, whichever is sooner.

1 In the event that there is not a position on the gate available to add the horse omitted in error, the race shall be redrawn. This shall apply only in stakes events, late closers, early closers and futurities and shall not apply to overnight events.

Amended by R.1991 d 315, effective June 17, 1991  
See 23 N J R 1069(a), 23 N J R 1961(a)

Reconstructed existing text to include an (a) and new (a)1, deleted “, other than by telephone,” added “or its agents or employee,” substituted “printing” for “publication”, added “or prior to scratch time, whichever is sooner”, deleted “and said program disclosed such position”

### 13:71-16.4 Qualifying races

(a) Declarations for overnight events shall be governed by the following:

1 Within two weeks of being declared in, a horse that has not raced previously at the gait chosen must go a qualifying race under the supervision of the presiding judge or an associate judge and acquire at least one charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths, a standard photo finish shall be in use.

2 A horse that does not show a charted line for the previous season, or a charted line within its last six starts must go a qualifying race as set forth in paragraph 1 of this subsection. Uncharted races contested in heats or more than one dash and consolidated in accordance with paragraph 4 of this subsection will be considered one start.

3 A horse that has not started at a charted meeting for a period of 30 days must go a qualifying race as set forth in paragraph 1 of this subsection. Any horse that fails to race within 30 days after having started in a current year shall start in a qualifying race and meet the standards of the meeting before being allowed to start in a race with pari-mutuel wagering.

4 When a horse has raced at a charted meeting during the current season and then goes to meetings where races are not charted, the information from the uncharted races may be summarized, including each start, and consolidated in favor of charted lines, and the requirements of paragraph 2 of this subsection would then not be applicable. The consolidated line shall carry date, place, time, driver, finish track conditions and distance if race is not at one mile.

5. The judges may require any horse that has been on the steward's list to go a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for the class of horse, he may be required to go a qualifying race.

6 The judges may permit a horse to qualify by means of a timed workout consistent with the demonstrated form and ability of the horse.

7 To enable a horse to qualify, qualifying races should be held at least one full week prior to the opening of any meeting that opens before July 1 of a season and shall be scheduled at least twice a week. Qualifying races shall also be scheduled twice a week during the meeting.

Amended by R 1976 d 125, effective April 22, 1976.  
See 8 N J R 47(b), 8 N J R 308(a)

### 13:71-16.5 Entries

When the starters in a race include two or more horses owned or trained by the same person, or trained in the same stable or in the same management, they shall be coupled as an "entry" and a wager on one horse in the "entry" shall be a wager on all horses in the "entry." "Ownership" shall be construed to mean any person required to be licensed as an owner pursuant to these rules and in the instance of multiple ownerships, persons possessing at least five percent commonality of interest in each of the respective horses. Provided, however, that when a trainer enters two or more horses in a race under bona fide separate ownerships, the Commission may, on application by the association conducting the race permit the horses to race as separate betting entities. The Commission shall consider such requests on a case by case basis in the best interest of racing, considering the facts and circumstances concerning the race meet that is the subject of the association's application for approval. For races worth \$500,000 or more, all horses entered to race in such races, regardless of common trainers or ownership interest, shall race as individual betting interests. If the race is split in two or more divisions, horses in an "entry" shall be seeded in separate division insofar as possible, but the divisions in which they compete and their post positions shall be drawn by lot. The above provisions shall also apply to elimination heats.

As amended, R 1982 d 109, eff April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

Section substantially amended

Petition for Rulemaking

See 34 N J R 3030(b), 3545(a), 3655(a), 3994(b)

Amended by R 2004 d 157, effective April 19, 2004

See 35 N J R 4183(b), 36 N J R 1952(c)

Inserted the fourth sentence

Amended by R 2007 d 332, effective October 15, 2007

See 39 N J R 2600(a), 39 N J R 4419(a)

Inserted a comma following "Provided", substituted "race" for "stake, early closing, futurity, free-for-all or other special event", "Commission may, on application by" for "said horses may, at the request of" and "conducting the race permit the horses" for "and with the approval of the Commission, be permitted", and inserted the fourth sentence.

Petition for Rulemaking

See 42 N J R 89(c), 556(a), 965(b)

### 13:71-16.6 Also eligibles

Not more than two horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. Also eligibles shall be drawn from those horses having the least preference. In the event one or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list cannot be drawn except by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved into race by 9:00 A.M. on the day of the race shall be released.

### 13:71-16.7 Preference

(a) Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The preference date on a horse that has drawn to race and then scratched is the date of the race from which he was scratched.

(b) When a horse is racing for the first time in the current year, the date of the first declaration shall be considered its last race date and preference applied accordingly.

(c) Where the word "preferred" is used in a condition it shall not supersede date preference.

Petition for Rulemaking

See 40 N J R 4247(b), 4634(a)

Petition for Rulemaking

See 45 N J R 2406(a), 2618(b)

### 13:71-16.8 Steward's list

(a) A horse may be placed on the "Steward's list" if

- 1 It is dangerous,
- 2 Unmanageable,



- 3 Sick,
- 4 Lamé,
- 5 Unable to qualify,
- 6 Otherwise unfit

(b) The horse must be placed on the "Steward's list" by the presiding judge and declarations on such horse shall be refused

(c) Owners and trainers shall be notified in writing of such action and the reason for such action

(d) The clerk of the course shall make a note on the eligibility certificate of such horse showing the date the horse was placed on the "Steward's list" the reason therefor and the date of removal if the horse has been removed. A horse which has been a late scratch from a claiming race may be put on the "Steward's list"

#### 13:71-16.9 Driver information

Declarations shall state who will drive the horse and the driver's colors. Drivers may be changed until 9 00 A M of

the day preceding the race without permission but the presiding judge must be notified thereof. No driver shall be changed thereafter except by permission of the judges and only then for good cause. When a nominator starts two or more horses, the judges shall approve or disapprove the second and third drivers.

#### 13:71-16.10 Postponement—reasons for; rescheduling races

(a) In case of unfavorable weather, or other unavoidable cause, the racing association may postpone the races upon notification of the same to the Commission.

(b) When a racing program is postponed, the races scheduled shall be rescheduled as follows:

- 1 Early closing, late closing races, stakes and futurities shall be postponed to the next racing day.

- 2 If there is no time remaining in the scheduled race meeting and it cannot be extended to permit the race to be programmed, the entrance money and forfeits shall be divided equally among the nominators who have horses on the grounds declared in and eligible to start.



3 Unless conditions prescribe to the contrary, declared stakes and futurities shall not be transferred to another meeting without the unanimous consent of the association and of all those having horses eligible to the event

4 Overnight races may be postponed and carried over not more than two racing days

Amended by R 1982 d 109, effective April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

(a) Substantially amended

### 13:71-16.11 Ram checks

In the event of cancellation of any program after the completion of a numerical majority of the races scheduled to be run on such program, no rain checks or other similar forms of deferred admissions shall be issued or if issued on admittance, will be validated. In the event of cancellation of any program before the completion of a numerical majority of the races scheduled to be run on such program, rain checks or other similar forms of deferred free admissions shall be issued but no rain check or other form of deferred free admission shall be valid beyond the close of the meeting at which it is issued

## SUBCHAPTER 17 STARTING

### 13:71-17.1 Starting gate

(a) The starter, under the direction, supervision and control of the presiding judge, shall have control of the horses from the formation of the parade until he gives the word "GO"

(b) After the preliminary warming up scores, the starter shall notify the drivers to come up to the starting gate. During or before the parade, the drivers must be informed as to the number of scores permitted

(c) The horses shall be brought to the starting gate as near  $\frac{1}{4}$  of a mile before the start as the track will permit

(d) Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained

- 1 For the first  $\frac{1}{8}$  mile, not less than 11 miles per hour,
- 2 For the next  $\frac{1}{16}$  of a mile not less than 18 miles per hour,
- 3 From that point to the starting point, the speed will be gradually increased to a speed in excess of 18 miles per hour to be determined by the starter in the exercise of his discretion so as to insure a good and fair starting in all races

(e) The starting point will be a point marked on the inside rail at a distance of not less than 200 feet from the first turn. The starter shall give the word "GO" at the starting point

(f) When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall

(g) In case of a recall, a light plainly visible to the drivers shall be flashed and a recall sounded. The starting gate shall proceed, however, out of the path of the horses

(h) There shall be no recall after the word "GO" has been given. Any horse, regardless to his position in an accident shall be deemed a starter from the time he entered into the starter's control unless dismissed by the starter

(i) The starter shall endeavor to get all horses away in position and on gait but no recall shall be had for a bad actor or a breaking horse

(j) The starter may sound a recall only for the following reasons before the word "GO" is given

- 1 A horse scores ahead of the gate,
- 2 There is interference,
- 3 A horse has broken equipment,
- 4 A horse falls,
- 5 A horse comes to the gate out of position,
- 6 There is a malfunction of the starting gate

(k) Penalties may be imposed against any driver by the starter, who deliberately creates one of the situations in (j) above

(l) The starter may call for a reformation of the field at any time, if in his or her opinion, the start of the race would pose a threat to safety

(m) Penalties may be imposed against any driver by the starter, with the approval of the presiding judge for

- 1 Delaying the start,
- 2 Failing to obey the starter's instruction,
- 3 Rushing ahead of the inside or outside wing of the gate,
- 4 Coming to the starting gate out of position,
- 5 Crossing over before reaching the starting point,
- 6 Interference with another driver during the start,
- 7 Failing to come up into position,
- 8 Charging the gate

(n) No persons shall be allowed to ride in the starting gate except the starter and his driver or operator, and a patrol judge, unless permission has been granted by the Commission

(o) Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume

shall be no higher than necessary to carry the voice of the starter to the drivers

(p) The starter shall, at the end of each race day, submit to the presiding judge, a report indicating the speed of the gate at the starting point for each race run on that date

As amended, R 1979 d 157, effective April 23, 1979  
See 10 N J R 349(a), 11 N J R 297(a)  
Amended by R 1996 d 540, effective November 18, 1996 (operative December 26, 1996)  
See 28 N J R 3889(b), 28 N J R 4897(b)  
Petition for Rulemaking  
See 41 N J R 3116(a), 3464(b)

### 13:71-17.2 Number of scores

Horses shall be permitted to take one or two scores before going to the post and upon completion of the scores, the horses shall be gathered by the starter and immediately moved into their positions behind the gate. Horses shall not be held in excess of two minutes before post time except when delayed by an emergency

### 13:71-17.3 Vacancy in a tier

In the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier. Whenever a horse is withdrawn from any tier horses in their tier move in to fill up the vacancy. Should the second tier consist of one horse, that horse may start from any position in the second tier. Should the second tier consist of two or more horses, each horse must start from his drawn post position

As amended, R 1979 d 349, effective August 31, 1979  
See 11 N J R 352(a), 11 N J R 522(b)

### 13:71-17.4 When race starts, drivers mounted at finish

The horses shall be deemed to have started when the word "GO" is given by the starter and all the horses must go the course except in the event of an accident, in which case the judges may deem it impossible to go the course. Drivers must be mounted at the finish of the race or the horse shall be placed as not finishing

### 13:71-17.5 Unmanageable horses, scratches, refunds

(a) If the opinion of the judges or the starter a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, such horse may be sent to the barn in which case the declaration fees on the horse shall be refunded and deducted from the purse in added money events. When this action is taken, the starter shall notify the judges who shall in turn notify the public

(b) Placing bad acting horses on outside positions. The starter may place a bad acting horse on the outside at his

discretion but such action may be taken only where there is sufficient time for the starter to notify the judges. When so notified, the judges shall, prior to the sale of tickets on such horse, notify the public. If tickets have been sold, the bad acting horse must be scratched in accordance with the provisions of subsection (a) of this section

### 13:71-17.6 Starting gate arms, screens or shields

The arms of all starting gates shall be provided with a screen or a shield in front of the position for each horse and such arms shall be perpendicular to the rail

### 13:71-17.7 Starting gate and automatic timing device required

Every association shall utilize a mobile starting gate of a type and quality approved by the Commission. Every association shall further more maintain a stand-by mobile starting gate similarly approved. Every association shall utilize an automatic timing device of a type and quality approved by the Commission

As amended, R 1979 d 157, eff April 23, 1979  
See 10 N J R 349(a), 11 N J R 297(a)  
As amended, R 1982 d 109, eff April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
"Every association the Commission" added

### 13:71-17.8 Operation of starting gate

The association may employ additional persons to assist the starter in the performance of his duties and such personnel shall be licensed and approved by the Commission

### 13:71-17.9 Positions in winning heat

The horse winning a heat shall take the pole (or inside position) the succeeding heat, and all others shall take their positions in the order they were placed the last heat. When two or more horses shall have made a dead heat, their position shall be settled by lot

## SUBCHAPTER 18 BREATHALYZER TEST

### 13:71-18.1 Breathalyzer test

Officials, drivers, trainers and grooms shall, when directed by the presiding judge, submit to a breathalyzer test and if the results thereof show a reading of more than .05 percent of alcohol in the blood, such person shall not be permitted to continue his duties. The Judges may fine or suspend any participant who records a blood alcohol reading of .05 percent or more. Any participant who records a reading above the prescribed level on more than one occasion shall be subject to expulsion, or such penalty as the Judges may deem appropriate

Amended by R 1990 d 126, effective February 20, 1990  
 See 21 N J R 3861(a), 22 N J R 667(a)  
 "Stewards" changed to "Judges", throughout

#### Case Notes

Harness race drivers' breathalyzer regulation cited as similar to breathalyzer regulation for jockeys in finding the latter valid. *Shoemaker v. Handel*, 795 F.2d 1136 (3rd Cir. 1986) certiorari denied 107 S.Ct. 577, 479 U.S. 986, 93 L.Ed.2d 580

#### 13:71-18.2 Urine test

(a) No licensee or official shall use any controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act", N.J.S.A. 24:21-1, et seq., unless such substance was obtained directly, or pursuant to valid prescription or order from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the official, driver, trainer or groom to give notice to the State Steward or presiding Judge that he is using a controlled dangerous substance pursuant to a valid prescription or order from a licensed practitioner.

(b) Every official, driver, trainer or groom for any race, qualifier or fair event at any licensed racetrack or fair site, may be subjected to a urine test or tests at the direction of the State Steward and/or Presiding Judge, in a manner prescribed by the New Jersey Racing Commission. Any official, driver, trainer or groom who fails to submit to a urine test when requested to do so by the State Steward and/or Presiding Judge, shall be liable to the penalties provided in N.J.A.C. 13:71-2.

(c) Any official, driver, trainer or groom who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the Commission. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission, and the evidence of such sealing shall be indicated by the signature of the tested official, driver, trainer or groom. The portion of the form which is provided to the laboratory for analysis shall not identify the individual official, driver, trainer or groom by name. It shall be the obligation of the official, driver, trainer or groom to cooperate fully with the Chemical Inspector in obtaining any samples which may be required and to witness the securing of such sample.

(d) A "positive" controlled dangerous substance or prescription drug result shall be reported, in writing, to the Executive Director or his or her designee. On receiving written notice from the official chemist that a specimen has been found "positive" for controlled dangerous substances or prescription legend drugs, the Executive Director or his or her designees shall proceed as follows:

1. For a licensee's first violation, he or she shall not be allowed to participate in racing until such time as his or her condition has been professionally evaluated.

1. After such professional evaluation, if said licensee's condition proves non-addictive and not detrimental to the best interests of racing, said licensee shall not be allowed to participate in racing, until he or she

can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and agrees to further testing at the direction of the Executive Director or his or her designee.

11. After such professional evaluation in which said licensee's condition proves addictive or detrimental to the best interests of racing, said licensee shall not be allowed to participate in racing until he or she can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and show documented proof that he or she has successfully completed a certified rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee.

111. In addition to other requirements specified in this subsection, the Racing Commission may require a licensee to submit additional proof of rehabilitation as may be required in view of the licensee's patient assessment, his or her medical, drug and/or alcoholism history including current physiological dependency on drugs and/or alcohol and the duration of the addiction or abuse, and the facts and circumstances surrounding the violation.

2. For a licensee's second violation, he or she shall be required to enroll in a certified drug rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee. Said licensee's license shall be suspended for six months or until the requirements are fulfilled, whichever is greater.

3. For a licensee's third violation, he or she shall be liable to the penalties provided in N.J.A.C. 13:71-2.3, including revocation of the individual's license. A licensee may apply for reinstatement after five years but such reinstatement shall be at the discretion of the Commission based upon a review of the licensee's entire record.

4. After a licensee's first violation, such additional drug tests, as are required by the Commission, may be at the licensee's expense. It shall be the licensee's responsibility to provide the Commission with such status reports as the Commission may require, including, but not limited to, written notice of enrollment, weekly status reports, and written notice of discharge and successful completion of the program.

(e) Any information received in the process of obtaining a urine sample, including but not limited to medical informa-

tion, the results of any urine test, and any reports filed as a result of attending a Supervisory Treatment Program shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a Supervisory Treatment Program shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee, Counsel to the Racing Commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the Executive Director or his designee.

(f) Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the Executive Director for a period of one year, after which time, they shall be destroyed. However, the Commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

R 1984 d 412, eff. September 17, 1984  
 See 16 N.J.R. 1459(a), 16 N.J.R. 2453(a)  
 Amended by R 1985 d 603, effective December 2, 1985 (operative January 1, 1986)  
 See 17 N.J.R. 1641(a), 17 N.J.R. 2913(a)  
 Substantially amended  
 Amended by R 1985 d 642, effective December 16, 1985  
 See 17 N.J.R. 2364(b), 17 N.J.R. 2997(a)  
 (e) substantially amended, (f) added  
 Amended by R 1991 d 74, effective February 19, 1991  
 See 22 N.J.R. 3452(a), 23 N.J.R. 611(b)  
 New (d)1-4, added restrictions for individuals who have tested positive for a controlled dangerous substance or prescription medication without a valid prescription.

#### Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 819) adopted, which concluded that denial of owner/driver/trainer license application was appropriate, although applicant's ongoing efforts to remain drug free should be commended, applicant had been in violation of several regulations since the 1993 revocation of his licensure, including transporting race horses, working at an unlicensed farm and training facility, and, most notably, training and racing horses under his sister's name. *Parolari v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006).

Suspension, jockey failed to submit to urine test. *Case v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 45.

Diluting urine sample, suspension and fine imposed. *New Jersey Racing Commission v. Johnson*, 93 N.J.A.R.2d (RAC) 3.

## SUBCHAPTER 19 COLORS AND DRIVERS ATTIRE

### 13:71-19.1 Wearing distinguishing colors

(a) Drivers must wear distinguishing colors. No driver shall be permitted to start in a race or other public per-

formance unless in the opinion of the judges he is properly dressed.

(b) When drivers are participating in races during inclement weather, they shall wear rain suits of their registered colors, or suits made of a transparent material through which their colors may be distinguished.

(c) Those drivers not complying with (a) and (b) above must race in their regular colors.

### 13:71-19.2 Wearing colors at betting window, grandstand, clubhouse or bar

No driver wearing colors shall appear at a betting window, grandstand or clubhouse, or at a bar or in a restaurant dispensing alcoholic beverages.

### 13:71-19.3 Registered colors

No driver or trainer shall be allowed to drive in any race or public performance, or to otherwise appear on the race track during the racing program unless wearing his own or his owner's registered colors. No driver may appear in colors registered in the name of another, without the special permission of the presiding judge.

### 13:71-19.4 Safety helmets

No individual will be permitted to drive on a racetrack unless wearing a protective safety helmet of a type satisfactory to the Commission with chin strap in place. For purposes of this rule "satisfactory" shall be deemed to require that any helmet to be used be manufactured in compliance with the 1984 Snell Harness Racing Standard or in compliance with any other safety standard as approved from time to time by the Commission.

Amended by R 1984 d 620, effective January 21, 1985  
 See 16 N.J.R. 2977(a), 17 N.J.R. 204(c)  
 Text substantially amended.

### 13:71-19.5 Attire

Every driver in a race shall be attired in white pants. A violation of this rule will subject a driver to a fine or suspension.

### 13:71-19.6 Safety vests

All individuals, at all times, on horseback or in a sulky or jogging cart affixed to a horse, on a racetrack or licensed off-track stabling facility, shall wear a safety vest designed to provide shock absorbing protection of at least a rating of five, as defined by the British Equestrian Trade Association (BETA).

New Rule, R 1995 d 203, effective April 3, 1995 (operative August 15, 1995)  
 See 26 N.J.R. 4482(b), 27 N.J.R. 1440(a)

**13:71-19.7 Requirements concerning the wearing of advertisement material.**

(a) A permit holder may impose restrictions on advertising on driver apparel provided the permit holder submits any such restrictions by way of application to the New Jersey Racing Commission for approval. The restrictions must be implemented for one of the following purposes:

1 To preserve the traditions of the turf. Traditions of the turf means those traditions which preserve a genteel, pristine appearance and atmosphere at the racetracks and that do not lend themselves to over commercialization, or

2 To promote the safety of race participants

New Rule, R 2007 d 333, effective October 15, 2007  
See 39 N.J.R. 2602(a), 39 N.J.R. 4420(a)

**SUBCHAPTER 20 RULES OF RACING****13:71-20.1 Limitations on use of hand holders**

Drivers shall not put their hands or wrists through the hand-holders while competing in races.

**13:71-20.2 Driver's meeting**

(a) Before the first heat or race at any meeting is contested the racing officials and the drivers shall meet at a time and place to be designated by the presiding judge. Notice of the time and place of such meeting shall be published on the bulletin board in the office of the race secretary at least 48 hours prior to the meeting, and shall be announced over the public address system one hour prior to the meeting.

(b) The officials will announce any special rules affecting the race meeting and shall construe such of the rules of racing as shall be requested. At the conclusion of such meeting, all drivers shall be presumed to be familiar with the rules of racing.

(c) Any driver failing to attend this meeting after being duly notified, may be fined a sum not to exceed \$100.00.

(d) No driver will be permitted to drive unless he shall have attended such meeting or has met with the officials.

**13:71-20.3 Substitutions of driver**

If the judges believe a driver is unreliable, unfit or incompetent to drive, or if he refuses to comply with the direction of the judges, or is reckless or unmannerly in his conduct, he may be removed and another driver substituted any time after the positions have been drawn in a race. Compensation of such substitute driver may be fixed in the discretion of the judges. No driver shall, without sufficient reason, decline to be substituted by the judge.

**Case Notes**

Horse driver who moved into another racing lane without sufficient clearance was fined and suspended. *Stafford v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 25

**13:71-20.4 Trainers' duty regarding racing of horses**

A trainer is responsible for the timely attendance of his horse or horses when they are being raced, and he shall attend his horse in the paddock to supervise the preparation of such horse when it is racing.

**13:71-20.5 Absence of trainer-notice-substitute trainer**

If any licensed trainer is to be absent from the track where employed, the presiding judge shall be immediately notified in writing and at that time a licensed substitute trainer, acceptable to the presiding judge, shall be appointed to assume responsibility for the horse or horses racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible. The presiding judge shall be advised immediately when the regular trainer is present and resumes his duties.

**13:71-20.6 Racing and track rules; driving procedures**

(a) Although a leading horse is entitled to any part of the track except after selecting his position in the home stretch, neither the driver or the first horse nor any other driver in the race shall

1 Change either to the right or left during any part of the race when another horse is so near him that in altering his positions he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull him out of his stride,

2 Jostle, strike, hook wheels or interfere with another horse or driver,

3 Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers,

4 Swerve in and out or pull up quickly,

5 Crowd a horse or driver by "putting a wheel under him",

6 "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses,

7 Let a horse pass inside needlessly, or do any other act which constitutes what is popularly known as helping,

8 Commit any act which impedes the progress of another horse or causes him to "break",

9 Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in such manner as to interfere with another horse or cause him to change course or take back,

10 To drive in a careless or reckless manner,

11 Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed,

12 Drivers must set and maintain a pace comparable to the class in which they are racing. Failure to do so by going

an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race, or allowing his horse to go on an unrestrained break will be considered a violation of this section and the judges may impose a penalty which can be a fine, suspension or both

(b) With the approval of the Racing Commission, a track may extend the width of its homestretch up to 10 feet inward in relation to the width of the rest of the racetrack. In the event the homestretch is expanded pursuant to this subsection, the following shall apply

1 No horse shall use the extended inside lane except when entering the final homestretch run,

2 The lead horse in the homestretch shall maintain as straight a course as possible while allowing trailing horses full access to the extended inside lane, and

3 Judge's discretion shall prevail in all instances regarding the open stretch

As amended, R 1982 d 109, effective April 5, 1982

See 13 N J R 820(a), 14 N J R 347(a)

"or allowing break", added

Amended by R 1992 d 268, effective July 6, 1992

See 24 N J R 686(a), 24 N J R 2462(a)

Added (b)

#### Case Notes

Disqualification of first place horse for violation of N J A C 13 71-20 6(a)8 affects the second and third place horses' owners, entitling them to a hearing before the Commission upon adequate notice, one-day mailgram notice of hearing from Commission is inadequate, one-sentence decision by Commission lacked required findings and conclusions *Pitts v Div of New Jersey Racing Commission*, 185 N J Super 190, 447 A 2d 1348 (App Div 1982), certification denied

Harness racing driver received a three-day suspension for changing lanes without "sulky clearance" and causing a competing horse to go off stride, the disqualification of the driver's horse was upheld. The ALJ found the unbiased testimony of the race's presiding judge more credible than that of the driver, who had a financial interest in the outcome. *Miller v N J Racing Comm'n*, OAL DKT NO RAC 15043-17, *Burke Racing Stable, LLC, et al, v N J Racing Comm'n*, OAL DKT NO RAC 17327-17 (Consolidated), 2018 N J AGEN LEXIS 673, Amended Initial Decision (December 11, 2018)

ALJ erred in failing to afford substantial deference to the New Jersey Racing Commission's Board of Judges' determination that, although another horse may have violated N J A C 13 71-20 6 by interfering with the owner's horse, such interference did not affect the outcome of the race (rejecting 2008 N J AGEN LEXIS 1004) *Williams v N J Racing Comm'n*, OAL Dkt No RAC 1900-08, 2009 N J AGEN LEXIS 853, Final Decision (March 4, 2009)

Initial Decision (2005 N J AGEN LEXIS 570) adopted, which concluded that Racing Commission met its burden of proof by a preponderance of the competent and credible evidence where review of videotape exhibit clearly showed that driver's horse entered the extended inside lane to a point that prohibited access by other drivers. Additionally, there was testimony from another driver regarding the effect upon the horse he was driving and respondent driver's ambiguity as to whether his horse encroached upon the extended inside lane. *N J Racing Comm'n v Doherty*, OAL Dkt No RAC 8778-04, 2005 N J AGEN LEXIS 1478, Final Decision (November 15, 2005)

Unintentional lane change that impeded progress of other horse warranted three-day suspension of driver. *Manzi v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 49

Racing over passing lane during open stretch supported race horse's disqualification from first place finish. *Vacca v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 20

Impeding another driver's forward progress during race justified three-day suspension for horse driver. *Smith v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 19.

Jockey suspended for causing interference or confusion among trailing horses in race. *McNichol v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 1

Suspension of horse driver, impeding progress of other horses. *New Jersey Racing Commission v Morrill*, 95 N J A R 2d (RAC) 1

Suspension of harness driver, interference with other drivers. *New Jersey Racing Commission v Patterson*, 94 N J A R 2d (RAC) 13

Slowing of horse constituted interference, finish placement changed. *New Jersey Racing Commission v Stein*, 93 N J A R 2d (RAC) 29

Hooking wheels, five day suspension. *Allen v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 27

Harness driver's conduct made inevitable horse's hoof getting caught in another driver's wheel assembly, careless driving, suspension. *Parker v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 19

First driver pulling in front of second horse and causing second driver to take evasive action constituted interference, suspension ordered. *LaChance v New Jersey Racing Commission*, 93 N J A R 2d (RAC) 13

Abrupt slowing by sulky driver warranted disqualification of horse. *Biada v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 1

Finding that driver impeded the progress of another horse and caused him to "break". *Gillis v New Jersey Racing Commission*, 1 N J A R 78 (1980)

#### 13:71-20.7 Complaints by drivers; judge's stand

All complaints by drivers of any foul driving or other misconduct during the race or heat shall be made at the termination of the race or heat unless the driver is prevented from doing so by an accident or injury. At the conclusion of each race or heat, any driver desiring to enter a claim of foul or other complaint of violation of the rules must, before dismounting, indicate to the patrol judge his desire to enter such claim or complaint immediately after the race and, upon dismounting, shall proceed to the nearest telephone and advise the judges of the complaint or foul involved. The judges shall not cause the official sign to be displayed until such complaint shall have been entered and considered. All drivers must return to the paddock and remain there until the race is made official. The judges will not consider any claim of foul instituted after the race has been made official.

As amended, R 1976 d 125, effective April 22, 1976

See 8 N J R 47(b), 8 N J R 308(a)

#### 13:71-20.8 Violations involving entries, complaints, penalties

If any of the violations in N J A C 13 71-20 7 are committed by a person driving a horse coupled as an entry in the betting, the judges may set both horses back, if, in their opinion, the violation may have affected the finish of the race



Otherwise, penalties may be applied individually to the drivers of any entry

Administrative correction  
See 29 N J R 585(a)

**13:71-20.9 Placing offending horse**

In case of interference, collision or violation of any of the rules, the offending horse may be placed behind all the unoffending horses in that heat or dash, and in the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver may be penalized

**Case Notes**

Initial Decision (2005 N J AGEN LEXIS 570) adopted, which concluded that penalty imposed by the Racing Commission Board of Judges was commensurate with the offense where board placed respondent's horse in second rather than first place due to violation of N J A C 13 71-20 6, entering into the extended inside lane during the homestretch N J Racing Comm'n v Doherty, OAL Dkt No RAC 8778-04, 2005 N J AGEN LEXIS 1478, Final Decision (November 15, 2005)

**13:71-20.10 Fraudulent or unsatisfactory driving**

(a) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or had been driven, with design to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver, and anyone in concert with him to so affect the outcome of the race or races, may be penalized. The judges may in such cases substitute a driver. The substitute driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(b) In the event a drive is unsatisfactory due to lack of effort, carelessness, misjudgment, or demonstrated lack of judgment in performance, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive, they may impose a penalty similarly under this subsection.

(c) The length of suspension of a driver may be increased by the judges, stewards or Racing Commission if said driver is guilty of the same infractions of the rules of racing two times or more during any calendar year.

As amended, R 1976 d 125, effective April 22, 1976  
See 8 N J R 47(b), 8 N J R 308(a)

**Case Notes**

Executive Director's improper ex parte communication with Board of Judges specifying exceptionally harsh and excessive sanction for licensee's lack of effort or carelessness in course of race tainted final determination of Racing Commission where sanction specified by Executive Director was eventually imposed by Board and affirmed by Commission. New Jersey Racing Com'n v Silverman, 303 N J Super 293, 696 A 2d 771 (N J Super A D 1997)

Suspension for violation in driving in unsatisfactory manner as a result of lack of effort, carelessness, misjudgment or demonstrated lack of judgment in performance (also cited as N J A C 13 17-20 10) DeVitis v New Jersey Racing Commission, 202 N J Super 484, 495 A 2d 457 (App Div 1985), certification denied 102 N J 337, 508 A 2d 213 (1985)

Racing license suspension for inconsistent driving dismissed. Cito v New Jersey Racing Commission, 97 N J A R 2d (RAC) 15

Racehorse driver's license was suspended for 45 days for holding horse back during race. New Jersey Racing Commission v Silverman, 96 N J A R 2d (RAC) 7

**13:71-20.11 Removal and substitution of unfit or incompetent drivers**

If in the opinion of the judges a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or is reckless in his conduct and endangers the safety of horses or other drivers in the race, he may be removed and another driver substituted at any time after the positions have been assigned in a race, in which case, the offending driver may be penalized. The substitute driver shall be properly compensated.

**13:71-20.12 Failure to finish**

If for any cause other than being interfered with, broken equipment or unavoidable accident, a horse fails to finish after starting a heat, that horse shall be ruled out.

**13:71-20.13 Shouting**

Shouting is forbidden during a race by a driver therein.

**13:71-20.14 Whips**

Drivers will be allowed whips not to exceed four feet plus a snapper not longer than six inches. No leather or unusual materials may be used. The conventional snapper shall not be knotted or altered in any way and tape is permitted only on the handle of the whip. All other modifications of the whip are prohibited.

Petition for Rulemaking  
See 40 N J R 5857(a), 40 N J R 6660(a)  
Petition for Rulemaking  
See 41 N J R 1275(c)  
Amended by R 2020 d 114, effective October 19, 2020  
See 51 N J R 1753(a), 52 N J R 1940(b)  
Rewrote the section

**13:71-20.15 Restricted use of whip and prohibition of goading devices**

(a) No person shall possess or use a goading device, chain, or mechanical devices or appliances, other than the ordinary whip, as permitted at N J A C 13 71-20 14, upon any horse while in a race, training, or at any other time on property subject to the Commission's jurisdiction. The brutal use of a whip or blunt spur, kicking a horse with a foot, striking a horse with the whip under the seat of the sulky, or indiscriminate use of a whip shall be considered a violation.

(b) The whip cannot be used on a horse in an excessive, indiscriminate, brutal, or unnecessary manner, as determined in the discretion of the judges, including, without limitation, that the driver shall not

- 1 Cause an injury, visible or not, to the horse with the whip,
- 2 Use the whip more than three times in succession without giving the horse time to respond to the whip,
- 3 Repetitively use the whip when a horse is not responding,
- 4 Continue to use the whip when a horse is not advancing its position in the race,
- 5 Use the whip on a horse that is out of contention, or
- 6 Use the whip after the finish of a race

(c) A driver may use a whip only in a conventional manner, as follows

- 1 The driver must keep a line in each hand, except as may be necessary to adjust equipment (that is, pulling plugs, dropping blinkers) beginning when the horse is behind the starting gate and continuing through the finish of the race,
- 2 One handed whipping is prohibited at any time during the race,
- 3 Whipping shall be restricted to wrist action only and the whipping arm shall not be raised above the driver's shoulder height,
- 4 Drivers shall not move their whipping arm in an exaggerated manner and the lines shall remain reasonably taut during the race,
- 5 The driver shall not strike, jab, or use the handle of the whip on a horse, and
- 6 The driver shall not strike another horse or driver with the whip or use the whip in a manner that interferes with, or causes disturbance to, another horse or driver

(d) The location where the whip is used is limited as follows

- 1 The driver shall not use the whip below the level of the arch or shaft, or forward of the race bike's wheels;
- 2 Above the level of the shaft, the driver may use the whip only in a sliding, gliding, or tapping manner, and
- 3 The driver shall not place the whip between a horse's legs

(e) Under the supervision of the judges, there shall be a visual inspection of each horse following each race for evidence of excessive or brutal use of the whip

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

Section substantially amended  
Petition for Rulemaking  
See 40 N J R 5857(a), 40 N J R 6660(a)  
Petition for Rulemaking  
See 41 N J R 1275(c)  
Amended by R 2020 d 114, effective October 19, 2020  
See 51 N J R 1753(a), 52 N J R 1940(b)

Section was "Use of goading devices, and so forth" Rewrote the section

#### Case Notes

Jockey's repeated kicking of horse violated regulation, suspension  
Manzi v New Jersey Racing Commission, 93 N J A R 2d (RAC) 23

Harness driver's kicking of horse, nine day suspension  
Silverman v New Jersey Racing Commission, 92 N J A R 2d (RAC) 3

#### 13:71-20.16 Hobbles, head pole

No horse shall wear hobbles in a race unless he starts in the same in the first heat or dash, and having so started he shall continue to wear them to the finish of the race. Any person found guilty of removing or altering a horse's hobbles during a race, or between races for the purpose of fraud, shall be penalized. Any horse habitually wearing hobbles shall not be permitted to start in a race without them except by the permission of the judges. No horse shall be permitted to wear a head pole protruding more than 10 inches beyond its nose

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
"Hobbles" changed from "Hopples"

#### 13:71-20.17 Breaking

(a) When any horse or horses break from their gait in trotting or pacing, their drivers shall at once, where clearance exists, take such horse to the outside and pull it to its gait

(b) The following shall be considered violations of this section

- 1 Failure to properly attempt to pull the horse to its gait,
- 2 Failure to take to the outside where clearance exists,
3. Failure to lose ground by the break

(c) If there has been no failure on the part of the driver in complying with 1, 2 and 3 above, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish

(d) The judges may set any horse back one or more places if in their judgment any of the violations of this section have been committed, and the driver may be penalized

Petition for Rulemaking  
See 40 N J R 2607(a), 3759(a)

#### Case Notes

Breaking gait, finish order changed  
Beissinger v New Jersey Racing Commission, 92 N J A R 2d (RAC) 14

**13:71-20.18 Fraudulent breaking**

If a driver allows his horse to break for the purpose of fraudulently losing a heat or dash, he shall be liable to the penalties provided for in N J A C 13 71-2 3

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)  
N J A C cite added

**13:71-20.19 Calling and noting breaks**

To assist in determining the matters relating to accurate charting of races, it shall be the duty of one of the judges to call out every break made and the clerk shall at once note the break made and character of it in writing

**13:71-20.20 Time between heats or dashes**

The time between heats or dashes for any distance up to and including a mile shall not be less than 15 minutes, for any distance between one and two miles, 20 minutes

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
"15" was "25", "20" was "30"

**13:71-20.21 Right of the course**

Horses called for a race shall have the exclusive right of the course and all other horses shall vacate the track at once unless permitted to remain by the judges

**13:71-20.22 Accidents**

In the case of accidents, only so much time shall be allowed before continuing as the judges may deem necessary and proper

**13:71-20.23 Registration of nerved horses**

(a) Blocking of nerve functions via surgical neurectomy, cryogenic techniques, or any other desensitizing means, whether permanent or temporary, is defined as "nerving"

(b) Only posterior digital "nerving" will be permitted on horses to be raced. The procedure must be performed posterior to the first phalanx at a level below the base of the sesamoid bones

(c) Horses that are "nerved" above the area specified in (b) above will not be permitted to race in New Jersey

(d) It shall be the responsibility of the owner and/or trainer to report all "nerved" horses to the State or Associate State Veterinarian

(e) A list of all "nerved" horses shall be posted on the bulletin board at the entry room by the State Veterinarian

Amended by R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)  
New Rule, R 1988 d 74, effective February 16, 1988  
See 19 N J R 2125(a), 20 N J R 406(a)  
Repealed existing rule and inserted new

**13:71-20.24 Equine fatality report; post-mortem necropsy**

(a) Upon the death of a horse on any part of the grounds of a New Jersey racetrack or off-track training facility, an equine fatality report shall be submitted to the New Jersey Racing Commission within 48 hours. It shall be the responsibility of the trainer of the deceased animal to file the equine fatality report with the State Steward or Chief State Veterinarian

(b) The equine fatality report shall be on forms prescribed and furnished by the Commission and shall be filled out entirely, legibly and specifically, and include the following information and any other information deemed necessary by the Commission

- 1 Name and tattoo number or other registration identification of deceased equine,
- 2 Trainer of record,
3. Owner of record and fiscal records regarding purchase of equine,
- 4 Particulars as to time, date and place of death,
- 5 Disclosure of any post-mortem examination,
- 6 Attending veterinarian,
7. Cause of death,
- 8 Particulars as to removal of carcass, and
- 9 Pertinent information regarding existing insurance coverage

(c) The attending veterinarian shall certify the cause of death and shall submit treatment records describing all veterinarian treatments administered to the horse within the 30-day period preceding the time of death. These records shall be submitted to the State Steward within 48 hours of the time of death. Failure to produce these records may result in the immediate suspension of the trainer and/or veterinarian

(d) Upon the death of any horse on the racetrack during racing, training, or warming-up the horse, or upon the death of a horse within one hour after racing on any racetrack:

1 Verbal notice of the death of the horse shall be given by the trainer or the trainer's designee to the State Steward or to a New Jersey Racing Commission veterinarian within one hour of the horse's death. Said notice shall not negate the obligation to submit an equine fatality report within 48 hours of the time of death, and

2 An appropriate post-mortem necropsy shall be conducted, by a qualified veterinarian at a facility designated by the Commission, to determine the cause of death and other relevant information about the condition of the deceased horse. The cost of the necropsy, including related transportation and other costs, shall be borne by the owner of the deceased horse

(e) Upon the death of any horse on the racetrack during racing, training, or warming-up the horse, or upon the death of a horse within one hour after any such activity, the remains of the deceased horse shall not be removed without the written consent of the State Steward, or the State Steward's designee, or the Chief State Veterinarian, or the Chief State Veterinarian's designee. It shall be the joint responsibility of the racetrack and the owner of the horse to prevent the unauthorized removal of the remains of a deceased horse.

(f) Failure to file the equine fatality report or the required veterinary records in a timely fashion or filing in an incomplete fashion may subject the owner, trainer, and/or veterinarian to disciplinary action.

1 Any falsification or misstatement submitted in connection with an equine fatality report may also subject the owner, trainer, and/or veterinarian to disciplinary action.

(g) An equine fatality report shall not be required in connection with any pony or mascot.

R.1984 d 105, effective April 2, 1984

See 16 N.J.R. 224(a), 16 N.J.R. 743(b)

Amended by R.2021 d 099, effective September 7, 2021

See 52 N.J.R. 1751(a), 53 N.J.R. 1507(a)

Section was "Equine fatality report" Rewrote the section

#### Case Note

Veterinarian's actions in giving a loaded hypodermic syringe to an assistant trainer and instructing him to give an injection to a horse, which

horse later died, violated the prohibition, in N.J.A.C. 13-23-9, against anyone other than a veterinarian possessing such an item, as did the failure by the veterinarian and the head trainer, who was not even on the property at the time that the injection was given, to file an equine fatality report in compliance with N.J.A.C. 13-20-24. While the conduct of all three individuals was detrimental to racing within the meaning of N.J.A.C. 13-1-19 and sanctions were properly imposed, the lengthy suspensions imposed by the Racing Commission were too harsh and shorter suspensions were ordered by the Administrative Law Judge Henriksen v. N.J. Racing Comm'n, OAL Dkt Nos. RAC 7539-12, RAC 7540-12, and RAC 7541-12 (Consolidated), 2013 N.J. AGEN LEXIS 28, Initial Decision (January 31, 2013).

#### 13:71-20.25 Pylons

(a) It shall be a violation of this rule if a horse, while on stride, or part of the horse's sulky, travels inside the existing pylons when not forced to do so by the actions of another driver or horse. The pylons shall constitute the inside limits of the racetrack.

(b) When an act of interference causes a horse, or part of the horse's sulky, to cross inside the pylons and the horse is placed by the Judges, the offending horse shall be placed behind the horse with which it interfered. The horse that was forced inside the pylons must attempt to return to the racetrack as soon as is safely possible. A horse remaining inside the pylons once, in the Judge's discretion, it is safe to return to the racetrack, may be penalized in accordance with this rule.

(c) For purposes of placing, the following shall apply

1 If a horse while on stride, or any part of the horse's sulky, goes inside a pylon and, in the opinion of the Judges, that action improved the position of the horse or gave that horse an unfair advantage over other horses in the race, the horse may be placed at the discretion of the Judges,

2 If a horse while on stride, or any part of the horse's sulky, goes inside two consecutive pylons and was not forced to do so by the interference of another horse or driver, the offending horse shall be placed behind all horses that are lapped to the offending horse at the wire,

3 If a horse while on stride, or any part of the horse's sulky, goes inside three or more consecutive pylons and was not forced to do so by the interference of another horse or driver, the offending horse shall be placed last, and

4 If a horse while on stride, or any part of the horse's sulky, goes inside a single pylon more than one time in a single race and was not forced to do so by the interference of another horse or driver, each occurrence will be considered an individual violation of this rule

(d) Pylons at all racetracks shall be spaced consistently and shall conform to the following

1 Pylons, other than the pylon at the wire, shall be white, red, yellow, or orange in color but all pylons at a single racetrack must be the same color except for the pylon at the wire, which can be any color of the racetrack's choosing,

2 All pylons must have a red band at the point furthest from the ground to make the point more visible to race participants and officials. Should the pylon itself be red, the pylon must have a white or yellow band at the point furthest from the ground,

3 At all racetracks, pylons shall be

- i Thirty inches above ground,
- ii Set at a 30-degree inward angle to the track surface,
- iii Forty feet apart on the turns, and
- iv Sixty feet apart on the straightaways

New Rule, R 2021 d 097, effective September 7, 2021  
See 52 N J R 1101(a), 53 N J R 1508(a)

**SUBCHAPTER 21 PLACING CONDITIONS AND PURSES**

**13:71-21.1 Purses, distributed on dash basis, adjustments**

Unless otherwise provided in the conditions, all purses shall be distributed on the dash basis with the money awarded

according to a horse's position in each separate dash or heat of the race. Any adjustment in payments to be made by an association shall be made during the week wherein the race giving rise to the adjustment occurred

**13:71-21.2 Dashes**

(a) Unless otherwise specified in the conditions, the money distribution in dashes shall be 50 percent, 25 percent, 12 percent, eight percent and five percent. Where, in early closing races, late closing races or added money events, there are less than five starters, the remaining premium shall go to the race winner unless the conditions call for a different distribution. Where, in overnight events, there are less than five starters, the premium for which positions for each there are no starters may be retained by the association

(b) If there be any premium or premiums for which horses have started but were unable to finish due to an accident or otherwise, all unoffending horses who did not finish will share equally in such premium or premiums

As amended, R 1982 d 109, effective April 5, 1982  
See 13 N J R 820(a), 14 N J R 347(a)

(a) "50" was "45", "12" was "15", "eight" was "ten"  
Petition for Rulemaking  
See 42 N J R 90(a), 556(b)

**13:71-21.3 Every heat a race**

The purse shall be distributed as in dash races with nothing set aside for the race winner

**13:71-21.4 Placing system**

If the placing system is specified in the conditions, the purse shall be distributed according to the standing of the horses in the summary. In order to share in the purse distribution, each horse must complete the race and compete in each heat to which he is eligible. A horse must win two heats to be declared the race winner and such horse shall stand first in the summary. In deciding the rank of the horses other than the race winner, a horse that has been placed first in one heat shall be ranked better than any other horse making a dead heat for first or any other horse that has been placed second any number of heats, a horse that has been placed second in one heat shall be ranked better than any other horse that has been placed third any number of heats, and so forth, for example, a horse finishing 3-6 would be ranked ahead of another horse finishing 4-4. A horse finishing in a dead heat would be ranked below another horse finishing in the same position and not in a dead heat. If there be any premium for which no horse has maintained a position, it shall go to the race winner, but the number of premiums awarded need not exceed the number of horses that started in the race. Unless otherwise specified in the conditions, the money shall be divided 50 percent, 25 percent, 15 percent and 10 percent

**13:71-21.5 Two in three**

In a two in three race, a horse must win two heats to win the race, and there shall be ten percent set aside for the race winner. The purse shall be divided and awarded according to the finish in each of the first two or three heats, as the case may be. If the race is unfinished at the end of the third heat, all but the heat winners or horses making a dead heat for first shall be ruled out. The fourth heat, when required, shall be raced for the ten percent set aside for the winner. If there be any third or fourth premiums, and so forth for which no horse has maintained a specific place, the premium therefor shall go to the winner of that heat, but the number of premiums distributed need not exceed the number of horses starting in the race. Where, in a two-year-old race, there are two heat winners and they have made a dead heat in the third heat, the race shall be declared finished and the colt standing best in the summary shall be awarded the ten per cent, if the two heat winners made a dead heat and stand the same in the summary, the ten per cent shall be divided equally between them.

**13:71-21.6 Computation and payment of purses**

(a) Any racing association which has an agreement with the horsemen to pay purses of an established percentage of the association's share of the revenue obtained from the money wagered, shall each post a statement of the previous week's handle, the proposed allotment to horsemen and the amount of purses paid. Such posting shall be on the bulletin board in the entry room.

(b) Any association sponsoring stakes races or early closing events may withhold, during any current meeting, an amount sufficient to compensate the association for the cost of such races and events. However, in no event shall the money due the horsemen in purses above that amount be allowed to exceed \$20,000.

**13:71-21.7 Delivering of winnings to owners**

Winnings from horses shall not be delivered to any owner until the owner has first been duly licensed by the Commission for the current season.

**13:71-21.8 Deductions from winnings**

(a) All purses contested for shall be distributed according to the conditions of the race. Deductions from the purse, either voluntary or involuntary, shall be made only as set forth herein. Deductions shall be made for payment to the owners and to collect the amount calculated by the New Jersey Horse Racing Injury Compensation Board, which shall not exceed three percent of gross overnight purses paid to owners, as assessments for the cost of workers' compensation insurance coverage pursuant to N.J.A.C. 13:71-6.31 and the rules of the New Jersey Horse Racing Injury Compensation Board set forth at N.J.A.C. 13:73. Deductions from purses may also be made to pay the organization and promotion expenses stipulated for stake and futurities.

1 The horsemen's bookkeeper at each racetrack in New Jersey shall transmit on a weekly basis all assessments collected for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall deposit these monies in a separate account for the use of the New Jersey Horse Racing Injury Compensation Board.

(b) Five percent of the owners' payment shall be deducted and paid to the driver, and five percent of the owners' payment shall be deducted and paid to the trainer. In instances where the trainer is employed by a training stable, the payment shall be made to the training stable.

Amended by R 1978 d 354, effective January 1, 1979

See 10 N.J.R. 348(b), 10 N.J.R. 510(c)

Amended by R 1987 d 464, effective January 20, 1987

See 18 N.J.R. 1516(a), 19 N.J.R. 237(a)

Substantially amended.

Amended by R 1997 d 50, effective February 3, 1997

See 28 N.J.R. 4737(a), 29 N.J.R. 448(a)

In (a), inserted text "the New Jersey Horse Racing N.J.S.A. 34:15-129 et seq.", and added (a)1

Administrative correction

See 31 N.J.R. 1204(b)

Amended by R 2000 d 35, effective January 18, 2000

See 31 N.J.R. 3050(a), 32 N.J.R. 322(a)

Rewrote the section

Amended by R 2002 d 70, effective March 4, 2002

See 33 N.J.R. 3626(a), 34 N.J.R. 1020(a)

In (a), amended the N.J.A.C. references in the introductory paragraph

**13:71-21.9 Forfeits; drivers' fees**

In the event that a purse is forfeited through a subsequent ruling of the officials and/or Racing Commission after the result has been made official, the drivers shall be allowed such fees as are consistent with section 8 of this subchapter and with the revised order of finish.

R 1978 d 354, eff. January 1, 1979

See 10 N.J.R. 348(b), 10 N.J.R. 510(c)

**SUBCHAPTER 22 RADIOS, RECEIVERS AND TRANSMITTERS****13:71-22.1 Telephone**

All public telephones at the race track may remain open during the race day, with the approval of the Commission.

Amended by R 1990 d 126, effective February 20, 1990

See 21 N.J.R. 3861(a), 22 N.J.R. 667(a)

"Track police" changed to "track security"

Repeal and New Rule, R 1990 d 535, effective November 5, 1990

See 22 N.J.R. 2403(b), 22 N.J.R. 3385(d)

Former rule contained radio, receiver and transmitter security requirements

## SUBCHAPTER 23 MEDICATION AND TESTING PROCEDURES

## 13:71-23.1 Intent of medication rules; general provisions

(a) It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and racing participants through the prohibition and/or control of all drugs and/or substances foreign to the natural horse. For the purpose of these rules, a drug and/or substance administered to a horse is foreign to the natural horse irrespective of whether the said drug and/or substance is also naturally occurring to the horse.

(b) On the day of the race, irrespective of the date, time, and method of administration, no horse entered to start in or participating in any race shall carry in its body any drug and/or substance foreign to the natural horse, excepting external rubs and innocuous compounds as defined in this section and as otherwise provided for in this chapter. Examples of drugs and/or substances foreign to the natural horse, and thus prohibited pursuant to this section are as follows:

- 1 Articles meeting the definition of drug as set forth in N J A C 13 71-4 1,
- 2 Chemical substances,
- 3 Stimulants,
- 4 Depressants,
- 5 Anesthetics,
- 6 Tranquilizers,
- 7 Anti-inflammatories,
- 8 Erythropoietin (epogen, EPO),
- 9 Pain killers,
- 10 Sodium bicarbonate (baking soda),
- 11 Confectionery sugar,
- 12 Stamina builders,
- 13 Mixtures, compounds, or solutions commonly referred to as "milkshakes," which contain any prohibited drug and/or substance, and
- 14 Controlled therapeutic medications equal to or in excess of the threshold levels set in the Association of Racing Commissioners International (RCI) Controlled Therapeutic Medication Schedule (Schedule), version 2 1 (Revised April 17, 2014), which is incorporated herein by reference, as amended and supplemented. The Schedule can be accessed at [http://arcicom.businesscatalyst.com/assets/arcicom-controlled-therapeutic-medication-schedule--version-2\\_1.pdf](http://arcicom.businesscatalyst.com/assets/arcicom-controlled-therapeutic-medication-schedule--version-2_1.pdf)

(c) Nothing contained in this section, however, shall be construed to prohibit the horse from carrying in its body on the day of the race food products resulting from the normal

and proper diet of a horse not containing prohibited drugs and/or substances.

(d) On the day of the race, except as otherwise provided for in these rules, no horse entered to start in or participating in any race shall have administered to it any such drug and/or substance foreign to the natural horse, including as a result of administration of an otherwise permissible external rub or what would otherwise constitute an innocuous compound. In no event, except for the intravenous administration of furosemide (Lasix) pursuant to N J A C 13 71-23 8, or as may otherwise specifically be authorized by or pursuant to these rules, shall the administration of said excepted items be accomplished intravenously, by injection, by jugging or drenching, or through the use of a syringe or sharp, dose syringe, or tube apparatus. A non-prohibited external rub or innocuous compound as defined in this section shall on the day of the race be administered only by application on the exterior of the horse, except that food constituting the normal and proper diet of a horse not containing prohibited drugs and/or substances may be ingested by means limited to the natural intake of a horse without aid or the assistance of any device or apparatus.

(e) An external rub or innocuous compound is a single substance, mixture of substances, or compound that does not contain any of the examples of prohibited items as set forth in (b) above, or additionally, any other substance foreign to the natural horse that alters its normal physiological state.

Amended by R 1994 d 126, effective March 7, 1994  
See 25 N J R 3104(a), 26 N J R 1238(c)  
Amended by R 1995 d 296, effective June 5, 1995  
See 26 N J R 1956(b), 27 N J R 2244(a)  
Amended by R 2014 d 164, effective November 3, 2014  
See 46 N J R 1419(a), 46 N J R 2162(a)

In the introductory paragraph of (b), inserted a comma following "time", substituted "this chapter" for "these rules", and deleted "and these rules" following "section", in (b)12, deleted "and" from the end, in (b)13, substituted "milkshakes," for "milkshakes", and substituted ", and" for a period at the end, added (b)14, and rewrote (e)

## Case Notes

District court would abstain from reaching merits of harness racehorse trainers' applications for stays of orders *Bongiorno v Lalomia*, D N J 1994, 851 F Supp 606, affirmed 39 F 3d 1168

Fines and suspension of licenses and privileges for extended periods ranging from 30 months to 66 months, based on findings that trainers' horses had tested positive for drugs were not arbitrary, capricious, unreasonable, principles of "trainer responsibility" and "no medication" were clearly established in law and commission had authority to protect integrity of horse racing. *New Jersey Racing Com'n v Elliot*, 290 N J Super 140, 675 A 2d 243 (A D 1996)

ALJ rejected a challenge of a trainer to a \$1000 fine imposed on him after a post-race drug test of a horse under his care revealed the presence of cocaine and benzoyllecgonine (BZE). Even though the source of the contamination was a groom who had used cocaine earlier in the day, the trainer was properly fined because applicable rules imposed strict liability on a trainer for any contamination regardless of the actual source, and a \$1000 fine was appropriate under these facts. *Harrison v N J Racing Comm'n*, OAL DKT NO RAC 03001-18, 2019 N J AGEN LEXIS 78, Initial Decision (January 30, 2019)

Horse-trainer's claim that the N J Racing Commission had a duty to show scientifically that the alleged drug or drugs that was found in the blood of horses trained by him enhanced the horses' performance was rejected because N J imposed strict liability on a trainer when prohibited drugs were found in a horse trained by them without regard for the impact, of the prohibited substance, on a horse's performance. Such liability was properly imposed where, as here, a trainer claimed but did not prove a defect in the chain of custody of the samples on which the Commission relied. Not only was the trainer properly suspended and fined but the horses properly were disqualified from sharing in any purses. *Watson v N J Racing Comm'n*, OAL DKT NO RAC 12951-16, 2018 N J AGEN LEXIS 230, Initial Decision (April 2, 2018)

Even though it was established that a post-race drug test performed on a urine sample taken from a horse trained by a licensed trainer contained trace amounts of dextroproporphane, the evidence tended to show that the presence thereof resulted from environmental contamination. Moreover, the low level of the drug, which was not a performance-enhancing drug, as found in the urine only tended to show that the trainer did not administer the drug to the horse. On these facts, the Racing Commission did not show that the 15-day suspension imposed as a penalty was appropriate and the suspension was rejected by an ALJ as disproportionate to the offense. *Fanning v N J Racing Comm'n*, OAL DKT NO RAC 08693-2014, 2017 N J AGEN LEXIS 895, Initial Decision (December 22, 2017)

Determination by the Board of Judges of the N J Racing Commission suspending a trainer for 15 days and fining him for violating certain regulations governing medication and trainer responsibility was approved by an ALJ on findings that it was not necessary to show that the challenged medication was administered to the horse while it was in the custody of the trainer nor that the trainer knew or suspected the existence of a foreign substance in the horse's system because the regulation at issue imposed strict liability regardless of individual knowledge or fault. *Ford v N J Racing Comm'n*, OAL DKT NO RAC 06047-15, 2017 N J AGEN LEXIS 656, Initial Decision (August 28, 2017)

Trainer of racehorse whose post-race urine test was positive for both morphine and hydromorphone did not intentionally administer (or allow another to administer) morphine to the horse within 24 hours of the race which it won. Rather, the horse's ingestion of morphine was unintentional and likely a result of contaminated feed. That meant that the penalty imposed by the Racing Commission was too severe and that a penalty of a 15 day suspension and a \$500 fine was more appropriately imposed. *Cassar v N J Racing Comm'n*, OAL DKT NO RAC 13660-14, 2017 N J AGEN LEXIS 221, Initial Decision (April 20, 2017)

Preponderance of the credible evidence supported the determination of the Board of Judges for the N J Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations. Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine. On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate. *Auciello v N J Racing Comm'n*, OAL DKT NO RAC 13638-14, 2016 N J AGEN LEXIS 764, Initial Decision (September 6, 2016)

Licensed horse trainer and two licensed horse grooms generally admitted that they had engaged in wrongdoing in connection with the injection, into two race horses, with foreign substances, and thus had engaged in conduct detrimental to racing, had violated the intent of medication rules and trainer responsibility rules, had possessed drugs or drug paraphernalia and had conspired to commit the violations. After the N J Racing Commission (NJRC) imposed a five-year suspension and a \$5000 fine against the trainer and a five-year suspension and a \$5000 fine against the groom (groom 1) who was the son of the trainer while imposing a one-year suspension and a \$1000 fine against the other groom (groom 2), review of the penalties was undertaken. Given the nature of the behavior of the trainer and groom 1 in actually participating in the administration of the injections, taken with their disciplinary histories, the suspensions and fines imposed by the NJRC were appropriate. However, groom 2 had a significantly lesser role in the prohibited activi-

ties, apparently limited to holding the trailer door open. That being so, groom 2 was properly suspended for one year and fined \$250. *Callahan v N J Racing Comm'n*, *Callahan v N J Racing Comm'n*, *Hollingsworth v N J Racing Comm'n*, OAL DKT NO RAC 05328-14, OAL DKT NO RAC 05333-14, OAL DKT NO RAC 05336-14 (Consolidated), 2015 N J AGEN LEXIS 191, Initial Decision (March 16, 2015)

Initial Decision (2005 N J AGEN LEXIS 440) adopted, which concluded that horse trainer was properly suspended for 30 days for positive drug test of horse (for Ketorolac) and disqualification of horse sharing in purse also proper where trainer merely testified that he had no idea how the horse came up positive, and upon stay of his suspension pending hearing, he failed to respond to certifications by Commission. *Carter v N J Racing Comm'n*, OAL Dkt No RAC 629-05, 2005 N J AGEN LEXIS 1477, Final Decision (November 16, 2005)

Initial Decision (2005 N J AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v N J Racing Comm'n*, OAL Dkt No RAC 2400-04, 2005 N J AGEN LEXIS 1476, Final Decision (September 19, 2005)

Rule sets forth the association between the administration of drugs and the need to protect horses from them. *Gallo v New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983)

### 13:71-23.2 Testing

(a) Any horse entered to start at any licensed race meeting may be subjected to a pre-race and/or post-race blood, and/or urine test, at the direction of the State Veterinarian, the Judges and/or State Steward, in the manner prescribed by the New Jersey Racing Commission. The costs so incurred shall be borne by the track association. The cost to the track association for testing each sample shall be established by the New Jersey Racing Commission.

(b) Every owner, or his authorized agent, or trainer of any horse entered to race at any licensed racetrack shall immediately submit the said horse to any veterinarian designated by the Commission, for examination and/or testing whenever so requested by the Commission, Stewards, Judges, State Veterinarians, or Associate State Veterinarian.

### Case Notes

Rule sets forth the association between the administration of drugs and the need to protect horses from them. *Gallo v New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983)

### 13:71-23.3 Pre-race blood testing program

(a) All horses entered to start in any race where pari-mutuel wagering is conducted shall be subject to a pre-race blood and/or urine test.

(b) Such horses shall be in the paddock at least two hours prior to post-time under the custody and care of a duly licensed attendant designated by the trainer of the horse.



(c) A licensed veterinarian approved by the Commission shall be the only person allowed to draw the blood for testing. A quantity of 20 cubic centimeters or such amount as the veterinarian may designate shall be extracted from each horse for testing purposes.

(d) Should the forensic analysis of such sample be classified as suspicious for any drug or substance foreign to the natural horse, except as expressly permitted by these rules and regulations, the horse shall be scratched.

(e) Should the forensic analysis of such sample be classified as positive for any drug or substance foreign to the natural horse, the horse shall be scratched and placed on the judge's list for seven days.

(f) The entry of a horse shall constitute permission for a veterinarian appointed by the New Jersey Racing Commission to obtain biological samples, and consent to the scratching of the horse from the race in the event such test is positive or suspicious.

(g) A trainer shall receive a warning for the first time a horse in his charge shall show a positive pre-race test. If the same horse shall again be positive on a pre-race test, then the trainer may be fined, suspended or both.

### 13:71-23.3A Post-race blood gas testing program

(a) An excess level of total carbon dioxide (TCO<sub>2</sub>) in the race horse is deemed adverse to the best interests of harness racing, and adverse to the best interests of the horse in that such condition alters its normal physiological state. Accordingly, in compliance with the post-race testing program provisions of N J A C 13 71-23 4 and this section, on the date of the race and following a minimum one-hour standing at rest period for the horse subsequent to the conclusion of the race within which it competed, a State Veterinarian representing the Commission may obtain blood samples from the horse for the purpose of the testing of said samples by the Racing Commission laboratory for TCO<sub>2</sub> level on a Clinical Auto Analyzer that applies an ion selective electrode method (ISE) for measuring TCO<sub>2</sub> in blood. Where the TCO<sub>2</sub> level, based upon such testing equals or exceeds the following levels, the judges shall order the relief authorized pursuant to (b) below:

1 Thirty-seven (37) or more millimoles per liter for those horses not competing on furosemide, and

2 Thirty-nine (39) or more millimoles per liter for those horses competing on furosemide.

(b) Where the TCO<sub>2</sub> level in a horse is determined to equal or exceed the levels set forth in (a) above, and it is not determined that such TCO<sub>2</sub> levels are physiologically normal for that particular horse pursuant to (c) below, the judges shall order the following relief:

1 The trainer, as the absolute insurer of the horse responsible for the condition of a horse within his or her care

and custody pursuant to N J A C 13 71-23 6, shall for a first violation have his or her license suspended for a 75 day period, be ordered to pay a \$1,000 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a second violation, the license of the trainer shall be ordered suspended for a 180 day period, a \$2,500 fine shall be ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third or subsequent violation, the license of the trainer shall be ordered suspended for a minimum of one year to a maximum of licensure revocation, a \$5,000 fine shall be ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. The licensure suspension aspect of these penalties shall be increased by a minimum of two years where evidence independent of the testing demonstrates that the excessive TCO<sub>2</sub> level of the horse resulted from the administration of a drug or substance foreign to the horse in violation of N J A C 13 71-23 1 and that such foreign substance was administered nasogastrically or orally, using a tubing device, jug or by any intravenous means.

2 In addition to the liability of the trainer as set forth in (b)1 above, any additional persons responsible shall be subject to the penalties set forth in (b)1 above, and

3 Disqualification and denial of purse with redistribution of any purse money due, pursuant to N J A C 13 71-23 7, and

4 Pre-race guarded quarantine pursuant to N J A C 13 71-23 3B.

(c) If the level of TCO<sub>2</sub> is determined to equal or exceed those set forth in (a) above, and the licensed owner or trainer of that horse contends in writing to the judges within three calendar days of notification of the results that such levels are physiologically normal for the particular horse, said licensee may by such writing request that the horse be held in guarded quarantine. In the event so requested, the track association shall make such guarded quarantine available, for a period of time to be determined by the judges but in no event more than 72 hours, at the sole expense of the licensee requesting same. During any quarantine, the horse shall be re-tested periodically and, although the horse may not race during such quarantine period, it may be exercised and trained at times prescribed by the track association and consistent with the ability to monitor the horse, take blood samples from the horse and test those blood samples of said horse. If the judges are satisfied, on the basis of the evident facts, the quarantine and the testing of the horse's blood during the quarantine period utilizing the Clinical Auto Analyzer, that the level of TCO<sub>2</sub> set forth in (a) above is physiologically normal for that particular horse, the judges shall not order the relief set forth in (b) above and the horse shall be permitted to compete. In such case, the judges in their discretion may, at the sole expense of the track association, require that the horse re-establish that

such TCO<sub>2</sub> level is physiologically normal to it pursuant to the quarantine procedure set forth in this subsection but no sooner than 45 days after the last quarantine period for the purpose of such re-establishment

(d) All persons participating in any blood gas testing program or quarantine process as described in this section, whether an employee of the Racing Commission or a track association, shall act at the direction of the Commission representative as designated by the Commission or its Executive Director. The taking of blood samples from a horse, as authorized by this section for the purpose of testing on the Clinical Auto Analyzer, shall be additional to and not in lieu of any other sampling or testing of blood or urine authorized by this chapter. For the purposes of this section, as well as N.J.A.C. 13:71-23.3B and 23.3C, a violation of this section on or after October 18, 1993 shall constitute a prior violation.

New Rule, R 1993 d 174, effective April 19, 1993  
See 25 N.J.R. 269(a), 25 N.J.R. 1775(b)  
Amended by R 1997 d 127, effective March 17, 1997  
See 29 N.J.R. 95(a), 29 N.J.R. 901(b)  
Substantially amended section

**13:71-23.3B Post-race blood gas testing program; pre-race guarded quarantine**

(a) Where a trainer, during any 12 month period, has had any single horse under his or her custody, care and control test equal to or in excess of the total carbon dioxide level (TCO<sub>2</sub>) set forth in N.J.A.C. 13:71-23.3A(a), and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in such instance pursuant to N.J.A.C. 13:71-23.3A(c), that horse subsequently scheduled to participate in a race under the custody, care and control of said trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine.

(b) Where a trainer, during any 12 month period, has had any horse or horses under his or her custody, care and control test equal to or in excess of TCO<sub>2</sub> level set forth in N.J.A.C. 13:71-23.3A on two occasions, and where the said level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in either of such instance, all horses subsequently scheduled to participate in a race under the custody, care and control of that trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected trainer for eight months following the date of the second order of quarantine of a horse or horses under his custody, care and control, and without regard to whether those horses have been transferred to a new trainer. However, if during the eight month period any additional horse under the custody, care and control of the trainer is determined to have an excessive TCO<sub>2</sub> level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse, the judges shall order that the eight-month pre-race guarded quarantine period as to all of the trainer's horses be extended for a length of time which they deem appropriate.

(c) Where a single horse, during any 12 month period, is determined to have an excessive TCO<sub>2</sub> level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse, the horse shall be placed under pre-race guarded quarantine even where the horse has been transferred to a new trainer. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the current trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

1 Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine. However, where during the pendency of such six-month period the horse is under the custody, care and control of the new trainer and the horse is again determined to exhibit an excessive TCO<sub>2</sub> level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for said horse, the judges shall order that the six-month pre-race guarded quarantine period for the horse be extended for a length of time which they deem appropriate. Where such an event, during any 12 month period, constitutes the second incident of any horse or horses under the custody, care and control of the current trainer of said horse exhibiting an excessive TCO<sub>2</sub> level in accord with the procedures set forth in N.J.A.C. 13:71-23.3A, the provisions of (b) above shall apply as to that current trainer.

New Rule, R 1993 d 513, effective October 18, 1993  
See 25 N.J.R. 3427(a), 25 N.J.R. 4751(b)  
Amended by R 1997 d 127, effective March 17, 1997  
See 29 N.J.R. 95(a), 29 N.J.R. 901(b)  
Substantially amended section  
Petition for Rulemaking  
See 34 N.J.R. 1977(a), 3395(b), 3869(b)

**Case Notes**

Quarantine of horse found to have violated blood gas test was justified. *McFadden v. New Jersey Racing Commission*, 97 N.J.A.R.2d (RAC) 9

**13:71-23.3C Post-race blood gas testing program; punishment for failure to cooperate**

In the event any owner, trainer, licensed representative of same, or any person subject to the jurisdiction of the Racing Commission, fails to cooperate in connection with the blood gas testing program authorized pursuant to N J A C 13 71-23 3A, or with regard to any procedures set forth in N J A C 13 71-23 4, or otherwise set forth in or implemented pursuant to N J A C 13 71-23 3A or 23 3B, in addition to ordering the relief set forth in N J A C 13 71-23 3A, the judges may, consistent with this chapter, impose fines or suspensions, or both, on the non-cooperating person. In determining the length of such suspension or amount of the fine, the judges may consider prior violations of N J A C 13 71-23 3A, 23 3B or this section.

New Rule, R 1993 d 513, effective October 18, 1993  
 See 25 N J R 3427(a), 25 N J R 4751(b)  
 Amended by R 1997 d 127 effective March 17, 1997  
 See 29 N J R 95(a), 29 N J R 901(b)  
 Substantially amended section

**13:71-23.4 Post-race testing program; split urine or split blood samples**

(a) No drug shall be administered or applied, internally or externally, to any horse that is to be sampled after a race until the blood and/or urine samples have been obtained unless permission from the State Veterinarian is obtained.

(b) Every horse to be tested shall be taken to a detention barn, to be supplied by the association in accordance with specifications set forth by the Commission. All blood samples shall be taken by a State Veterinarian while urine samples shall be secured by the State Veterinarian or a chemical inspector of the Commission at the direction of the State Veterinarian.

(c) During the taking of any blood and/or urine sample by the veterinarian representing the Commission, from the horse entered to race, the owner, trainer, or their designated representative shall be present and witness the procedure. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission and the evidence of such sealing shall be indicated by the signature of such owner, trainer or representative. It shall be the obligation of the owner, trainer or representative to cooperate fully with the State Veterinarian in obtaining any samples which may be required and to attend and witness the taking and securing of such sample.

(d) In order to conduct a post-race test of a horse, the State Veterinarian or a designated employee shall cause one sample of the horse's urine, and one or more samples of the horse's blood to be sent to the testing laboratory designated by the Commission (testing laboratory). Upon completion of testing, any residue portion of the urine or blood sample taken shall be preserved by the testing laboratory as a "split sample" until either it is determined by said laboratory that the primary urine or blood sample is negative for a foreign substance or, if

a foreign substance is discovered in the primary urine or blood sample, for 48 hours following the notification of such finding to the owner and trainer. The owner or trainer, prior to the expiration of such 48-hour time period, may request in writing to the State Steward or Executive Director that the split sample(s) be sent to another laboratory for testing. The laboratory shall be selected by the requesting owner or trainer from a list of eligible laboratories presented to the owner or trainer by the Racing Commission. The list should contain a minimum of three alternative laboratories. Upon being presented with the list of alternative outside laboratories, the owner or trainer requesting the split sample shall have 24 hours to decide which outside laboratory will conduct the test of the split sample. If no request is timely made, upon expiration of either the 48-hour time period to request a split sample be tested or the 24-hour time period to select an outside laboratory, the testing laboratory shall properly dispose of any and all split samples and the findings of its testing shall be conclusive. If a request is timely made, and if the entire primary sample was consumed during the testing laboratory testing process, the results of the testing laboratory testing on the primary sample shall be conclusive. If a request is timely made, an outside laboratory is timely selected, and a split sample remains, the testing laboratory shall cause the split sample or portion thereof to be delivered to the selected outside laboratory for testing. If the outside laboratory confirms substantially the testing laboratory findings, or if the split sample was not of sufficient quantity for the outside laboratory to conduct valid testing or to reach a valid testing conclusion, the findings of the testing laboratory shall be considered conclusive. If the outside laboratory testing does not confirm substantially the testing laboratory findings, any outstanding allegation or finding that the foreign substance in question was in the horse's system at the time of the subject race shall be dismissed. If the testing laboratory detects a foreign substance at a level that is at or above a threshold established in this chapter, the overage shall be deemed confirmed if the outside laboratory confirms the presence of that foreign substance in the split sample at any level. The owner or trainer requesting the testing of any split sample shall bear all costs related to the shipment and testing of same by the outside laboratory. The owner or trainer shall pay these costs at the time he or she selects which outside laboratory will test the sample. Failure of the owner or trainer to provide payment at the time he or she selects which outside laboratory will conduct the test of the split sample shall constitute a waiver of all rights to split sample testing. The timely submission by an owner or trainer of a request for split sample testing shall not result in a deferral or suspension of the implementation of the procedures set forth in N J A C 13 71-23 5.

(e) Nothing contained in (d) above shall be interpreted to preclude the State Steward from initiating the procedure set forth in N J A C 13 71-23 5 upon notification of a positive urine or blood test by the Racing Commission laboratory, or to preclude the holding of an initial hearing with respect to an alleged violation of this subchapter where a request for testing of the split sample has been timely made and the results of testing by the outside laboratory are pending. However,

where in such circumstances an appeal of any initial determined violation is filed pursuant to N J A C 13 71-3 4, a stay of any ordered penalty notwithstanding the provisions of N J A C 13 71-3 8 shall be issued pending receipt of the results of the outside laboratory testing. In the event the Board of Judges determines in such case that the outside laboratory does not confirm substantially the Racing Commission laboratory findings, and the determined violation is therefore dismissed pursuant to (d) above, any allegation or determination of a violation as a result of any search initiated pursuant to N J A C 13 71-23 5 shall not be affected.

Amended by R 1999 d 99, effective April 5, 1999  
See 30 N J R 3759(a), 31 N J R 888(a)

Added (d) and (e)

Amended by R 2001 d 356, effective October 1, 2001  
See 33 N J R 2018(a), 33 N J R 3453(a)

Rewrote (d), in (e), substituted "23 5" for "3 8" preceding "shall not be affected"

Amended by R 2012 d 068, effective April 2, 2012  
See 43 N J R 2987(a), 44 N J R 1122(a)

Section was "Post-race testing program, split urine sample" In (d), inserted ", or one or more samples of the horse's blood where the testing protocol is based on blood testing (hereinafter 'blood sample'),", inserted "or blood" throughout, and updated the N J A C reference, and in (e), inserted "or blood" and substituted "circumstances" for "circumstance"

Amended by R 2018 d 158, effective August 20, 2018

See 50 N J R 1031(a), 50 N J R 1901(b)

Rewrote (d)

### 13:71-23.5 Procedure following positive chemical analysis

(a) On receiving written notice from the official chemist that a specimen has been found "positive" for any drug or substance foreign to the natural horse, the steward shall proceed as follows

- 1 He or she shall notify the State Police and authorize a search of the premises occupied by the stable involved
- 2 He or she shall, as quickly as possible, notify the owner and trainer of the horse involved
- 3 He or she shall, with the assistance of the State Police, conduct a thorough investigation, interviewing the trainer, assistant trainer and any other persons who may have pertinent knowledge of the circumstances involved
- 4 During the progress of such investigation, the stable involved shall be permitted to race, save that the particular horse (or horses) involved shall not be entered or start until allowed to do so by the judges. In no event shall such a prohibition extend beyond seven days unless the stable has failed to provide all due cooperation to the Judges in the course of such investigation

#### Case Notes

Rule cited as example of Commission's reliance on conventional law enforcement services, denial of groom's license held arbitrary as the Rehabilitated Convicted Offender Act applies to Commission's licensing function (citing former N J A C 13 71-23 17) *Maietta v New Jersey Racing Commission*, 183 N J Super 397, 444 A.2d 55 (App Div 1982), affirmed 93 N J 1, 495 A 2d 295 (1983)

### 13:71-23.6 Trainers

(a) A trainer shall be the absolute insurer of and is responsible for the condition of a horse within his care and custody

(b) A trainer shall not enter or start a horse that has in its body any drug or substance foreign to the natural horse except as otherwise provided for in these rules and regulations

(c) A trainer has the duty to be familiar with the medication rules of this Commission and with any drug or substances foreign to the natural horse administered to said horse at his direction or while in his care and custody

(d) The trainer, owner, veterinarian, groom or other person charged with the custody, care and responsibility of a horse are all obligated to protect and guard the horse against administration of any drug or substances foreign to the natural horse, except as otherwise provided for in these rules and regulations by any unauthorized individual, and the administration of any unauthorized drug or substance foreign to the natural horse by any person

#### Case Notes

District court would abstain from reaching merits of harness racehorse trainers' applications for stays of orders *Bongiorno v Lalomia*, D N J 1994, 851 F Supp 606, affirmed 39 F 3d 1168

Fines and suspension of licenses and privileges for extended periods ranging from 30 months to 66 months, based on findings that trainers' horses had tested positive for drugs were not arbitrary, capricious, unreasonable, principles of "trainer responsibility" and "no medication" were clearly established in law and commission had authority to protect integrity of horse racing *New Jersey Racing Comm'n v Elliot*, 290 N J Super 140, 675 A 2d 243 (A D 1996)

ALJ rejected a challenge of a trainer to a \$1000 fine imposed on him after a post-race drug test of a horse under his care revealed the presence of cocaine and benzoylecgonine (BZE). Even though the source of the contamination was a groom who had used cocaine earlier in the day, the trainer was properly fined because applicable rules imposed strict liability on a trainer for any contamination regardless of the actual source, and a \$1000 fine was appropriate under these facts *Harrison v N J Racing Comm'n*, OAL DKT NO RAC 03001-18, 2019 N J AGEN LEXIS 78, Initial Decision (January 30, 2019)

Horse-trainer's claim that the N J Racing Commission had a duty to show scientifically that the alleged drug or drugs that was found in the blood of horses trained by him enhanced the horses' performance was rejected because N J imposed strict liability on a trainer when prohibited drugs were found in a horse trained by them without regard for the impact, of the prohibited substance, on a horse's performance. Such liability was properly imposed where, as here, a trainer claimed but did not prove a defect in the chain of custody of the samples on which the Commission relied. Not only was the trainer properly suspended and fined but the horses properly were disqualified from sharing in any purses *Watson v N J Racing Comm'n*, OAL DKT NO RAC 12951-16, 2018 N J AGEN LEXIS 230, Initial Decision (April 2, 2018)

Even though it was established that a post-race drug test performed on a urine sample taken from a horse trained by a licensed trainer contained trace amounts of dextropropion, the evidence tended to show that the presence thereof resulted from environmental contamination. Moreover, the low level of the drug, which was not a performance-enhancing drug, as found in the urine only tended to show that the trainer did not administer the drug to the horse. On these facts, the Racing Commission did not show that the 15-day suspension imposed as a penalty was appropriate and the suspension was rejected by an ALJ as disproportionate to the offense *Fanning v N J Racing Comm'n*, OAL DKT NO RAC 08693-

2014, 2017 N J AGEN LEXIS 895 Initial Decision (December 22, 2017)

Determination by the Board of Judges of the N J Racing Commission suspending a trainer for 15 days and fining him for violating certain regulations governing medication and trainer responsibility was approved by an ALJ on findings that it was not necessary to show that the challenged medication was administered to the horse while it was in the custody of the trainer nor that the trainer knew or suspected the existence of a foreign substance in the horse's system because the regulation at issue imposed strict liability regardless of individual knowledge or fault *Ford v N J Racing Comm'n*, OAL DKT NO RAC 06047-15, 2017 N J AGEN LEXIS 656, Initial Decision (August 28, 2017)

Preponderance of the credible evidence supported the determination of the Board of Judges for the N J Racing Commission that methylprednisolone was present in a horse that was the responsibility of a horse trainer and that the trainer thus was properly found in violation of governing regulations. Moreover, such violations were detrimental to the sport of racing and afforded grounds for the imposition of a suspension and/or a fine. On all of the facts herein, the imposition of a 15 day suspension, a \$500 fine and an order disqualifying the horse and recovering the purse was reasonable and appropriate *Auciello v N J Racing Comm'n*, OAL DKT NO RAC 13638-14, 2016 N J AGEN LEXIS 764, Initial Decision (September 6, 2016)

Horse trainer's license was properly suspended for a one-year period by reason of the trainer's failure to assure that his horse was protected from exposure to banned substances, in this case methylhexanamine. The fact that the trainer insisted that he did not know how the exposure occurred was itself proof that he had not complied with the regulatory requirement that he protect and guard his horses against the administration of any drugs and other foreign substances. The imposition of the suspension was also appropriate given the fact that the trainer was absolute insurer of and was responsible for the condition of a horse within his care and custody. Under these facts, both the imposition of a fine and the imposition of a one-year suspension of his license were appropriate. *Wisher v N J Racing Comm'n*, OAL DKT NO RAC 15445-13, 2015 N J AGEN LEXIS 269, Initial Decision (April 30, 2015)

Licensed horse trainer and two licensed horse grooms generally admitted that they had engaged in wrongdoing in connection with the injection, into two race horses, with foreign substances, and thus had engaged in conduct detrimental to racing, had violated the intent of medication rules and trainer responsibility rules, had possessed drugs or drug paraphernalia and had conspired to commit the violations. After the N J Racing Commission (NJRC) imposed a five-year suspension and a \$5000 fine against the trainer and a five-year suspension and a \$5000 fine against the groom (groom 1) who was the son of the trainer while imposing a one-year suspension and a \$1000 fine against the other groom (groom 2), review of the penalties was undertaken. Given the nature of the behavior of the trainer and groom 1 in actually participating in the administration of the injections, taken with their disciplinary histories, the suspensions and fines imposed by the NJRC were appropriate. However, groom 2 had a significantly lesser role in the prohibited activities, apparently limited to holding the trailer door open. That being so, groom 2 was properly suspended for one year and fined \$250. *Callahan v N J Racing Comm'n*, *Callahan v N J Racing Comm'n*, *Hollingsworth v N J Racing Comm'n*, OAL DKT NO RAC 05328-14, OAL DKT NO RAC 05333-14, OAL DKT NO RAC 05336-14 (Consolidated), 2015 N J AGEN LEXIS 191, Initial Decision (March 16, 2015)

Administrative Law Judge found no merit in a claim by a horse trainer that he was not properly disciplined by the Board of Judges of the New Jersey Racing Commission after a blood test of a horse trained by him disclosed an excess of the permitted level of the anabolic steroid testosterone in violation of N J A C 13 71-23 16. Even if there was truth to the trainer's argument that the heightened levels had been caused by the proximity of the horse, an intact male, to female horses, N J A C 13 71-23 6 imposed strict liability on the trainer. *Rence Allard v N J Racing Comm'n*, OAL Dkt No RAC 8577-11, AGENCY No NJRC-12-H-11-MD, 2013 N J AGEN LEXIS 328, Initial Decision (December 20, 2013)

ALJ erred in finding that a petitioner had established his suitability to be licensed in the capacity of driver/trainer because, even if petitioner was not personally responsible for inducing a horse's high Base Excess/TCO2 levels during a quarantine in Delaware, petitioner failed to carry out his duties as a trainer to protect the horses within his custody and control, as evidenced in petitioner's attempt to exculpate himself by testifying that anyone had access to the horse that day and could have "milkshaked" her, petitioner was strictly liable to protect and guard the horse against the administration of any drug or substances foreign to the natural horse (rejecting 2008 N J AGEN LEXIS 888) *Height v N J Racing Comm'n* (On Remand), OAL Dkt No RAC 02359-08S, 2009 N J AGEN LEXIS 854, Final Decision (March 4, 2009)

Initial Decision (2005 N J AGEN LEXIS 440) adopted, which concluded that horse trainer was properly suspended for 30 days for positive drug test of horse (for Ketorolac) and disqualification of horse sharing in purse also proper where trainer merely testified that he had no idea how the horse came up positive, and upon stay of his suspension pending hearing, he failed to respond to certifications by Commission. *Carter v N J Racing Comm'n*, OAL Dkt No RAC 629-05, 2005 N J AGEN LEXIS 1477, Final Decision (November 16, 2005)

Trainer who set own period of suspension without proper authorization must serve additional suspension. *Riegle v New Jersey Racing Commission*, 97 N J A R 2d (RAC) 2

Licenses of four trainers whose horses tested positive for fenspiride were suspended for 18 months for first occurrence and 12 months for each subsequent occurrence. *New Jersey Racing Commission v Elliot*, 96 N J A R 2d (RAC) 31

The Racing Commission has decided, through rulemaking, to exercise strict control over the use of narcotics. *Maietta v New Jersey Racing Commission*, 93 N J 1, 459 A 2d 295 (1983)

Horse trainers were properly suspended for unknowingly giving horses feed containing caffeine. *Capone v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 22

Horse trainer, race horses, suspension. *DeVitis v New Jersey Racing Commission*, 94 N J A R 2d (RAC) 55

Trainer suspended after the horse was discovered to have a foreign substance in its system. *New Jersey Racing Commission v Janis Gianforte*, 94 N J A R 2d (RAC) 49

Trainer violated responsibility rule, illegal drug. *New Jersey Racing Commission v Rubin*, 94 N J A R 2d (RAC) 17

Post-race test finding of buprenorphine, trainer suspended. *Caltagione v New Jersey Racing Commission*, 92 N J A R 2d (RAC) 7

### 13:71-23.7 Penalties

(a) Should the judges determine that any person or persons have violated any section of this subchapter, they may punish the offending party consistent with the penalties provided for in these rules and regulations.

(b) In addition thereto, the judges may penalize the owner of any horse, or any entry of which said horse is a part, that has started in any race with any drug or substance foreign to the natural horse in its body by disqualification and denial of any part of the purse with redistribution of purse moneys as in the case of a disqualification.

(c) Any individual suspended or disciplined in any fashion for multiple violations of this subchapter or any comparable rule of any other racing commission or turf governing body shall be deemed a repeat offender and shall be subject to enhanced penalties pursuant to RCI Model Rule ARCI-025-020B(13), Multiple Medication Violations (MMV) (version 5.7, Approved April 9, 2014), which is incorporated herein by reference, as amended and supplemented, or as otherwise ordered by the Commission or its Board of Judges (see N.J.A.C. 13:71-8). RCI Model Rule ARCI-025-020B(13), Multiple Medication Violations (MMV) may be accessed at [http://ua-rtip.org/sites/ua-rtip.org/files/Harness%20Racing%20Chapters%20\(19-25\).pdf](http://ua-rtip.org/sites/ua-rtip.org/files/Harness%20Racing%20Chapters%20(19-25).pdf). The Commission may, at its discretion, consider evidence of compliance with the guidelines set forth in the "Dosing Specifications" and "Withdrawal Guideline" columns of the Schedule as mitigating factors, when appropriate, in determining the penalty to be imposed for a violation of the levels listed in the "Threshold" column.

(d) Horses owned wholly or in part by persons suspended for violations of this subchapter or any comparable rule of any other racing commission or turf governing body are ineligible to start during the period of such suspension or as ordered by the Commission or its judges, unless sold to a bona fide purchaser (see N.J.A.C. 13:71-8). Horses trained by a person suspended for such violations, wherein the trainer does not have an ownership interest, are automatically eligible to start when placed in the hands of a licensed trainer approved by the judges. (See N.J.A.C. 13:71-3 for rules concerning appeals.)

Amended by R 2014 d 164, effective November 3, 2014  
See 46 N.J.R. 1419(a), 46 N.J.R. 2162(a)  
Rewrote (c) and (d)

#### Case Notes

ALJ rejected a challenge of a trainer to a \$1000 fine imposed on him after a post-race drug test of a horse under his care revealed the presence of cocaine and benzoyllecgonine (BZE). Even though the source of the contamination was a groom who had used cocaine earlier in the day, the trainer was properly fined because applicable rules imposed strict liability on a trainer for any contamination regardless of the actual source, and a \$1000 fine was appropriate under these facts. *Harrison v. N.J. Racing Comm'n.*, OAL DKT NO RAC 03001-18, 2019 N.J. AGEN LEXIS 78, Initial Decision (January 30, 2019).

Horse-trainer's claim that the N.J. Racing Commission had a duty to show scientifically that the alleged drug or drugs that was found in the blood of horses trained by him enhanced the horses' performance was rejected because N.J. imposed strict liability on a trainer when prohibited drugs were found in a horse trained by them without regard for the impact of the prohibited substance on a horse's performance. Such liability was properly imposed where, as here, a trainer claimed but did not

prove a defect in the chain of custody of the samples on which the Commission relied. Not only was the trainer properly suspended and fined but the horses properly were disqualified from sharing in any purses. *Watson v. N.J. Racing Comm'n.*, OAL DKT NO RAC 12951-16, 2018 N.J. AGEN LEXIS 230, Initial Decision (April 2, 2018).

Even though it was established that a post-race drug test performed on a urine sample taken from a horse trained by a licensed trainer contained trace amounts of dextroproporphane, the evidence tended to show that the presence thereof resulted from environmental contamination. Moreover, the low level of the drug, which was not a performance-enhancing drug, as found in the urine only tended to show that the trainer did not administer the drug to the horse. On these facts, the Racing Commission did not show that the 15-day suspension imposed as a penalty was appropriate and the suspension was rejected by an ALJ as disproportionate to the offense. *Fanning v. N.J. Racing Comm'n.*, OAL DKT NO RAC 08693-2014, 2017 N.J. AGEN LEXIS 895, Initial Decision (December 22, 2017).

Trainer of racehorse whose post-race urine test was positive for both morphine and hydromorphone did not intentionally administer (or allow another to administer) morphine to the horse within 24 hours of the race which it won. Rather, the horse's ingestion of morphine was unintentional and likely a result of contaminated feed. That meant that the penalty imposed by the Racing Commission was too severe and that a penalty of a 15 day suspension and a \$500 fine was more appropriately imposed. *Cassar v. N.J. Racing Comm'n.*, OAL DKT NO RAC 13660-14, 2017 N.J. AGEN LEXIS 221, Initial Decision (April 20, 2017).

Initial Decision (2008 N.J. AGEN LEXIS 756) adopted, which determined that appropriate penalty for positive drug test (for Propranolol Bromide) was suspension of 90 days and fine of \$2,500, not the increased penalty of one year and \$5,000 imposed by the Racing Commission. *Synneffias v. N.J. Racing Comm'n.*, OAL Dkt No RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008).

#### 13:71-23.8 Administering medication to respiratory bleeders; standards for the administration of non-steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications; environmental contaminants

(a) The Board of Judges may permit the administration of medication to control respiratory bleeding under the following conditions:

1. Furosemide may be administered intravenously to a horse which is entered to compete in a race to control respiratory bleeding. Administration of furosemide shall be permitted only after the State Veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

1. After the horse's licensed trainer and a licensed, practicing veterinarian determine that it would be in the

horse's best interests to race with furosemide they shall notify the State Veterinarian or his or her designee, using the prescribed form provided by the Racing Commission, that they wish the horse to be put on the Furosemide List,

ii The form must be received by the State Veterinarian or his or her designee no later than the time of entry to ensure public notification prior to race participation,

iii A horse placed on the Furosemide List must remain on that list unless the licensed trainer and a licensed, practicing veterinarian submit a written request to remove the horse from the List. The request must be made to the State Veterinarian or his or her designee, on the proper form, no later than the time of entry, and

iv After a horse has been removed from the Furosemide List the horse may not be placed back on the List for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the State Veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days,

2 The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is utilized

i Furosemide shall be administered at the direction of the State Veterinarian no less than four hours prior to post time for the race for which the horse is entered,

ii A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified in (a)2i above,

iii The dose administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg),

iv Furosemide shall be administered by a single, intravenous injection only,

v After treatment, the horse shall remain in the detention barn or other designated area in the care, custody and control of its trainer or the trainer's designated representative under association and/or Commission security supervision until called to the saddling paddock, and

vi Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges, or

3 The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is not utilized

i Furosemide shall be administered no less than four hours prior to post time for the race for which the horse is entered,

ii The furosemide dosage administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg),

iii Furosemide shall be administered by a single, intravenous injection,

iv The trainer of the treated horse shall cause to be delivered to the State Veterinarian, no later than one hour prior to post time for the race for which the horse is entered, the following information, on a form provided by the Racing Commission

(1) The name of the horse, racetrack name, and the date and time the furosemide was administered to the entered horse,

(2) The dosage amount of furosemide administered to the entered horse,

(3) The printed name and signature of the attending licensed, practicing veterinarian who administered the furosemide, and

(4) The signature of the trainer or his or her representative, and

v Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges

4 The use of furosemide shall be permitted for horses on the furosemide list, under the following circumstances, on the grounds of any licensed off-track stabling facility approved by the Racing Commission as provided in (a)5 below

i Furosemide shall be administered no less than four hours prior to post-time for the race for which the horse is entered,

ii The furosemide dosage administered shall not exceed 500 milligrams per horse (500mg) nor be less than 150 milligrams per horse (150mg),

iii Furosemide shall be administered by a single intravenous injection,

iv The trainer of the treated horse shall cause to be delivered to the State Veterinarian, no later than two hours prior to post-time for the race which the horse is entered, the following information, on a form provided by the Racing Commission

(1) The name of the horse, off-track facility name, and the date and time the furosemide was administered to the entered horse,

(2) The dosage amount of furosemide administered to the entered horse,

(3) The printed name and signature of the attending licensed, practicing veterinarian who administered the furosemide, and

(4) The signature of the trainer or his or her representative, and

v Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges

5 An application of a licensed off-track stabling facility, seeking Racing Commission approval to offer the administration of Lasix® at its facility, shall be in writing. In its written application to the Racing Commission, the burden shall lie with the off-track stabling facility to demonstrate by clear and convincing evidence that the administration of Lasix® at the off-track stabling facility will be accomplished in a manner consistent with maximum security and maximum integrity concerns. Within 90 days of its receipt of such application of a licensed off-track stabling facility, the Racing Commission at a public meeting and in its discretion shall determine whether or not to authorize the administration of Lasix® at the facility. In making such a determination, the Racing Commission will consider the suitability of the off-track stabling facility for the administration of Lasix®. In approving an off-track stabling facility for the administration of Lasix®, and at cost to the off-track stabling facility, the Racing Commission may impose such conditions as it deems appropriate, which may include, but not be limited to

i Requirements designed to enhance security and integrity concerns of the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur,

ii A requirement that the off-track stabling facility install video and audio equipment to enable the Racing Commission to monitor in real-time any Lasix® administrations and activity in the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur,

iii A requirement that the off-track stabling facility install video and audio recording equipment suitable to record any Lasix® administrations and activity in the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur,

iv The presence at the off-track stabling facility of suitable facsimile, computer hardware and computer software to insure proper recordkeeping and transmission of data to the Racing Commission concerning Lasix® administrations at the off-track stabling facility, and

v Requirements that the equipment necessary for the administration of Lasix® to racehorses be present and be properly maintained at the off-track stabling facility

6 If a horse is approved to receive Furosemide, the use of aminocaproic acid (AMICAR® injectable only) as an adjunct bleeder medication may be co-administered by a licensed veterinarian only when the horse receives Furosemide Dose AMICAR® injectable 10 ml (2.5 gram) I V four hours pre-race

i Veterinarians shall report that the horse was co-treated with AMICAR® on the Furosemide medication slip

ii The administration of AMICAR®, pursuant to this paragraph, is only approved through December 31, 2007

(b) The State Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout. Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods

1 For the first incident, the confirmed bleeder will be ineligible to race for 14 days,

2 For the second incident, the confirmed bleeder will be ineligible to race for 30 days,

3 For the third incident, the confirmed bleeder will be ineligible to race for 180 days, and

4 For the fourth incident, the confirmed bleeder will be barred from racing for its lifetime

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. All horses on the Bleeder List who are eligible to race shall be administered furosemide before they can race. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by (b) above. A horse may be recommended for removal from the Bleeder List only on the direction of the licensed, practicing veterinarian, who shall certify in writing to the Board of Judges the recommendation for removal. A horse, which has been placed on a Bleeder List in another jurisdiction pursuant to these rules, shall be placed on a Bleeder List in this jurisdiction

(d) Post race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with Lasix® (furosemide) to control respiratory bleeding pursuant to the requirements set forth in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma, or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations must be below the serum or plasma threshold levels authorized in N.J.A.C. 13:71-23.1(b)14. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide is at or above the permitted serum or plasma threshold concen-



trations authorized in N J A C 13 71-23 1(b)14, or in the event that a post-race analysis of a blood or urine sample reveals no detectable concentration of furosemide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable for the penalties as set forth in (e) below

(e) Should the stewards determine that any person or persons have violated (d) above, they shall punish the offending party as follows

1 A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a warning for the first violation

2 A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a fine not to exceed \$500 00 for a second violation

3 A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be suspended, fined or both for a third violation

4 Repeated violations of (d) above by a trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, for any horse under their care may subject said trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to fine and/or suspension regardless of whether or not the same horse is involved

(f) Notwithstanding anything to the contrary in this section or in N J A C 13 71-23 1, no penalty shall be imposed where on the day of the race, a horse carries in its body either Phenylbutazone or Flunixin, both NSAIDs, under the following conditions

1 The NSAID level is below the permitted serum or plasma threshold levels authorized in N J A C 13.71-23 1(b)14, which are consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered,

2 Phenylbutazone and Flunixin are not to be administered within the 24 hours before post time for the race in which the horse is entered, and

3 The presence of more than one of the approved NSAIDs or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered

(g) In the event post-race testing determines that the threshold levels authorized in N J A C 13 71-23 1(b)14 have been met or exceeded, there is evidence of more than one of the permitted NSAID(s) present or there is evidence of an

unapproved NSAID, the Board of Judges shall penalize the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, as follows, regardless of whether or not the same horse is involved

1 First violation of N J A C 13 71-23 8(f) – \$500 00 fine, loss of purse and 15 day suspension, and

2 Second or subsequent violations of N J A C 13 71-23 8(f) – such fines, suspensions and/or other penalties allowed by this chapter

(h) The following anti-ulcer medications may be administered up to 24 hours prior to the race in which the horse is entered Omeprazole, Cimetidine, Ranitidine, and Sucralfate. In the event a horse tests positive for any of the anti-ulcer medications identified in this subsection, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be subject to the following penalties

1 \$250 00 fine for the first violation,

2 \$500 00 fine and loss of purse for the second violation, and

3 Increased fine, loss of purse and license suspension as deemed appropriate by the Board of Judges for the third and subsequent violations

(i) The following substances may be present in post-race samples as a result of possible environmental contamination from plants that are traditionally grazed or harvested as equine feed or are present from contamination during cultivation, processing, treatment, storage and transportation phases that contribute to contamination

1 Atropine,

2 Dimethyl sulfoxide,

3 Estranediol,

4 Hydrocortisone,

5 Morphine and Metabolites,

6 Salicylic acid,

7 Scopolamine,

8 Strychnine,

9 Testosterone,

10 Theobromine, or

11 Theophylline

(j) If a horse tests positive for one of the substances identified in (i) above, within 10 days of being notified of the positive test, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, may request in writing a hearing before the Board

of Judges for the purpose of determining whether the positive test resulted from environmental contamination as described in (i) above. The trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall have the burden of proof at the hearing. If the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, meet their burden of proof in showing environmental contamination as described in (i) above, the Board of Judges shall consider the environmental contamination as a mitigating circumstance in assessing a penalty.

(k) Regulatory thresholds (the concentration of the drug below which no administrative action is taken) are established for caffeine as 100 nanograms per milliliter (100 ng/mL) of serum or plasma. A positive test which exceeds the regulatory threshold will subject trainers and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to penalties consistent with those permitted by the New Jersey Racing Commission rules.

Amended by R 1988 d 183, effective April 18, 1988.  
See 20 N.J.R. 250(a), 20 N.J.R. 912(c).

Changed time a second time bleeder must remain on respiratory list from three months to 30 days, added third time bleeder to be kept for three months.

Amended by R 1990 d 486, effective October 1, 1990 (operative January 1, 1991).

See 22 N.J.R. 1718(a), 22 N.J.R. 3155(a).

Authorizes the administration of medication in assigned stall instead of detention barn and establishes dosage levels and time requirements recommended by the Association of Racing Commissioners International provides for disciplinary action in the event of excessive drug levels as per post-race testing.

Amended by R 1990 d 575, effective November 19, 1990 (operative January 1, 1991).

See 22 N.J.R. 1233(c), 22 N.J.R. 3500(b).

Provides for the acceptance of certification of respiratory bleeders from racing commissions in other jurisdictions.

Amended by R 1991 d 264, effective May 20, 1991.

See 23 N.J.R. 675(c), 23 N.J.R. 1684(e).

Changed "14 calendar days" to "10 calendar days", changed "three months" to "90 days" in (d).

Amended by R 1992 d 18, effective January 6, 1992.

See 23 N.J.R. 2919(d), 24 N.J.R. 109(a).

Revised (a)2.

Amended by R 1994 d 128, effective March 7, 1994.

See 25 N.J.R. 3105(a), 26 N.J.R. 1240(a).

Amended by R 1995 d 297, effective June 5, 1995.

See 26 N.J.R. 1957(a), 27 N.J.R. 2244(b).

Amended by R 1996 d 445, effective October 7, 1996.

See 28 N.J.R. 3055(a), 28 N.J.R. 4488(b).

Administrative correction.

See 29 N.J.R. 448(b).

Amended by R 1997 d 91, effective February 18, 1997.

See 28 N.J.R. 5057(a), 29 N.J.R. 584(b).

In (a)2, inserted reference to observation by a licensed veterinarian on the racetrack grounds.

Petition for Rulemaking.

See 35 N.J.R. 1456(c), 1741(c), 2755(a).

Petition for Rulemaking, New Jersey Racing Commission, Notice of Action on Petition for Rulemaking Administering Medication to Respiratory Bleeders.

See 38 N.J.R. 1881(a), 1881(b), 2893(b), 2893(c), 4762(c), 4763(a).

Amended by R 2006 d 227, effective June 19, 2006.

See 38 N.J.R. 1396(a), 38 N.J.R. 2727(b).

Section was "Administering medication to respiratory bleeders, standards for the administration of phenylbutazone." Rewrote section.

Amended by R 2007 d 172, effective May 21, 2007.

See 38 N.J.R. 4820(b), 39 N.J.R. 2135(a).

Added (a)4, and in the introductory paragraph of (b), deleted "as observed by the State Veterinarian" following "workout".

Amended by R 2007 d 375, effective December 17, 2007.

See 39 N.J.R. 3280(a), 39 N.J.R. 5365(a).

Added new (a)4 and (a)5, and recodified former (a)4 as (a)6.

Amended by R 2011 d 273, effective November 7, 2011.

See 43 N.J.R. 728(a), 43 N.J.R. 3037(a).

Section was "Administering medication to respiratory bleeders, standards for the administration of non steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications, environmental contaminants" in (f)1, substituted "two" for "five" twice.

Amended by R 2014 d 164, effective November 3, 2014.

See 46 N.J.R. 1419(a), 46 N.J.R. 2162(a).

Rewrote (d), (f), and (g).

#### Case Notes

Rule sets forth the association between the administration of drugs and the need to protect horses from them. *Gallo v New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983).

#### 13:71-23.9 Possession of drugs or drug instruments

(a) No person aside from licensed veterinarians shall have in his possession anywhere within the grounds of any association conducting a race meeting, or anywhere within the confines of a racetrack enclosure, or anywhere within the grounds of any licensed off-track stabling facility, any drugs not possessed in accordance with the laws of the State of New Jersey, nor any contraband drug or unauthorized prescription legend drugs, nor any hypodermic syringes or needles, or any other instrument which may be used for injection, unless the injectable device is possessed for self-administration, and further provided that the individual possessing such device promptly notify the State Steward.

- 1 That he is in possession of such device, and
- 2 Of the chemical substance to be administered.

Amended by R 1993 d 261, effective June 21, 1993.

See 24 N.J.R. 1061(a), 25 N.J.R. 2488(b).

#### Case Notes

While the Racing Commission approved in the main of the factual determinations of an ALJ arising out of a raid on an off-track stabling facility that yielded, inter alia, prohibited items including 30 injectable bottles, 83 single needles and 44 syringes with needles, the Commission expressly rejected the ALJ's conclusion that certain counts were properly merged under the criminal law doctrine of merger for the purpose of determining the proper penalty because the merger doctrine did not apply. Specifically, the possession of impermissible substances and, separately, the possession of instruments of injection were each their own violation. Moreover, the possession of each injectable bottle constituted a separate offense from the possession of prohibited liquids therein. Because each such violation was not a "lesser included offense" of the other violation, the ALJ erred in using the merger doctrine as a basis for a substantial reduction of the penalty. *Depietro v N.J. Racing Comm'n*, OAL Docket No. RAC 11899-18, 2021 N.J. AGEN LEXIS 148, Final Agency Determination (May 21, 2021).

Employee of the owner of a stable which housed race horses was not the "acting trainer" in the absence of the trainer/owner of the facility but simply one of three assistant trainers. Since the employee did not have "care and custody" of the trainer/owner's office, where unauthorized medications were discovered during a surprise inspection, the employee

was not properly disciplined for possessing those unauthorized substances. Nor was he properly disciplined for making a false statement concerning the same to Racing Commission personnel. *Leamon v NJ Racing Comm'n*, OAL DKT NO RAC 06921-18, 2019 NJ AGEN LEXIS 79, Initial Decision (March 1, 2019)

Licensed horse trainer and two licensed horse grooms generally admitted that they had engaged in wrongdoing in connection with the injection, into two race horses, with foreign substances, and thus had en-

gaged in conduct detrimental to racing, had violated the intent of medication rules and trainer responsibility rules, had possessed drugs or drug paraphernalia and had conspired to commit the violations. After the NJ Racing Commission (NJRC) imposed a five-year suspension and a \$5000 fine against the trainer and a five-year suspension and a \$5000 fine against the groom (groom 1) who was the son of the trainer while imposing a one-year suspension and a \$1000 fine against the other groom (groom 2), review of the penalties was undertaken. Given the nature of the behavior of the trainer and groom 1 in actually participating



in the administration of the injections, taken with their disciplinary histories, the suspensions and fines imposed by the NJRC were appropriate. However, groom 2 had a significantly lesser role in the prohibited activities, apparently limited to holding the trailer door open. That being so, groom 2 was properly suspended for one year and fined \$250. *Callahan v NJ Racing Comm'n*, *Callahan v NJ Racing Comm'n*, *Hollingsworth v NJ Racing Comm'n*, OAL DKT NO RAC 05328-14, OAL DKT NO RAC 05333-14, OAL DKT NO RAC 05336-14 (Consolidated), 2015 NJ AGEN LEXIS 191, Initial Decision (March 16, 2015).

Veterinarian's actions in giving a loaded hypodermic syringe to an assistant trainer and instructing him to give an injection to a horse, which horse later died, violated the prohibition, in NJ A C 13 71-23 9, against anyone other than a veterinarian possessing such an item, as did the failure by the veterinarian and the head trainer, who was not even on the property at the time that the injection was given, to file an equine fatality report in compliance with NJ A C 13 71-20 24. While the conduct of all three individuals was detrimental to racing within the meaning of NJ A C 13 71-1 19 and sanctions were properly imposed, the lengthy suspensions imposed by the Racing Commission were too harsh and shorter suspensions were ordered by the Administrative Law Judge. *Henriksen v NJ Racing Comm'n*, OAL Dkt Nos RAC 7539-12, RAC 7540-12, and RAC 7541-12 (Consolidated), 2013 NJ AGEN LEXIS 28, Initial Decision (January 31, 2013).

Initial Decision (2005 NJ AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v NJ Racing Comm'n*, OAL Dkt No RAC 2400-04, 2005 NJ AGEN LEXIS 1476, Final Decision (September 19, 2005).

Horse trainer's abuse of veterinary practices and drugs resulting in horse's death warranted three-year license suspension. *Glemser v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 26.

Possession of chondroitin sulphate, an unclassified substance possession of which is not violative of any State or Federal law, does not violate this rule, possession of hypodermic needle and syringe found to be a violation, rule sets forth the association between the administration of drugs and the need to protect horses from them (citing former NJ A C 13 71-23 12). *Gallo v New Jersey Racing Commission*, 6 N J A R 381 (1983).

### 13:71-23.10 Illegal devices

No electrical, mechanical or other appliance or device other than the ordinary whip shall be applied to a horse at any place on the grounds of any licensed racetrack. Any person so offending shall be suspended by the judges and referred to the Commission for license revocation. Possession of any such device anywhere on the grounds of a licensed racetrack may be punished by fine and/or suspension.

### 13:71-23.11 Narcotics conviction; denial of license

Any person who has been convicted of possession or use of narcotics by any court in the land shall be denied a license or ruled off or both as the Commission may decide.

#### Case Notes

Initial Decision (2005 NJ AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that

trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v NJ Racing Comm'n*, OAL Dkt No RAC 2400-04, 2005 NJ AGEN LEXIS 1476, Final Decision (September 19, 2005).

### 13:71-23.12 Cooperation with other agencies; violations of law

Every association, all officials and employees thereof, and all persons licensed in any capacity by the Commission shall give every possible cooperation, aid and assistance to any department, bureau, division, officer, agent or inspector, or any other person connected with the United States Government or with the State of New Jersey, who may be investigating or prosecuting any matter involving a violation of any law, or any rules or regulations of the Commission.

#### Case Notes

The Racing Commission has decided, through rulemaking, to exercise strict control over the use of narcotics. *Maietta v New Jersey Racing Commission*, 93 N J 1, 459 A 2d 295 (1983).

### 13:71-23.13 State Police; responsibilities

The enforcement of N J S A 5 5-71 and other criminal laws of the State of New Jersey shall be the responsibility of the State Police. Investigation pursuant to the enforcement of N J S A 5 5-71 or other criminal laws of the State shall take precedence over any action taken by the association or the Racing Commission concerning an incident arising from an alleged violation of the provisions of this subchapter. Every association and Racing Commission official and employee shall render full cooperation, aid and assistance in any investigation undertaken for a reasonably apparent violation of N J S A 5 5-71 or other criminal statutes of the State. Further, every association and Racing Commission official and employee, on becoming aware of a reasonably apparent violation of N J S A 5 5-71 or other criminal laws of the State of New Jersey, shall communicate in writing the circumstances of such immediately to the New Jersey Racing Commission and the State Police who shall evaluate same and take whatever further action is deemed necessary.

#### Case Notes

Finding of entrapment by State Police and dismissal of criminal proceedings against jockey applicant did not prevent the use of incriminating evidence at licensing hearing. *Delguidice v New Jersey Racing Commission*, 100 N J 79, 494 A 2d 1007 (1985).

Rule cited as example of Commission's reliance on conventional law enforcement services, denial of groom's license held arbitrary as the Rehabilitated Convicted Offender Act applies to Commission's licensing function (citing former NJ A C 13 71-23 18). *Maietta v New Jersey Racing Commission*, 183 N J Super 397, 444 A 2d 55 (App Div 1982), affirmed 93 N J 1, 459 A 2d 295 (1983).

### 13:71-23.14 Anti-recombinant human EPO antibody testing program

(a) A determination by the Racing Commission Equine Testing Laboratory that a pre-race or post-race blood sample

taken from a horse entered to start in a race pursuant to N J A C 13 71-23 2, or a portion of a post-race blood sample taken from a horse entered to start in a race pursuant to N J A C 13 71-23 2(a) and 23 4(a), is positive for elevated titers of anti-recombinant human EPO antibody, as a result of post-race testing utilizing the anti-recombinant human EPO antibody test, shall result in the following actions by the Racing Commission Board of Judges

1 The Racing Commission State Veterinarian shall be notified of the name of the horse for placement on the Steward's list pursuant to N J A C 13 71-16 8

2 The Racing Commission State Steward shall be notified, and upon such notification, the State Steward shall authorize a search of the premises occupied by the stable involved pursuant to N J A C 13 71-23 5

3 Unless the Board of Judges determine otherwise as a result of a hearing requested pursuant to (a)4 below, the horse shall not be permitted to enter a race or to race until such time as the owner or trainer makes the horse available for retesting by the Racing Commission pursuant to (b) below, and the testing results are determined negative with the anti-recombinant human antibody test. In the event retesting determines that the horse is negative with the anti-recombinant human EPO antibody test, the Board of Judges shall cause the horse to be removed from the Steward's list and the horse shall be eligible to enter races and compete in races

4 The owner and trainer of the horse shall be notified by the Board of Judges in writing of the initial positive test result for elevated titers of anti-recombinant human EPO antibody, that a hearing will be afforded by the Board of Judges, following written request to them, at which hearing the owner and/or trainer of the horse can challenge the validity of the positive results of the Racing Commission Equine Testing Laboratory, and that the horse is not permitted to race until the terms of (b) below are satisfied, unless the results of any requested hearing demonstrates to the satisfaction of the Board of Judges that the horse was negative for elevated titers of anti-recombinant human EPO antibody as a result of the initial anti-recombinant human EPO antibody test. In the latter case, the Board of Judge's shall remove the horse from the Steward's list and the horse shall be permitted to race

(b) An owner or trainer whose horse has tested positive for elevated titers of anti-recombinant human EPO antibody may not request that its horse be retested until 21 days following the date of the initial positive test as reported by the Racing Commission's Equine Testing Laboratory. If any retest of the horse results in a Racing Commission determination that the horse is or remains positive with the anti-recombinant human EPO antibody test, the owner or trainer may not request that its horse be retested again until 21 days following the date of the last positive retest as reported by the Racing Commission's Equine Testing Laboratory. All requests after the initial positive test for the retesting of a horse shall be in writing and directed to the Board of Judges, accompanied by a \$50 00

payment for administrative and testing costs. Following receipt of a timely request for retesting, the production of the horse at a permitted racetrack premises in this State approved by the Board of Judges, and the receipt of the \$50 00 retesting fee, the Board of Judges shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting

(c) Any horse claimed from a race pursuant to N J A C 13 71-14, Claiming, shall have its blood tested for elevated titers of anti-recombinant human EPO antibody. The successful claimant shall have the option to void the claim should the claimed horse test positive with the anti-recombinant human EPO antibody test

(d) A horse which tests positive with the anti-recombinant human EPO antibody test remains subject to the requirements of this rule despite being sold, otherwise transferred, or claimed where the claimant elects not to void the claim as authorized by (c) above

(e) The split sample testing provisions of N J A C 13 71-23 4(d), which is limited to where testing is conducted on a horse's urine sample, shall not be applicable to anti-recombinant human EPO antibody testing conducted pursuant to this section

New Rule, R 2006 d 102, effective March 6, 2006  
See 37 N J R 3793(a), 38 N J R 1323(a)

**13:71-23.15 Out-of-competition testing (on non-race days and on race days pre-race) of racehorses for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents; penalties, procedures, and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of out-of-competition testing; penalties, procedures, and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of post-race blood sample testing (on race days) conducted pursuant to other provisions of this chapter**

(a) The presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents in the racehorse is deemed adverse to the best interests of harness racing, and adverse to the best interests of the racehorse in that such condition alters its normal physiological state. Accordingly, in addition to such substances being prohibited from being present in the body of a racehorse on race day pursuant to N J A C 13 71-23 1 and 23 4, and in addition to elevated titers of anti-recombinant human EPO antibodies being prohibited from being present in the body of a racehorse on race day pursuant to N J A C 13 71-23 14, the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents in any racehorse under the trainership of any licensed New Jersey trainer is hereby prohibited at any location and at

anytime, including days where a race horse is neither entered to or scheduled to participate in a race

(b) Racing Commission representatives may, without prior notice, appear upon off-track stabling facilities and permitted racetrack facilities subject to its jurisdiction, in furtherance of out-of-competition testing, that is, for the purpose of taking blood samples from racehorses on race days (pre-race) or on non-race days to test such samples (on the same date the sample is taken, or on a subsequent date) for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents. Upon arrival at such premises and if present, the Racing Commission shall advise the facility's owner, and the trainer of the racehorse or racehorses from which blood samples are to be taken, of its purpose. Additionally, the Racing Commission State Steward may require that any New Jersey licensed trainer stabled within New Jersey, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 24 hours of a State Steward request, any racehorse under his or her custody and control for out-of-competition testing. Additionally, the State Steward may require that any New Jersey licensed trainer stabled outside this State, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 48 hours of a State Steward request, any racehorse under his or her custody and control (which racehorse or racehorses competed in New Jersey in the same calendar year of the request, or which racehorse was intended or is intended to compete in New Jersey in the calendar year of the request), for out-of-competition testing. The State Steward may, in his or her discretion, and for good cause shown, extend these time frames for a trainer's requested production of the horse at a permitted New Jersey racetrack. In the event of the failure of any licensed New Jersey trainer or agent thereof to timely produce a racehorse for out-of-competition testing at a permitted racetrack facility as requested by the State Steward, or in connection with the Racing Commission's appearance on a premises subject to its jurisdiction for such purpose, the penalties set forth in (e) below shall be imposed upon the trainer and any responsible person where said failure to produce the horse is due to non-cooperation. Also, in the event of such non-production of a horse due to the non-cooperation of the trainer and any other responsible person, the ineligibility restrictions as to the racehorse subject of the request for production, as set forth in (f) below, shall be imposed.

(c) In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of out-of-competition testing, the following actions shall be taken by the Racing Commission Board of Judges

1 The Racing Commission State Steward shall be notified, and upon such notification, the State Steward shall authorize a search of the New Jersey premises occupied by the stable pursuant to N J A C 13 71-23 5,

2 The State Steward shall cause the horse to be immediately placed on the Steward's list pursuant to N J A C 13 71-16 8 (thereby rendering the horse ineligible to compete), pending the conduct of a hearing by the Board of Judges,

3 The owner and trainer of the horse shall be notified in writing by the Board of Judges, by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission, of the initial out-of-competition testing result and of the horse's placement on the Steward's list pending the conduct of a hearing by the Board of Judges. The writing shall further set forth, in a designated space, the date it was mailed or personally served by the Board of Judges, and

4 The Board of Judges shall schedule a hearing, by written notice to the trainer and any other responsible person, which hearing notice sets forth the alleged violations of the Racing Commission's rules, as well as the date and time of the hearing. The hearing notice may be incorporated into the written notice provided pursuant to (c)3 above. Where the owner of the horse is not a subject of the hearing, the owner shall be provided a copy of the notice of hearing as an interested party. The written notice of hearing shall be by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission.

(d) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, the trainer of the horse subject of the violation shall, within five days of the issuance of the related ruling, provide the State Steward with \$2,000 as reimbursement to the Racing Commission for the administrative and testing costs associated with the initial positive test. In the event the positive test result finding is appealed, and in the event such appeal results in a final determination that no violation was committed, the \$2,000 shall then be returned to the trainer.

(e) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, the license of the trainer, as the absolute insurer of the horse pursuant to N J A C 13 71-23 6, and any other responsible person, shall be suspended by the Board of Judges for 10 years for a first violation. In addition, said trainer and any other responsible person shall be fined \$50,000 for a first violation, and shall be prohibited from appearing upon or at any premises subject to the Racing Commission's jurisdiction for the 10-year license suspension period. For a second violation, the penalty of license revocation shall be imposed. A person whose license has been revoked, as a result of a violation of this section, shall permanently be prohibited from licensure in any capacity and from appearing upon or at any premises subject to the jurisdiction of the Racing Commission. Where a violation of this section is determined, the ineligibility period as to the horse, as set forth in (f) below, shall also be imposed by the Board of Judges. Such ineligibility period shall be calculated to begin running on the date the horse was placed on the Steward's list pursuant to (c)2 above. Where no violation is determined, as a result of the conduct of a hearing by the Board of Judges, the horse shall be promptly removed from the Steward's list and shall then be eligible to compete in racing.

(f) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, a horse determined to test positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent shall be ineligible to compete in racing in this State for a period of 120 days. Following said 120 day period of ineligibility, the horse which tested positive shall continue to be ineligible to compete in racing in this State until following a written request to the Racing Commission State Steward by the owner or trainer of the horse and the production of that horse for testing (at cost to the requesting party and at a location determined by the State Steward) accompanied by a \$2,000 payment for administrative and testing costs payable to the Racing Commission, the horse is determined by the Racing Commission to test negative for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, and said horse is determined by the Racing Commission to test negative for elevated titers of anti-recombinant human EPO antibody, pursuant to the testing methodology set forth at N J A C 13 71-23 14(b). Where such testing results in a determination that the horse either tests positive for presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, or for elevated titers of anti-recombinant human EPO antibody, the owner or trainer may not request that the horse be retested until 21 days following the date of the last positive retest as reported to the Racing Commission by the Racing Commission's Equine Testing Laboratory. In the event of any such retest, and subject to payment of the requisite administrative and testing costs (that is, \$2,000) to the Racing Commission, the horse shall be retested for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, and for elevated titers of anti-recombinant human EPO antibody.

(g) A horse which tests positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of out-of-competition testing, remains subject to the requirements of (f) above despite its being sold, or otherwise transferred.

(h) The split sample testing provisions of N J A C 13 71-23 4(d) shall be applicable to the out-of-competition testing authorized pursuant to this section.

(i) Nothing contained in this section shall be construed to disallow the Racing Commission to conduct post-race blood testing (that is, sampling of a horse's blood on race day following the race, for testing on that same date or on a subsequent date) for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, pursuant to post-race testing otherwise authorized by this chapter. See N J A C 13 71-23 4. In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of post-race testing, the procedures set forth in (c) above, as well as the provisions of (d) though (f) above, shall apply and the penalties, testing costs and horse ineligibility criteria set forth in this section shall therefore be imposed. In the event of such a positive, determined as a result of post-race testing, any purse won by the offending horse would be forfeited pursuant to N J A C 13 71-23 7.

New Rule, R 2007 d 334, effective October 15, 2007

See 39 N J R 2603(a), 39 N J R 4420(b)

Amended by R 2018 d 158, effective August 20, 2018

See 50 N J R 1031(a), 50 N J R 1901(b)

Section was "Out-of-competition testing (on non-race days and on race days pre-race) of racehorses for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of out-of-competition testing, penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of post-race blood sample testing (on race days) conducted pursuant to other provisions of this Chapter" In (h), substituted "shall" for " , which is limited to where testing is conducted on a horse's urine sample, shall not"

#### Case Notes

N J Racing Commission sustained the determination of an administrative law judge that a horse that competed in and won a certain race at a raceway did so in direct violation of N J A C 13 71-23 15 inasmuch as the horse had previously been declared ineligible to race in New Jersey based on a failure to comply with out-of-competition testing rules. That meant that the purse that was awarded on account of that race was properly redistributed. Andrea Ann Hill (Owner), OAL DKT NO RAC 11662-09, Ruling No 11TRH48, 2011 N J AGEN LEXIS 908, Final Decision (November 22, 2011)

#### 13:71-23.16 Anabolic steroids

(a) The administration of anabolic steroids to horses that race shall be a prohibited practice except as authorized in (c) below.

(b) Any horse entered to start at a permitted race meet may be subjected to a blood and urine test in order to identify the presence and/or levels of anabolic steroids.

(c) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following threshold levels in blood plasma:

    Boldenone – 25 picograms/milliliter (25 pg/mL),

    Nandrolone – Females and geldings 25 picograms/milliliter (25 pg/mL),

    Testosterone – Intact male horses 2,000 picograms/milliliter (2,000 pg/mL),

    Females and geldings 25 picograms/milliliter (25 pg/mL) (unless a female is in foal)

For the purposes of this section, "intact male horse" shall mean a male horse that has not been gelded. Male horses other than geldings shall be tested for nandrolone in urine only. See (d) below.

(d) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following threshold levels in urine:

    Boldenone – Intact males 15 nanograms/milliliter (15 ng/mL),

    Females and geldings 1 nanogram/milliliter (1 ng/mL)



Nandrolone – Intact males 45 nanograms/milliliter (45 ng/mL),

Females and geldings 1 nanogram/milliliter (1 ng/mL),

Testosterone – Females 55 nanograms/milliliter (55 ng/mL) (unless in foal),

Geldings 20 nanograms/milliliter (20 ng/mL)

(e) Any blood or urine samples containing one of the three anabolic steroids listed in (c) and (d) above that quantitatively measures above the threshold levels shall constitute a violation of this section. Any samples identifying the presence of more than one of the three permitted anabolic steroids shall constitute a violation of this section regardless of the threshold levels identified in the sample. Any samples identifying the presence of one of the three permitted anabolic steroids, even if it tests at or below the threshold level, shall constitute a violation of this section if the samples also indicate the presence of any other anabolic steroid.

(f) The split sample testing procedures set forth in N J A C 13 71-23 4 in connection with urine samples shall be extended to apply to blood and/or urine samples taken in connection with testing for anabolic steroids.

(g) The trainer is the absolute insurer of the condition of all horses within his or her care and custody. For a first violation of this section, the trainer's license shall be suspended for a 45-day period, he or she shall be ordered to pay an \$1,000 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a second violation of this section, the trainer's license shall be suspended for a 90-day period, he or she shall be ordered to pay a \$2,500 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third violation of this section, the trainer's license shall be permanently revoked and he or she shall be permanently denied the privileges of all grounds subject to the jurisdiction of the Commission.

(h) In addition to the liability of the trainer, any person licensed in any capacity by the Commission who is involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to the penalties up to or equal to penalties set forth for trainers in (g) above. Persons not licensed by the Commission who have been involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to penalties as determined by the Commission.

(i) Upon determining that a violation of this section occurred, the tested horse shall be disqualified from the race and denied the purse money, which shall be redistributed in accordance with N J A C 13 71-23 7(b). The horse shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples violating this section were taken. After the 30-day disqualification has been completed, no horse shall be allowed to enter a race or race until such time as the owner or trainer

makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the samples taken.

(j) The trainer of a horse that was claimed outside of the State of New Jersey or purchased in a private sale in any state may request that the claimed horse be tested for the presence of anabolic steroids prior to entering that horse to race in New Jersey. The trainer who requests such testing shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the blood and urine samples consistent with (i) above. A horse that tests in violation of this section shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, the horse shall not be allowed to compete until such time as the trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. Any trainer who fails to request this testing prior to entering a horse claimed outside of the State of New Jersey or purchased in a private sale to race and the horse tests positive for the presence of anabolic steroids in violation of this section, the trainer shall be liable for all penalties set forth in this section.

New Rule, R 2010 d 059, effective April 19, 2010

See 41 N J R 3384(a), 42 N J R 804(a)

Administrative correction

See 43 N J R 1205(a)

Amended by R 2014 d 164, effective November 3, 2014

See 46 N J R 1419(a), 46 N J R 2162(a)

Rewrote (c) and (d)

Amended by R 2018 d 095, effective May 7 2018

See 49 N J R 3336(a), 50 N J R 1224(a)

Rewrote the section

**Case Notes**

Horse trainer was properly fined \$1000 and ordered to serve a 45 day suspension in connection with the determination that a horse for which the trainer was responsible had tested positive for the anabolic steroid testosterone. The determination of responsibility also meant that the trainer was properly denied access to all grounds under the jurisdiction of the Racing Commission for the period of the suspension. *Allard v N J Racing Comm'n*, OAL Docket No RAC 8577-2011S, 2014 N J AGEN LEXIS 890, Final Administrative Determination (January 27, 2014).

Administrative Law Judge found no merit in a claim by a horse trainer that he was not properly disciplined by the Board of Judges of the New Jersey Racing Commission after a blood test of a horse trained by him disclosed an excess of the permitted level of the anabolic steroid testosterone in violation of N J A C 13 71-23 16. Even if there was truth to the trainer's argument that the heightened levels had been caused by the proximity of the horse, an intact male, to female horses, N J A C 13 71-23 6 imposed strict liability on the trainer. *Renee Allard v N J Racing Comm'n*, OAL Dkt No RAC 8577-11, AGENCY No NJRC-12-H-11-MD, 2013 N J AGEN LEXIS 328, Initial Decision (December 20, 2013).

**13:71-23.17 Shock wave therapy**

(a) "Shock wave therapy" shall mean all extracorporeal shock wave therapy or radial pulse wave therapy treatments.

and any other similar treatments determined to pose similar risks by the State Veterinarian

(b) The use of shock wave therapy shall not be permitted, unless the following conditions are satisfied

1 Only licensed veterinarians are permitted to perform shock wave therapy on a horse,

2 Only licensed veterinarians are permitted to possess or use any instrument used to administer shock wave therapy on the grounds of any property over which the Commission has jurisdiction;

3 All shock wave therapy machines must be registered with the Commission Investigative staff shall be granted access to any location housing a registered shock wave therapy machine for the purpose of inspecting the machine,

4 Shock wave therapy cannot be administered to any horse currently entered in a race. If a horse is entered, shock wave therapy cannot be administered upon that horse until it is scratched. Should any horse not be scratched at the time shock wave therapy is administered, both the trainer and the licensed veterinarian shall be liable,

5 No horse treated with shock wave therapy shall race for a period of 10 days following treatment with day one beginning on the day after therapy was administered,

6 No horse treated with shock wave therapy shall qualify for a period of four days with day one beginning on the day after therapy was administered,

7 Prior to administering shock wave therapy, a licensed veterinarian must notify the State Veterinarian in writing, via e-mail or fax, which writing shall include the horse's name, the reason for administration of shock wave therapy, the trainer's name, the registration number of the shock wave therapy machine, and the property at which the treatment is performed. This condition does not eliminate the need to ensure the horse is not entered to race prior to administering shock wave therapy,

8 Within 24 hours of administering shock wave therapy, the treating veterinarian shall transmit a "Shock Wave Therapy Treatment Sheet" to the State Veterinarian via e-mail or fax, and

9 Any horse treated shall be placed on the Commission's Shock Wave Therapy List for a period of 10 days from the date of the treatment

New Rule, R.2018 d 097, effective May 7, 2018  
See 49 N.J.R. 1009(a), 50 N.J.R. 1224(b)

**13:71-23.17A Penalties for violating N.J.A.C. 13:71-23.17**

(a) Violations of N.J.A.C. 13:71-23.17, Shock wave therapy, shall result in the following penalties

1 Any person who performs shock wave therapy who is not a licensed veterinarian shall be subject to the following penalties

i A first violation shall result in a minimum suspension of 60 days and a \$5,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to 180 days and a fine up to \$10,000,

ii A second violation shall result in a minimum suspension of 180 days and a \$10,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to one year and a fine up to \$20,000, and

iii A third or subsequent violation shall result in a minimum two-year suspension and a \$20,000 fine. The presence of aggravating factors may result in permanent license revocation,

2 Should any person other than a licensed veterinarian possess a shock wave therapy machine at any racetrack, off-track stabling facility, or other location subject to the jurisdiction of the Commission, the following penalties shall be imposed upon that person

i A first violation shall result in a minimum suspension of 30 days and a \$2,500 fine,

ii A second violation shall result in a minimum suspension of 90 days and a \$5,000 fine, and

iii A third or subsequent violation shall result in a minimum one-year suspension and \$10,000 fine,

3 Should a licensed veterinarian possess an unregistered shock wave therapy machine at any racetrack, off-track stabling facility, or other location subject to the jurisdiction of the Commission, the following penalties shall be imposed upon that veterinarian

i A first violation shall result in a \$1,000 fine for failure to register,

ii A second violation shall result in a \$2,500 fine, and

iii A third or subsequent violation shall result in a minimum 15-day suspension and \$5,000 fine,

4 Should any veterinarian perform shock wave therapy on a horse that has not been scratched from any race in which it is entered, the veterinarian and trainer shall each be subject to the following penalties

i A first violation shall result in a minimum one-year suspension and a \$10,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to three years and a fine up to \$25,000,

ii A second violation shall result in a minimum three-year suspension and a \$25,000 fine. The presence of aggravating factors may result in the imposition of a suspension up to five years and a fine up to \$50,000, and

iii A third or subsequent violation shall result in a minimum five-year suspension and a \$50,000 fine. The presence of aggravating factors may result in permanent license revocation and a fine up to \$100,000.

5 Should any horse treated with shock wave therapy race within 10 days of treatment

1 The owner shall be subject to the following penalties

(1) A first violation shall result in the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 10 days.

(2) A second violation shall result in the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 30 days and shall not be removed in the event of a bonafide transfer of ownership. The same horse need not be involved in both violations in order for the owner to have committed a second violation, and

(3) A third or subsequent violation shall result in the horse being disqualified from the race and any purse money won forfeited. The horse shall also be placed on the Steward's List for a period of 90 days and shall not be removed in the event of a bonafide transfer of ownership. The same horse need not be involved in all violations in order for the owner to have committed a third or subsequent violation, and

11 The trainer shall be subject to the following penalties

(1) A first violation shall result in a suspension for a minimum period of one year and a fine of \$10,000.

(2) A second violation shall result in a suspension for a minimum period of three years and a fine of \$25,000, and

(3) A third or subsequent violation shall result in a suspension for a minimum period of five years and a fine of \$50,000.

6 Should any horse treated with shock wave therapy run in a qualifying race within four days, then the following shall apply

1 The trainer shall be subject to the following penalties

(1) For a first violation, the trainer shall have his or her license suspended for a minimum of six months and fined a minimum of \$1,000;

(2) For a second violation, the trainer shall have his or her license suspended for a minimum of one year and shall be fined a minimum of \$2,500, and

(3) For a third or subsequent violation, the trainer shall have his or her license suspended for a minimum of three years and shall be fined a minimum of \$5,000, and

11 If an owner's horse or horses, cumulatively, are found to have run in a qualifying race within four days of receiving shock wave therapy on three occasions, the horse committing the third violation shall be placed on the Steward's List for a period of 30 days, and

7 A licensed veterinarian's failure to abide by either the pre-notice requirement or the requirement to send a "Shock Wave Therapy Treatment Sheet" within 24 hours shall be subject to the following penalties

1 A first violation shall result in a formal written warning,

11 A second violation shall result in a \$1,000 fine, and

111 A third or subsequent violation shall result in a minimum 15-day suspension and a \$2,500 fine

(b) If shock wave therapy is impermissibly performed upon any horse, the racing of that horse within 10 days or the running of that horse in a qualifying race within four days shall serve to aggravate the penalties imposed in (a)1 or 4 above, respectively, against the offending party who performed shock wave therapy

(c) Any and all penalties assessed against an owner, trainer, veterinarian, or other person for violation of N J A C 13 71-23 17 shall be individually assessed against each particular violator based upon his or her own violation history. For example, the same set of facts may be deemed a third violation against the trainer, a second against the owner, and a first against the veterinarian

(d) Notwithstanding the foregoing, the Judges may punish any person who directed another to violate N J A C 13 71-23 17. The person who directed the violator shall be subject to the same penalties as the offender. This includes, but is not limited to, the principal veterinarian of a veterinary practice, a veterinarian who directs a veterinarian technician or other person to perform shock wave therapy or act in any other way that would violate N J A C 13 71-23 17, a trainer or owner who directs any other party to perform shock wave therapy or act in any way which would violate N J A C 13 71-23 17, or any other person who directs another to violate this rule

(e) Notwithstanding any of the penalties set forth in (a) above, the Judges may punish any other person found to be acting in concert with a person performing shock wave therapy in violation of N J A C 13 71-23 17 by imposing penalties in accordance with the severity of the conduct up to the maximum provided in this section

New Rule, R 2018 d 097, effective May 7, 2018  
See 49 N J R 1009(a), 50 N J R 1224(b)

## SUBCHAPTER 24 AUTHORIZED AGENTS

**13:71-24.1 License**

Each authorized agent must obtain a license from the Racing Commission

**Case Notes**

ALJ concluded that the New Jersey Racing Commission Board was right to find that an individual who was found on the premises of a licensed racetrack was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and having engaged in conduct that was detrimental to racing. Moreover, the individual's refusal to provide his full name to a Board investigator violated regulations that required such persons to cooperate with other agencies as required. *Colasanti v. N.J. Racing Commission*, OAL DKT NO RAC 11895-18, 2019 NJ AGEN LEXIS 1069, Initial Decision (December 20, 2019)

**13:71-24.2 License application**

Application for a license must be filed for each owner represented

**13:71-24.3 Powers of attorney**

If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license, then said application shall be in duplicate and one copy filed permanently with the Racing Secretary

**13:71-24.4 Changes**

Any change must be in writing and filed as above provided

**13:71-24.5 License fees**

The fee for each license shall be \$50.00 as set forth in N.J.A.C. 13:71-7.1. If an agent represents more than one owner, a separate written instrument shall be filed for each owner and the fee paid in each case.

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N.J.R. 3861(a), 22 N.J.R. 667(a)

Fee increased from \$10.00 to \$25.00

Amended by R 1993 d 52, effective January 19, 1993  
See 24 N.J.R. 4023(a), 25 N.J.R. 314(b)

Revised text

**13:71-24.6 Owner's revocations**

Owner's revocations must be filed in writing with the Racing Commission and with the Racing Secretary

**13:71-24.7 Appointment of subagents**

An authorized agent may appoint a subagent only when authorized to do so by the above written instrument and, to be effective, notice of such appointment must be given immedi-

ately in writing to the Racing Commission and the Racing Secretary. Application for a license must be filed for each subagency so created

## SUBCHAPTER 25 VENDORS

**13:71-25.1 Licenses**

All persons, including the employees and agents thereof, who engage in the profession or business of selling, at retail or wholesale, or otherwise disposing thereof, of any kind of merchandise, equipment, drugs or medication for animals or humans, or pharmaceutical horse food or nutrient of any kind, providing that such substances, or the sale or disposition thereof is not otherwise prohibited by law, shall be licensed by and be subject to the jurisdiction of the Racing Commission. All applicants for vendor license shall be recommended by the security officer of the track where application for license is made.

**13:71-25.2 Labelling drugs and medication**

All drugs, medications, pharmaceutical products and any other substances of a similar nature possessed or used within the grounds of a racing association shall at all times bear appropriate labelling displaying the contents thereof

## SUBCHAPTER 26 ILLEGAL PRACTICES

**13:71-26.1 Bribes, gifts and gratuities**

No person shall give, offer or promise, directly or indirectly, either in his own behalf or in behalf of another, any bribe, gift or gratuity in any form, for the purpose of influencing the result of a race, or which would tend to do so, to any person

**13:71-26.2 Offers of bribes**

No person shall accept, or offer to accept on his own behalf or on behalf of another a bribe, gift or gratuity in any form, to influence the result of a race or which would tend to do so. Failure to report such offer of a bribe is a misdemeanor punishable by a fine not exceeding \$1,000, imprisonment for three years, or both

**13:71-26.3 Knowledge of violations**

Any person employed or engaged in racing who shall come into possession of knowledge concerning any violation of the rules of racing or any violation of law in connection with the running of a race shall immediately report the information to the stewards of the meeting for investigation and such action as the case may warrant

**13:71-26.4 False or misleading statements**

No person shall make false or misleading statements to the steward or judges, in the course of an investigation

**Case Notes**

Employee of the owner of a stable which housed race horses was not the "acting trainer" in the absence of the trainer/owner of the facility but simply one of three assistant trainers. Since the employee did not have "care and custody" of the trainer/owner's office, where unauthorized medications were discovered during a surprise inspection, the employee was not properly disciplined for possessing those unauthorized substances. Nor was he properly disciplined for making a false statement concerning the same to Racing Commission personnel. *Leamon v NJ Racing Comm'n*, OAL DKT NO RAC 06921-18, 2019 NJ AGEN LEXIS 79, Initial Decision (March 1, 2019)

**13:71-26.5 Conspiracies**

No person shall conspire with any other person for the commission of, or connive with any other person in any corrupt or fraudulent practice in relation to racing, nor shall he commit such an act on his own behalf

**Case Notes**

Licensed horse trainer and two licensed horse grooms generally admitted that they had engaged in wrongdoing in connection with the injection, into two race horses, with foreign substances, and thus had engaged in conduct detrimental to racing. Had violated the intent of medication rules and trainer responsibility rules, had possessed drugs or drug paraphernalia and had conspired to commit the violations. After the NJ Racing Commission (NJRC) imposed a five-year suspension and a \$5000 fine against the trainer and a five-year suspension and a \$5000 fine against the groom (groom 1) who was the son of the trainer while imposing a one-year suspension and a \$1000 fine against the other groom (groom 2), review of the penalties was undertaken. Given the nature of the behavior of the trainer and groom 1 in actually participating in the administration of the injections, taken with their disciplinary histories, the suspensions and fines imposed by the NJRC were appropriate. However, groom 2 had a significantly lesser role in the prohibited activities, apparently limited to holding the trailer door open. That being so, groom 2 was properly suspended for one year and fined \$250. *Callahan v NJ Racing Comm'n*, *Callahan v NJ Racing Comm'n*, *Hollingsworth v NJ Racing Comm'n*, OAL DKT NO RAC 05328-14, OAL DKT NO RAC 05333-14, OAL DKT NO RAC 05336-14 (Consolidated), 2015 NJ AGEN LEXIS 191, Initial Decision (March 16, 2015)

Tellers at Freehold Raceway violated N J A C 13 71-26 5 when they were willing accomplices to a tax-evading scheme known as ten-percenting. They assisted in the processing and cashing of IRS tickets as depicted in several videos. In addition, one of the tellers violated N J A C 13 71-26 7 by failing to cooperate with the investigative staff of the Racing Commission during their course of the investigation of this matter. *Thomas Turano and Theodore Throckmorton v New Jersey Racing Comm'n*, OAL DKT NOS RAC 600-13 and RAC 601-13 (Consolidated), 2014 NJ AGEN LEXIS 455, Initial Decision (July 30, 2014)

Initial Decision (2008 NJ AGEN LEXIS 1250) adopted, which found that a two-year suspension and \$5,000 fine were appropriate where a horse trainer admitted to serving as a "front" for a suspended trainer. *Grignola v NJ Racing Comm'n*, OAL Dkt No RAC 2913-08, 2008 NJ AGEN LEXIS 1115, Final Decision (October 7, 2008)

Horse trainer's license was properly suspended for four years for serving as "front" for suspended trainer. *Rubin v New Jersey Racing Commission*, 96 N J A R 2d (RAC) 44

**13:71-26.6 Soliciting bets**

No person shall solicit bets on the grounds of an association

**13:71-26.7 Cooperation with other agencies; violations of law**

Every association, all officials and employees thereof, and all persons licensed in any capacity by the Commission shall give every possible cooperation, aid and assistance to any department, bureau, division, officer, agent or inspector, or any other person connected with the United States Government, or with the State of New Jersey, who may be investigating or prosecuting any matter involving a violation of any law, or any rules or regulations of the Commission. Failure to cooperate will subject the person or persons involved to a fine, suspension or both

**Case Notes**

ALJ concluded that the New Jersey Racing Commission Board was right to find that an individual who was found on the premises of a licensed racetrack was properly fined for having violated various regulations governing such facilities including having been present in a paddock therein without a license and having engaged in conduct that was detrimental to racing. Moreover, the individual's refusal to provide his full name to a Board investigator violated regulations that required such persons to cooperate with other agencies as required. *Colasanti v NJ Racing Comm'n*, OAL DKT NO RAC 11895-18, 2019 NJ AGEN LEXIS 1069, Initial Decision (December 20, 2019)

Tellers at Freehold Raceway violated N J A C 13 71-26 5 when they were willing accomplices to a tax-evading scheme known as ten-percenting. They assisted in the processing and cashing of IRS tickets as depicted in several videos. In addition, one of the tellers violated N J A C 13 71-26 7 by failing to cooperate with the investigative staff of the Racing Commission during their course of the investigation of this matter. *Thomas Turano and Theodore Throckmorton v New Jersey Racing Comm'n*, OAL DKT NOS RAC 600-13 and RAC 601-13 (Consolidated), 2014 NJ AGEN LEXIS 455, Initial Decision (July 30, 2014)

Initial Decision (2008 NJ AGEN LEXIS 1250) adopted, which found that a 6-month suspension and \$2,500 fine were appropriate after a horse trainer interfered with an investigation by yelling "go, go, go" to a fellow horse trainer when authorities arrived at the barn. *Grignola v NJ Racing Comm'n*, OAL Dkt No RAC 2913-08, 2008 NJ AGEN LEXIS 1115, Final Decision (October 7, 2008)

**13:71-26.8 Fraud; disqualification**

When a horse is disqualified and there is evidence of fraud or attempted fraud, any other horse in the race owned or controlled by the same interest or trained by the same trainer also may be disqualified

**13:71-26.9 Suspension pending outcome of indictment**

(a) A licensee may be suspended immediately when the licensee is indicted in this State for a crime of the first, second, third or fourth degree or is indicted for a similar crime under Federal law or the law of another state, or Province of Canada law if

1 The charge or charges arise from activity or activities occurring on the grounds of a race association or a licensed farm, or

2 The charge or charges are directly related to the racing industry whether in this State or another jurisdiction

(b) Prior to a suspension under (a) above becoming effective, the licensee must first be apprised in writing of why an immediate suspension is sought, the charges and the general evidence in support of the charges. This notice may be given by personal service or by regular mail or by certified mail, return receipt requested, to the last address for the licensee on record with the Commission

(c) The licensee may request a hearing with a representative of the Commission within 10 days of the date of the written notice of suspension. If no request is made within this time, or such additional time as agreed to by a representative of the Commission or as provided in a negotiated agreement, the suspension issued pursuant to this section shall continue until disposition of the criminal indictment

(d) A suspension pursuant to this section shall not extend beyond the disposition of the criminal complaint or indictment, provided, that where a licensee is convicted of a charge described in (a) above, such suspension shall remain in effect pending further disciplinary action by the Commission

(e) Where any licensee is suspended pursuant to this section, said penalty may be appealed to the Commission and a hearing requested

(f) The hearings before both the Commission's representative and the Commission itself shall be de novo proceedings

(g) Where the suspension is immediate under (a) above, the licensee may seek a stay of said suspension pending a resolution of the charge or charges and/or the Final Decision of the Commission. Any such request shall be in writing and shall be addressed to the Executive Director (or his or her designee) and the Commission

1 Such a request may be denied by the Commission, Executive Director, or his or her designee, where to grant the same would be adverse to the best interests of racing or inimical to the public in preserving the integrity of the sport and in preserving public confidence in the sport

New Rule, R 1991 d 265, effective May 20, 1991  
See 23 N J R 676(a), 23 N J R 1685(a)

## SUBCHAPTER 27 MUTUELS

### Subchapter Historical Note

Petition for Rulemaking Allowing of two forms of pari-mutuel wagering. 37 N J R 1895(a)

Petition for Rulemaking Mutuels 37 N J R 2261(b)

### 13:71-27.1 Supervisor of Mutuels

(a) The Supervisor of Mutuels shall be a Certified Public Accountant of the State of New Jersey. He shall be appointed by the Commission and a rate of compensation set by the Commission that is to be paid weekly by the track association where he serves

(b) The Supervisor of Mutuels shall be represented daily in the mutuel department supervising its operation, determining calculations, overpays and underpays and directing the necessary adjustments to the race totals

(c) He shall investigate all tote and other discrepancies and shall see that corrections are made where warranted

(d) He shall check the machine computation of all daily double, exacta and any other multiple wagering pool

(e) He shall review all necessary computer sheets and have the State appointed verifiers test check the machine calculations of the pay out, breaks, commission and prove each race pool

(f) He shall prepare a daily summary result from the pari-mutuel operations and submit his findings to the Racing Commission. He shall also prepare a seven day financial report and a seven day comparative statistic report for submission to the Commission

(g) He shall, on a daily basis, reconcile the parimutuel daily sales and the track association treasurer's statement with the Racing Commission daily summary of results from pari-mutuel wagering

(h) He shall check on the sellers and cashiers employed by the mutuel department to determine if they are over or short. Any material overages or shortages shall be investigated and reviewed with the director of mutuels and a full report made to the Racing Commission

### 13:71-27.2 Post-time

Post-time of each race shall be set by the manager of the parimutuel department, and shall not be changed after being posted on the odds-board without permission of the steward

**13:71-27.3 Public notice**

Public notice shall be given at the earliest practicable time if a published race is declared off

**13:71-27.4 Number of entrants**

If the number of entrants in an overnight race exceeds the number deemed safe and expedient by the judges, the Racing Secretary shall reduce the number of starters to the proper number by lot

**13:71-27.5 List of eliminated horses**

The Racing Secretary shall keep a list of horses thus eliminated from races, and they are to have precedence in any race of a similar distance and similar conditions for which they may be entered thereafter, when a horse's name appears in the entries and it is also entered for the following day, such entry will be given no consideration on the preferred list. Preference must be claimed at time of entry, and the signed entry must indicate that preference was claimed. The Racing Secretary will adjust no claims which do not comply with this procedure

**13:71-27.6 Also eligible list**

If the entries in an overnight race exceed the acceptable number, as many as two of those that have not been drawn shall also be listed on the entry sheet as "also eligible" to start. After any horse in the body of the race has been excused at scratch time, the horse moving in from the also eligible list shall assume the post-position of the horse so excused. The owner or trainer of any horse on the also eligible list who does not wish to start shall so notify the Racing Secretary prior to scratch time on the day of the race

**13:71-27.7 Dissemination of racing information**

The Racing Commission may in its discretion agree not to make available and direct the track associations not to make available to outside sources, information such as the name of the driver, scratches, substitute races, track conditions, morning line information, equipment changes, weight and any other information it may deem advisable, in order to curtail the illegal activities of bookmakers and to prevent other states from using the results of races run in New Jersey as part of such other state's off-track betting scheme

**13:71-27.8 Odds board**

Each association must maintain an approximate odds board for the purpose of informing the public of the actual wagering on each horse as disclosed by an accurate take-off of the straight pool at the time such odds are posted, and also a final line or flash after the close of wagering, which shall show the final odds on each horse before the finish of the race (No quotation or line shall exceed a total of 129 percent)

**13:71-27.9 Lines**

A copy of the opening line and all additional lines of odds, with percentages figured, as well as amounts of money wagered in the straight pool on each horse at the time each additional line of odds is posted, including the final line, shall be furnished and delivered by the association, immediately following each race, to the supervisor of mutuels duly appointed by the Racing Commission, as its representative in the mutuel department, under authority of the racing law

**13:71-27.10 Payoff prices**

(a) The mutuel manager is held responsible for correctness of all pay-off prices posted on the board

(b) Before the mutuel department of any race track posts the pay-off prices of any pool for any race, the mutuel manager shall require each of the (calculating sheets) computer printout sheets of such race to be proven by the (calculator) computer and the winners verified. Such proof shall show pay-breaks commission, and added together shall show they equal the total pool

(c) All pay-slips are to be checked in (calculating sheet) computer printout sheet as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the (calculator) computer printout sheet before they are released to the public

**13:71-27.11 Ticket sales**

No ticket may be sold after the totalisator has been locked or wagering has ceased

**13:71-27.12 Ticket claims**

(a) Any claim by a person that a wrong ticket has been delivered to him must be made before leaving the mutuel ticket window

(b) No claim shall be considered thereafter and no claim shall be considered for tickets thrown away, lost, changed, destroyed or mutilated beyond identification

(c) Payment of wages will be made only on presentation of appropriate parimutuel tickets

Petition for Rulemaking  
See 35 N.J.R. 278(b), 896(c)  
Petition for Rulemaking  
See 36 N.J.R. 4999(a), 5976(a)

**13:71-27.13 Emergencies**

Should any emergency arise in connection with the operation of the pari-mutuel department not covered by this chapter and an immediate decision is necessary, the manager of the pari-mutuel department shall make a good faith effort to contact and consult with the Supervisor of Mutuels prior to making the decision, and render a full report to the Racing Commission

**13:71-27.14 Advice; horses competing**

The manager of the pari-mutuel department shall be properly and timely advised by the judges, prior to the beginning of wagering on each race, of the horses that will compete in the race

**13:71-27.15 Post time schedule**

Post time of each race shall be set by the manager of the pari-mutuel department, and shall not be changed after being posted on the odds-board without permission of the judges

**13:71-27.16 Entry defined**

When two or more horses run in a race, and are coupled because of common ties, they are called an "entry" and a wager on one of them shall be a wager on all of them

**13:71-27.17 "Field" defined**

When the individual horses competing in a race exceed the numbering capacity of the tote, the highest numbered horse within the capacity of the tote and all horses of a higher number shall be grouped together and called the "field" and a wager on one of them shall be a wager on all of them

**13:71-27.18 Elimination of wagering**

(a) With the approval of the Racing Commission, or its designee, race tracks will be permitted to eliminate place and show wagering on any particular horse or entry in any race. Among the factors to be considered will be the quality of the horse or horses for which the elimination of wagering is sought compared to the quality of the other horses in the race. The request to eliminate place or show wagering shall be made prior to the printing of the program. Once the program is printed, elimination of wagering will not be permitted unless the following occurs

- 1 If less than six wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate show wagering on that race
- 2 If less than five wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate both place and show wagering on that race
- 3 If two or less wagering interests qualify horses to start in a race, the mutuel director shall be permitted to eliminate wagering on that race

(b) The decision to eliminate wagering in (a)1 through 3 above shall be made prior to the opening of mutuel windows for that day's business unless there is a change in the number of wagering interests qualified to start. If a change in the number of wagering interests qualified to start occurs after wagering has begun, the decision to eliminate wagering shall be made immediately at the time the number of wagering interests qualified to start changes

(c) New Jersey racetracks, casino simulcast facilities and the account wagering system may adjust the pari-mutuel pools to eliminate certain forms of wagering on all interstate simulcasts consistent with the pari-mutuel decisions made by the sending track associations in conformance with that state's rules and regulations. Notice of the decision to make adjustments shall be provided to the Racing Commission or its designee prior to accepting wagers on the event

(d) New Jersey racetracks, casino simulcasting facilities and account wagering system may adjust the pari-mutuel pools to eliminate certain forms of wagering on all interstate simulcasts which are being offered by an interstate simulcast facility provided there is a written contractual agreement between the New Jersey racetrack, casino simulcasting facility or account wagering system and the out-of-State venue, allowing the elimination of said wagering pool(s). Notice of the decision to eliminate any wagering pool(s) offered by an interstate simulcasting sending facility shall be provided to the Racing Commission or its designee prior to the printing of the program. Once the program is printed, elimination of wagering will only be permitted consistent with (a) and (b) above

(e) In all cases where wagering is eliminated, race tracks shall inform the public through notification in the program, advertisements, public address system or any other means available

Amended by R 1990 d 185, effective April 2, 1990  
See 21 N J R 3255(a), 22 N J R 1149(b)

Allowed for track associations to bar certain horses from place and show wagering

Amended by R 2006 d 228, effective June 19, 2006  
See 38 N J R 1399(a), 38 N J R 2729(a)

Substituted "racetracks, casino simulcast facilities and the account wagering system" for "race tracks" in (c), added present (d), and recodified former (d) as (e)

**13:71-27.19 Cease wagering**

Wagering shall cease not later than off-time

**13:71-27.20 Ticket-issuing machines closed**

(a) If, for any reason, the pari-mutuel ticket issuing machines are closed during the wagering on a race before off-time, they shall remain closed until after the race

(b) Wagering shall cease on that race, and the payoff for that race shall be computed on the sums then wagered in each pool

(c) In the event the machines are inadvertently closed through some human error, said machines shall be opened only by permission of the stewards

**13:71-27.21 Name and numbers of horses in gate**

If a horse or horses do not start because of a mechanical malfunction, the judges shall promptly notify the manager of



the pari-mutuel department of the same and number of said horse or horses

**13:71-27.22 Written notice of official placement**

At the end of each race, the placing judge shall advise the manager of the pari-mutuel department in writing of the official placement of the horses, and no payoff shall be made until the receipt of such written notice

**13:71-27.23 Basis of payoffs**

Whenever the totalisator fails mechanically, or whenever there is a difference in any pool or pools between the sum total of the wagers on the individual horses as compared with the grand total shown by the totalisator, the association shall compute the pay-off to the public on the basis of the larger of the two amounts (i.e., the sum total of the wagers on the individual horses or the grand total as shown by the totalisator)

**13:71-27.24 Recapitulation of sales**

All monies remaining undistributed following the calculation of all pools shall be paid to the State

**13:71-27.25 Errors in pay-off figures**

(a) If an error is made in posting the pay-off figures on the public board, it shall be corrected promptly and only the correct amounts shall be used in the pay-off irrespective of the error on the public board

(b) If because of mechanical failure, it is impossible to promptly correct the posted pay-off, a statement shall be made over the public address system stating the facts and correction

**13:71-27.26 Overpays or underpays**

Overpays caused by errors of the totalisator shall be paid by the totalisator company

**13:71-27.27 Mechanical breakdowns**

(a) In the event of an irreparable breakdown of the totalisator, or the ticket issuing machines, or both, during the

wagering on a race, the wagering for that race shall be declared closed

(b) The payoff for that race shall be computed on the sums wagered in each pool up to the time of the breakdown

(c) In the event of any totalisator malfunction requiring the totalisator company to purchase any non-issued ticket "lost" in the totalisator computer, the totalisator company shall be permitted to credit losing tickets so purchased to the extent of winning tickets similarly purchased. The proceeds of such winning tickets which exceed any credit for losing tickets shall revert to the State

**13:71-27.28 Excused horses; refunds**

In all cases when a horse has been excused by the judges after wagering has started but before off-time all money wagered on the horse so excused shall be deducted from the pool and be refunded

**13:71-27.29 Horses left at post**

If a horse is left at the post at off-time there shall be no refund, but if one horse or more is prevented from leaving the post at off-time because of any mechanical malfunction, the money wagered on said horse or horses so locked in the gate shall be deducted from the pool and be refunded

**13:71-27.30 No horse finish race**

If no horse finishes in a race, all money wagered on that race shall be refunded

**13:71-27.31 Coupled horses**

If two or more horses in a race are coupled on the same mutuel ticket, there shall be no refund unless all of the horses so coupled are excused before off-time, or all of the horses so coupled are locked in the gate. Discretion is, however, vested in the judges to order a refund wherein a part of an entry in a stake, handicap or futurity is excused before off-time where it is in the public interest to do so. In such an instance the remaining part of the entry shall race for the purse only



**13:71-27.32 Postponed race**

In the case of a race postponed beyond the day originally scheduled, all money wagered on said race shall be refunded

**13:71-27.33 Races declared off; refunds**

If a race is declared off by the judges after wagering begins on that race, all money wagered on that race shall be refunded

**13:71-27.34 No wagers to win**

If a horse wins and there is no money wagered on him to win, the straight pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise, among holders of the show tickets

**13:71-27.35 Place pool apportionment**

If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which has placed first or second

**13:71-27.36 Show pool apportionment**

If no money has been wagered to show on a horse which placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race

**13:71-27.37 One horse finishing race**

If only one horse finishes in a race, the place and show pools shall be apportioned among the holders of place and show tickets on that horse

**13:71-27.38 Two horses finishing race**

If only two horses finish in a race, the show pool shall be apportioned among the holders of show tickets on those two horses

**13:71-27.39 Rulings after display of official sign**

Any ruling of the stewards with regard to the award of purse money made after the sign "Official" has been purposely displayed by the placing judges shall have no bearing on the mutuel pay-off

**13:71-27.40 Copies of reports**

The manager of the parimutuel department shall furnish a copy of all (take-off) computer printout and calculating sheets to the supervisor of mutuels immediately after completion

**13:71-27.41 Payments**

(a) Payments due on all wagers shall be made in conformity with the well established practice of the pari-mutuel system known as the "gross pool pricing" method as defined in N J A C 13 71-4 1, Definitions However, with the prior approval of the Commission, payments due on all wagers maybe made in conformity with the "net pool pricing" method as defined in N J A C 13 71-4 1

1 The Racing Commission shall consider such applications on a case by case basis in the best interest of racing before granting approval for a change in the method of payment

2 The Racing Commission may approve or disapprove, at a public meeting, applications from permitholders for a change in the method of calculating payments All requests must be filed with the Racing Commission a minimum of 30 days prior to a scheduled public meeting and must include the reason and supporting justification for the request

3 The application shall include a certification from the totalisator company confirming the method of calculation has been successfully programmed, tested and conforms with the permitholder's rules of the wager in all respects

4 The application shall include a description by the permitholder of notification provided to the public explaining the impact of net pool pricing

(b) Money wagered on winning tickets is returned in full plus the profits

(c) The practice is to work in dollars and not in the number of tickets

(d) The break permitted by law is deducted in all of the calculations arriving at the payoff prices, that is, the odd cents over any multiple of 10 cents of winnings per dollar wagered are deducted and retained by the licensee, to be paid to the State

(e) Unless contingencies arise not covered herein, the practice shall be noted in N J A C 13 71-27 42 through 27 48

Amended by R 2007 d 331, effective October 15, 2007  
See 39 N J R 2599(a), 39 N J R 4418(a)

Rewrote the introductory paragraph of (a), and added (a)1 through (a)4

**13:71-27.42 Calculating the pay-off in a straight pool**

(a) The Commission authorized by law is deducted from the sum total wagered in the straight pool The balance is called the "net pool"

(b) The amount wagered on the winner is then divided into the "net pool" The quotient thus obtained is the pay-off price on the winner for each dollar wagered, and it includes the dollar wagered on the winner

### 13:71-27.43 Calculating the pay-off in a place pool

(a) The Commission authorized by law is deducted from the sum total wagered in the place pool The balance is called "net pool"

(b) The sum total of the amount wagered in the place pool on the horses placed first and second is deducted from the "net pool" This gives a remainder which is the profits or winnings The said profit is divided into two equal parts that is, between those who wagered, in the place pool, on the winner and those who wagered on the horse that was placed second

(c) Using the amount wagered in the place pool on the winner "to place" as a divisor and one-half of the profits of the place pool, as specified in (b) above, as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the winner "to place"

(d) Using the amount wagered in the place pool on the horse placed second "to place" as a divisor and the other half of the profits as specified in (b) above, as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the second horse "to place"

(e) In each of (c) and (d) above the profit per dollar wagered is the resultant The sums wagered on the horses placed first and second must be returned, therefore, add to the quotient the dollar taken out of the "net pool" in (b) above The result is the pay-off price for each dollar wagered on horses placed first and second in the place pool

### 13:71-27.44 Calculating the pay-off in a show pool

(a) The Commission authorized by law is deducted from the sum total wagered in the "show pool" The balance is called the "net pool"

(b) The sum total of the amount wagered in the show pool on the horses placed first, second and third is deducted from the "net pool" This gives a remainder which is the profit, or winnings The said profit is divided into three equal parts, that is, among those who wagered in the show pool on the winner, the second horse and the third horse

(c) Using the amount wagered in the show pool on the winner "to show" as a divisor and one-third of the profits of the show pool, as specified in (b) above, as a dividend, the quotient thus obtained is the profit per dollar wagered in the show pool on the winner "to show"

(d) Using the amount wagered in the show pool on the horse placed second "to show" as a divisor and one-third of the profits as specified in (b) above, as a dividend, the

quotient thus obtained is the profit per dollar in the show pool wagered on the second horse "to show"

(e) Using the amount wagered in the show pool on the horse placed third "to show" as a divisor and one-third of the profits as specified in (b) above, as a dividend, the quotient thus obtained is the profit per dollar in the show pool wagered on the third horse "to show"

(f) In each of (c), (d) and (e) above, the profits per dollar wagered is the resultant The sums wagered on the horses placed first, second and third must be returned, therefore, add to the quotient the dollar taken out of the "net pool" in (b) above The result is the pay-off price for each dollar wagered on horses placed first, second and third in the show pool

### 13:71-27.45 Calculating the pay-off in dead heats

(a) In the case of a dead heat in the straight pool, the pay-off price shall be figured as in a place pool

(b) In the case of a dead heat for second in the place pool, the winner of the race receives its half share of the profits in that pool, and each of the two horses that dead heat for second receive one-half of the remaining half of the profits

(c) In the case of a dead heat for third or "show" in the show pool, the first and second horses each receive a normal one-third of the profits in that pool, and the two horses that dead heat for third each receive one-half of the remaining third of the profits

(d) Where two or more horses racing for one interest or field horses participate in dead heats, each horse of the entry or field is entitled to his proportionate share of the profits in the pool in which the dead heat occurs and the other pools affected For example where two horses of an entry or field "dead heat" for straight, the straight and place prices are calculated as straight pools and the entry is entitled to two-thirds of the profits of the show pool

(e) Where two or more horses of an entry or field figure in a dead heat, or multiple dead heats in one race, each horse of the entry or field participating gets his proportionate award of the profits in whatever pool, or pools, are affected by the dead heat or dead heats The sum of the total profits, in each pool, for the entry or field is then used as a dividend to calculate the pay-off price for said entry or field in that pool

Amended by R 1990 d 126, effective February 20, 1990  
See 21 N J R 3861(a), 22 N J R 667(a)  
"of" corrected to "or" in (d)

### 13:71-27.46 Exacta

(a) No exacta wagering shall be conducted without permission of the New Jersey Racing Commission The races in which exacta type parimutuel wagering will be permitted shall be only those designated by the Commission and separate pools shall be established therefor

(b) In order to win an exacta, it is necessary for the purchaser of an exacta ticket to select the winning horses and the horse finishing second in the race in which exacta type wagering is permitted. If either of the selections made by the purchaser fails to finish in the position designated by the purchaser when purchasing the exacta ticket then the contract is void except as hereinafter provided.

(c) Should there be a dead heat for first place in an exacta race, holders of tickets on those two horses involved and only those two horses, will share in the exacta pay-off. Should there be a dead heat to place, both horses involved shall share in the pool with the winner of the exacta race.

(d) If no ticket is sold combining the two winners of the exacta, the pool shall then be apportioned equally between

those having tickets including the winner of the race and those having tickets including the horse finishing second in the race in the same manner in which a place pool is calculated.

(e) In the event any horse or horses in the exacta should be excused by the racing official after the horses shall have left the paddock for the post, or after the betting on the exacta has been closed, or should any horse or horses in the exacta be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the exacta pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused from racing.



(f) Entries shall be allowed in an exacta race "Fields" are permitted in an exacta race. If two or more horses in an exacta race are listed as "field" on the same totalisator ticket, there shall be no refunds, unless all the horses so listed are excused before off-time.

(g) In exacta races with a coupled entry or mutuel field, the numbers of the first two horses in order of finish as made official shall constitute the winning exacta combination except that where two or more of these horses are part of the same coupled entry or mutuel field, only the best finishing position attained by the coupled entry or mutuel field shall be considered for exacta payoff purposes and the next best finishing horse or horses, not part of the same coupled entry or mutuel field, shall be determined to comprise the winning exacta combination. Should any horse not part of any coupled entry or mutuel field finish in a dead heat for second place with a horse that is part of the same coupled entry or mutuel field as the first-place finishing horse, the winning exacta combination shall consist of the first-place coupled entry or mutuel field with said dead heated horse.

Amended by R 1995 d 660, effective December 18, 1995  
See 27 N J R 3763(a), 27 N J R 5032(c)

### 13:71-27.47 Daily double

(a) Before off-time of the second half of the daily double there shall be posted on the public board, readable from the stands, the pay-off each combination coupled with the winner of the first half of the daily double.

(b) In the event of a dead heat for the straight pool in the first half of the daily double, or the event of a consolation pool, it shall not be deemed necessary to compute and post the actual pay-off prices on all the various combinations of the daily double before the running of the second half of the double. However, an effort should be made to compute the double prices and to announce them to the public over a loud-speaker system prior to the running of the second half of the double.

(c) The daily double is not a parlay. All tickets on the daily double will be calculated in an entirely separate pool.

(d) The principle of a daily double is in effect a contract by the purchaser of a daily double ticket to pick (select) the winners of each of the two races specified for the daily double.

(e) If the purchaser of a daily double ticket fails to pick the winner of the first half of the daily double, his contract is void, unless circumstances occur as described in (l), (m), (n) and (o) below. If these conditions do not apply, then irrespective of what happens to the horse selected in the second half of the daily double, there is no refund because the patron has failed to fulfill the first half of the contract which is to pick the winner of the first half of the daily double.

(f) If a horse in the first half of the daily double is excused by the stewards before off-time, all money wagered on any horse or horses so excused shall be deducted from the daily double pool and be refunded to the purchaser or purchasers of tickets on the horse or horses so excused.

(g) In the event a horse is excused in the second half of the daily double after the first race is official, all daily double tickets combining the scratched horse with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second half of the daily double. The total pay-off of all tickets combining the winner of the first race of the daily double with the scratched horse in the second half of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(h) After off-time, there shall be no refund in either of the above cases, provided for in (f) and (g) above.

(i) For the purpose of figuring the daily double, when horses are locked in the gate they shall be considered as having been excused by the stewards, and (f) and (g) above shall be enforced.

(j) If, for any reason, the first race of a daily double is cancelled and declared "no race", full and complete refund will be made of the daily double pool. If, for any reason, the second race of a daily double is canceled and declared "no race", the daily double pool shall be distributed to the holders of the daily double tickets on the winner of the first race in the same manner as the straight pool of the first race is distributed, except as to the amount of distribution, which shall be controlled by the amount bet in the daily double pool.

(k) Except for the contingencies stated below, the daily double is calculated in the same general manner as the straight pool.

(l) If no ticket is sold combining both winners of the daily double, the net pool shall then be apportioned between those having tickets including the winner of the first race of the daily double and those having tickets including the winner of the last race of the daily double and shall be calculated and distributed as a place pool.

(m) If no ticket is sold including the winner of the first race of the daily double, then the entire net pool will be paid to the holders of tickets which include the winner of the last race of the daily double.

(n) If no ticket is sold including the winner of the last race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the first race of the daily double.

(o) If no ticket is sold including a winner of either race of the daily double, then the entire net pool will be paid to the holders of tickets which include the horses finishing second in the two races of the daily double

(p) If either race of the daily double results in a dead heat, the pay-off will be figured the same as a place pool, that is, first, the regulation commission is deducted, then the total amount wagered on the winning combination is deducted, leaving the profit which is divided equally between holders of the winning combinations

Amended by R 1991 d 490, effective October 7, 1991  
See 23 N J R 2004(a), 23 N J R 3034(a)

In (g), eliminated contradictory language and clarified the proper way to calculate the payoff in a daily double

Amended by R 1992 d 85, effective February 18, 1992

See 23 N J R 3432(a), 24 N J R 647(c)

Deleted (d), recodified (e)-(r) as (d)-(q)

Petition for Rulemaking

See 35 N J R 279(a), 897(a)

Amended by R 2003 d 491, effective December 15, 2003

See 35 N J R 3463(a), 35 N J R 5549(c)

Deleted former (a) and recodified former (b) through (e) as (a) through (d), recodified former (f) as (e) and substituted "(l), (m), (n) and (o)" for "(m), (n), (o) and (p)", recodified former (g) and (h) as (f) and (g), recodified former (i) and (j) as (h) and (i) and substituted "(f) and (g)" for "(g) and (h)", recodified former (k) through (q) as (j) through (p)

### 13:71-27.48 Quiniela

(a) The principle of a quiniela is, in effect, a contract by the purchaser of a quiniela ticket to select the first two horses to finish in a race. The order in which the horses finish is immaterial. The quiniela is not a "parlay" and has no connection with or relation to win, place or show betting, and will be calculated in an entirely separate pool

(b) Entries shall be allowed in a quiniela race

(c) In cases of a dead heat between two horses for first place, the combination shall be the winner of the quiniela pool

(d) In case of a dead heat between two horses for second place, the pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two horses finishing second participating in the payoff

(e) In the case of a dead heat for second place, and no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the winning combination

(f) If no ticket is sold on the winning combination of a quiniela pool, the net pool shall be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second, in the same manner in which a place pool is calculated

(g) If no ticket is sold that would require distribution of a quiniela pool to a winner as defined in (a) through (f) above, the association shall make a complete and full refund of the quiniela pool

(h) In case of a scratch in a quiniela race, the patron holding a ticket on the scratched horse will receive a refund

### 13:71-27.49 Break to nickel in the event of a minus pool

The minimum parimutuel payoff by any licensee conducting parimutuel wagering shall be \$2.10 on each winning \$2.00 wager. This shall pertain only in the event that there is insufficient money in the net parimutuel pool to return \$2.20 on each \$2.00 wager

### 13:71-27.50 Trifecta

(a) The trifecta (or other approved name) is a form of parimutuel wagering. Each bettor selects, in order, the first, second and third placed horses in the designated trifecta race. The trifecta pool shall be held entirely separate from all other pools, and is no part of a daily double, exacta or other wagering pool

(b) Trifecta tickets shall be sold in not less than \$1.00 denominations and only from machines capable of issuing three numbers

(c) Races in which trifecta pools shall be conducted shall be approved by the Commission and shall be clearly designated in the program

(d) The design of trifecta tickets shall be clearly and immediately distinguishable from other parimutuel tickets

(e) If a horse is scratched or declared a nonstarter, no further trifecta tickets may be issued designating such horse and all trifecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool

(f) Rules concerning failure to select a winning combination, short finishes include

1. If there is a failure to select, in order, the first three horses, payoff shall be made on trifecta tickets selecting the first two horses, in order with all others, failure to select the first two horses, payoff to trifecta tickets selecting the winner and third place horse with any and all other horses, failure to select any of the foregoing orders of finish, payoff shall be made to trifecta tickets selecting the winner to win with all other horses, failure to select the winner to win, payment shall be made to holders of tickets on the second and third place finishers with any and all others

2. If less than three horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection



(g) Coupled entries and fields are prohibited in trifecta races without the prior approval of the Racing Commission. The Commission, in considering whether to grant such approval, shall consider the number of wagering interests in the race and whether its approval would be consistent with the best interests of the sport and the wagering public.

(h) Where a field in a trifecta race is less than five at wagering time, said race will be run as an exacta. A late scratch after wagering starts will not affect the trifecta.

(i) In trifecta races with a coupled entry or mutuel field, the numbers of the first three horses in order of finish as made official shall constitute the winning combination except that, where two or more of such horses are part of the same coupled entry or mutuel field, only the best finishing position attained by the coupled entry or mutuel field shall be considered for payoff purposes and the next best finishing horse or horses, not part of the coupled entry or mutuel field, shall be selected to determine the winning trifecta combination.

(j) This rule shall be prominently displayed throughout the betting area of each track conducting the trifecta and printed copies of this rule shall be distributed by the track to patrons upon request.

Amended by R 1988 d 133, effective March 21, 1988  
See 19 N J R 2385(b), 20 N J R 670(b)

Substantially amended (h)  
Amended by R 1993 d 515, effective October 18, 1993  
See 25 N J R 3106(a), 25 N J R 4752(a)  
Amended by R 2001 d 251, effective July 16, 2001  
See 33 N J R 1339(a), 33 N J R 2494(a)

In (h), substituted "six" for "seven"  
Petition for Rulemaking  
See 35 N J R 5315(a), 5622(b)  
Amended by R 2004 d 360, effective September 20, 2004  
See 36 N J R 2160(a), 36 N J R 4320(b)

In (h), substituted "five" for "six" after "less than" in the first sentence.

**13:71-27.51 Sell-only system**

(a) The Supervisor of Mutuels shall be furnished with the following documents on a daily basis by the totalisator company for any sell-only system:

- 1 Win, place and show pools
- 1 Running total sheet,
- 11 Calculating sheet,
- 111 Tickets and denomination sheet,
- 1111 Price sheet by denomination,
- 11111 Progression of odds,
- 111111 Machine sales by Division

**13:71-27.52 Cash-sell system**

(a) The Supervisor of Mutuels shall be furnished with the following documents by the totalisator company on a daily

basis for all pools at such time and in such manner as requested by the Supervisor of Mutuels:

- 1 Pool summary report,
- 2 Price calculation report,
- 3 Final cycle pool print report,
- 4 Progression of odds (win only),
- 5 Machine sales by race report,
- 6 Daily double will pay report,
- 7 Exacta probables report,
- 8 Prices report summary,
- 9 Price cancellation summary,
- 10 Summarized balance report (out ticket),
- 11 End of day report,
- 12 All trifecta computer sheets,
- 13 Lost ticket report.

(b) The Supervisor of Mutuels shall also be furnished with the following documents by the totalisator company upon request:

- 1 Payout distribution report,
- 2 Day end teller report,
- 3 Pool processing proof,
- 4 Outs book A,
- 5 Outs book B,
- 6 Bet reports,
- 7 Audit information from log tapes,
- 8 Outs cashed report,
- 9 Manual cash council report

Amended by R 1991 d 540, effective November 4, 1991  
See 23 N J R 2268(a), 23 N J R 3341(d)  
Deleted (a), 1 and 2  
Recodified existing 3 and 4 as (a) and (b)

**13:71-27.53 Super-Six**

(a) The Super-Six (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the Super-Six races by the permitholder. The principle of a Super-Six is in effect a contract by the purchaser of a Super-Six ticket to select the winners of each of the six races designated as the Super-Six.

(b) The Super-Six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The Super-Six pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) Super-Six tickets shall be sold in not less than \$1 00 denominations and only from machines capable of issuing six numbers

(d) Races in which Super-Six pools shall be conducted shall be approved by the Commission and clearly designated in the program

(e) The design of Super-Six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets

(f) The Super-Six pari-mutuel pool shall be calculated as follows

1 100 percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the Super-Six

2 In the event there is no pari-mutuel ticket held which correctly designates the winner of all races comprising the Super-Six, 25 percent of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the most winning selections of the six races comprising the Super-Six, and the remaining undistributed 75 percent of said pool shall be carried over and added to the pool on the next day on which wagering is conducted

3 If, on the last day on which this system of wagering is conducted at a horse race meeting, no bettor selects the winning horses in those races, the total amount of the pool which exists on that day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races. In no event shall any part of the pool be carried over to the next year's race meeting

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Super-Six race as a single wagering interest for the purpose of the Super-Six pari-mutuel pool calculations and pay-outs to the public. A scratch after wagering has begun of any part of an entry or field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest

(h) At any time after wagering begins on the Super Six pool should a horse, entire betting entry or field be scratched or declared a nonstarter in any Super Six race, no further tickets selecting such horse, betting entry or field shall be issued. Wagers upon such horse, betting entry or field, for purposes of the Super Six pool shall be deemed wagers upon the "designated horse" who is the actual favorite evidenced by total amounts wagered in the win pool at the close of wagering on that race or the track operator may allow patrons the option of selecting an alternate betting interest in that race. In the event of a money tie, the tied horse, betting entry or field with the most inside post position shall be designated

(i) After off-time, there shall be no refund in either of the cases, provided for in (h) above

(j) For the purpose of this section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the judges

(k) If, for any reason, any race or races of a Super-Six program is cancelled and declared "No Race," the Super-Six pool shall be distributed to the holders of the most winning selections of the remaining races pursuant to (f)1 and 2 above. In the event the Judges cancel or declare as "No Race" three or more of the Super-Six races for any given date, all pari-mutuel tickets for that Super-Six pool shall be refunded and the Super-Six cancelled for that day

(l) In the event of a dead heat for win between two or more horses in any Super-Six race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Super-Six pari-mutuel pool

(m) No person shall disclose the number of tickets sold in the Super-Six pool or the number or amount of tickets selecting winners of Super-Six races prior to the time the Judges have declared the last Super-Six race on any given date official

(n) No pari-mutuel ticket for the Super-Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Super-Six, except for refunds as required by this section

(o) This rule shall be prominently displayed throughout the betting area of each association conducting a Super-Six program and in the official racing program

(p) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of Super-Six pools will be final

Emergency New Rule, R 1986 d 334, effective July 17, 1986 (expires September 15, 1986)

See 18 N J R 1619(a)

Readopted Concurrent Proposal as R 1986 d 412, effective September 15, 1986

See 18 N J R 1619(a), 18 N J R 2055(b)

Amended by R 1990 d 126, effective February 20, 1990

See 21 N J R 3861(a), 22 N J R 667(a)

At (k), "Stewards" changed to "Judges"

Amended by R 2001 d 252, effective July 16, 2001

See 33 N J R 1339(b), 33 N J R 2494(b)

Rewrote (h)

### 13:71-27.54 Daily Triple

(a) The Daily Triple pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalisator board, nor to the rules governing the distribution of such other pools

(b) A valid Daily Triple ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and said ticket shall constitute an acceptance of Daily Triple provisions and N J A C 13 71-27

(c) A Daily Triple may be given a distinctive name to be selected by the association conducting such races, such as Win 3, subject to the prior approval of the Commission

(d) The Daily Triple pari-mutuel pool shall consist of amounts contributed for a selection for win only in each of the three consecutive races designated by the association with the prior approval of the Commission. Each person purchasing a Daily Triple ticket shall designate the winning horse in each of the three races comprising the Daily Triple

(e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Daily Triple shall race as a single wagering interest for the purpose of the Daily Triple pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selected to win in that race for the Daily Triple calculation, and the selection shall not be deemed a scratch

(f) The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all three races comprising the Daily Triple

(g) If no ticket is sold combining the three winners of the Daily Triple, the net amount in the pari-mutuel pool shall be distributed among the holders of tickets which include the winners of at least two of the three races comprising the Daily Triple

(h) If no ticket is sold combining at least two winners of the Daily Triple, the net amount in the pari-mutuel pool shall be distributed among holders of tickets which include the winner of any one race comprising the Daily Triple

(i) If no ticket is sold that would require distribution of the Daily Triple pool to a winner pursuant to (f) through (h) above the association shall make a complete and full refund of the Daily Triple pool

(j) If for any reason one or two of the races comprising the Daily Triple are cancelled, the net amount of the pari-mutuel pool shall be distributed as provided in (g), (h), and (i) above

(k) The following pertains to scratches and consolations

1 In the event a betting entry is scratched (which as used in this subsection includes being excused or determined by the stewards to be a non-starter in the race) from any leg of the daily triple prior to the start of the first leg, all bets containing such scratched betting entry shall be refunded and not calculated into the gross pool. Coupled

entries and fields are only considered "scratched" for purposes of this subsection in accordance with (e)

2 Regarding consolations

1 In the event a betting entry is scratched in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with such scratched horse as follows

(1) From the gross pool shall be deducted the statutory take-out and then the amounts represented by bets on combinations involving all entries scratched from the third leg (reduced by the rate of statutory take-out thereon)

(2) The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting entries in the second leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with an entry scratched in the second leg

(3) The breaks shall not be deducted from the pool

11 In the event a betting entry is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and second legs with such scratched horse as follows

(1) From the gross pool shall be deducted the statutory take-out and then the amounts represented by bets on combinations involving all entries scratched from the second leg (reduced by the rate of statutory take-out thereon)

(2) The resulting remainder shall be divided by the amounts bet on the combination of such first and second leg winners with all betting entries in the third leg (less breaks) to determine the consolation price per dollar payable in those bets combining winners of the first and second legs with an entry scratched in the third leg

(3) The breaks shall not be deducted from the pool

111 In the event betting entries are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with such scratched horses in both the second and third legs as follows

(1) From the gross pool shall be deducted the statutory take-out

(2) The remainder shall be divided by the amounts bet on the winner of the first leg combined with all other entries (less breaks) to determine the

consolation price per dollar payable in those bets combining the winner of the first leg with entries scratched in both the second and third legs

(3) The breaks shall not be deducted from the pool

(l) If any of the daily triple races result in a dead heat, the payoff will be figured the same as a place pool, that is first the regulation commission is deducted, then the total amount wagered on the winning combination is deducted, leaving the profit which is divided equally between the holders of the winning combinations

(m) No pari-mutuel ticket for the Daily Triple pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the three races comprising the Daily Triple, except for such refunds on Daily Triple tickets as required by this rule, and no persons shall disclose the number of tickets sold in the Daily Triple pool or the number or amount of tickets selecting winners of Daily Triple races until such time as the Stewards have determined the last race comprising the Daily Triple to be official. At the conclusion of the second of the three races comprising the Daily Triple, an association may, with the prior approval of the Commission, display potential distributions to ticket holders depending upon the outcome of the third race of the Daily Triple

(n) This section shall be prominently displayed throughout the betting area of the track and printed copies shall be made available by the track to patrons upon request

New Rule, R 1988 d 397 effective August 15, 1988  
See 20 N J R 1175(b), 20 N J R 2072(a)  
Amended by R 1994 d 90, effective February 22, 1994  
See 25 N J R 5109(a), 26 N J R 1107(a)  
Amended by R 1995 d 212, effective April 17, 1995  
See 27 N J R 306(b), 27 N J R 1643(a)  
Amended by R 2000 d 262, effective June 19, 2000  
See 32 N J R 1160(a), 32 N J R 2248(b)  
Rewrote (k), and added (n)

### 13:71-27.55 Pick-Eight

(a) This section codifies procedures to allow New Jersey to participate in a nationwide common pool on a Pick-Eight wager on the Breeders' Crown

(b) The payoff is calculated as follows

1 Wagers select first-place finishers for eight Breeders' Crown races. The net pool is divided into major (75 percent) and minor (25 percent) shares. The major share is distributed to the ticket(s) correctly selecting the first-place finishers in all eight races and calculated using the net pool pricing method. The minor share is distributed to tickets correctly selecting the first-place finishers in the most (but not all) of the eight races and calculated using the net pool pricing method

2 To determine the net pool, there shall be a deduction from gross wagers in each jurisdiction in an amount equal

to the applicable takeout for that jurisdiction. The remaining amount of the wagers from all jurisdictions is combined to form the total net pool, on the basis of which a base payout price is determined. Each jurisdiction's winning payout price is determined by applying that jurisdiction's takeout rate to the base price. Each jurisdiction's individual rules relating to breakage and uncashed winning tickets shall also apply. Any other questions that arise not specifically covered in this section shall be covered by the rules of racing of the New Jersey Racing Commission

(c) Dead heat procedures are as follows

1 If there is a dead heat for first in any race, the winning combinations shall include all wagers selecting any dead heat finishers

(d) No ticket sold procedures are as follows

1 If no ticket is sold correctly selecting the eight first-place finishers, then the entire net pool will be distributed to the wagers selecting the most official winners of the eight Breeders' Crown races

(e) Refund procedures are as follows

1 If three or more races are cancelled, then the entire Pick-Eight pool shall be refunded

(f) The effect of a cancelled race in the pool is as follows

1 In the event that one or more of the races, comprising the Pick-Eight, is cancelled for any reason, the distribution of the net amount subject to distribution in the Pick-Eight pool shall be among the holders of the pari-mutuel tickets which currently designate the most official winners in all remaining races comprising the Pick-Eight

(g) The number of entries (or starters) required is as follows

1 As long as at least one horse remains within an entry or the field, that betting interest will not be deemed a scratch. If a betting interest is scratched or declared a non-starter, the actual favorite as evidenced by Breeders' Crown host track win pool at the start of the race will be substituted. If the win pool amounts are equal, the substitute will be the lowest program numbered betting interest

New Rule, R 1992 d 201, effective May 4, 1992  
See 23 N J R 1770(a), 24 N J R 1801A

### 13:71-27.56 The Pick (N)

(a) The Pick (N) requires selection of the first place finishers in each of four or more consecutive races, with the letter (N) representing the number of such races. The association must obtain written approval from the Commission concerning the scheduling of Pick (N) events. Any changes to the approved Pick (N) format requires prior approval from the Commission

(b) A carry-over, as is relevant to (c)1 and 2 below, is that percentage of the pool not paid out when no one successfully selects all winning horses in the Pick (N). The carry-over amount shall be added to the subsequent Pick (N) pool until distributed as a result of the successful selection of all the winning horses.

(c) The Pick (N) pool shall be distributed under one of the following methods:

1 Method 1 Pick (N) with carry-over The net Pick (N) pool and carry-over, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (N) contests, based on the official order of finish. If there are no such wagers, then 25 percent of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (N) races, and the remaining 75 percent of the net pool shall be added to the carry-over.

2 Method 2 Pick (N) with minor pool and carry-over The major share of the net Pick (N) pool (75 percent) and the carry-over, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (N) contests, based on the official order of finish. The minor share of the net Pick (N) pool (25 percent) shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (N) contests based on the official order of finish. If there are no such wagers selecting the first-place finisher of all Pick (N) contests, the minor share of the net Pick (N) pool (25 percent) shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (N) contests based on the official order of finish and major share (75 percent) shall be added to the carry-over.

3 Method 3 Pick (N) with no carry-over The net Pick (N) pool shall be distributed to those who selected the first-place finisher in each of the Pick (N) contests, based on the official order of finish. If there are no such wagers selecting the first-place finisher of all Pick (N) contests, the entire net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (N) contests based on the official order of finish.

(d) If there is a dead heat for first in any of the Pick (N) contests involving contestants representing the same betting interest, the Pick (N) pool shall be distributed as if no dead heat occurred. If there is a dead heat for first in any of the Pick (N) contests involving contestants representing two or more betting interests, the Pick (N) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the net Pick (N) pool.

(e) The Pick (N) pool shall be held entirely separate from all other pools and is not a parlay and is not part of a daily double, exacta, trifecta or other wagering pool.

(f) Pick (N) tickets shall be sold in not less than \$1.00 denominations and only from machines capable of issuing four or more numbers.

(g) Those horses constituting an entry or a field as defined within the rules of the Commission shall race in any Pick (N) race as a single wagering interest for the purpose of Pick (N) pari-mutuel pool calculations and payments to the public. A scratch after wagering has begun on any part of an entry or mutuel field in such a race shall be of no effect with respect to the status of such entry or field as a viable wagering interest.

(h) At any time after wagering begins on a Pick (N) pool should a horse, entire betting entry or mutuel field be scratched or declared a non-starter in any Pick (N) race, no further tickets selecting such horse betting entry or mutuel field shall be issued, and wagers upon such horse betting entry or mutuel field, for purposes of the Pick (N) pool, shall be deemed wagers upon the horse, betting entry or mutuel field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie, the tied horse, betting entry or mutuel field with the most inside post position shall be designated.

(i) The Pick (N) pool shall not be cancelled based upon the number of race cancellations or races being declared no contest, unless the following is true, in which case all Pick (N) wagers for the individual performance shall be refunded:

1 Three or more races of a Pick 4 or Pick 5 are cancelled or declared no contest,

2 Four or more races of a Pick 6 or Pick 7 are cancelled or declared no contest,

3 Five or more races of a Pick 8 or Pick 9 are cancelled or declared no contest,

4 Six or more races of a Pick 10 or Pick 11 or more races are cancelled or declared no contest.

(j) If, on the last day on which the system of wagering is conducted at a race meeting and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over and no bettor selects the winning horse in those designated races, the total amount of the pool which exists on the day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races.

(k) If, for any reason, the Pick (N) carry-over cannot be paid out on the last scheduled day of a race meeting and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over, the carry-over shall be deposited in an interest bearing account approved by the Commission. The Pick (N) carry-over plus accrued interest shall then be added to the net Pick (N) pool on a race date determined by the Commission.

(l) An association, with the written approval of the Commission, may contribute funds to the net Pick (N) pool or the carry-over pool

(m) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved with general pari-mutuel practice. Decisions regarding distribution of Pick (N) pools will be final

Amended by R 1993 d 514, effective October 18, 1993

See 25 N J R 3705(a), 25 N J R 4752(b)

Petition for Rulemaking

See 37 N J R 2575(b), 3463(c)

Amended by R 2006 d 229, effective June 19, 2006

See 38 N J R 1400(a), 38 N J R 2729(b)

Substituted "Pick (N)" for "Pick(N)" throughout, substituted "(c)1 and 2 below" for "this section" in (b), added (c)3, substituted "and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over and" for the second comma in (j), and inserted "and Method 1 or Method 2 referred to in (c)1 and 2 above has been selected as the method for pool distribution with carry-over" in (k)

Petition for Rulemaking

See 42 N J R 90(b), 556(c), 2152(a)

### 13:71-27.57 Cancellations

(a) Cancellations of mutuel tickets are prohibited on wagers purchased on the current race once the patron has left the window on all types of wagers where odds or probable payouts are displayed to the public

(b) Mutuel clerks shall be permitted to cancel current race mutuel tickets during the delay period provided it is the last transaction before the bell sounds signaling the end of wagering. If it is determined by the Executive Director of the Racing Commission or his or her designee that mutuel clerks are abusing this cancellation privilege, they will be subject to fine and/or suspension

(c) No cancellation of mutuel tickets is permitted after the delay period

(d) Cancellation of all advance wagers is permitted up until the race immediately preceding the advance wager becomes official

(e) Mutuel clerks are permitted to cancel mutuel tickets purchased at self-service terminals provided they are advance wagers or wagers where odds or probable payouts are not displayed to the public

New Rule, R 1991 d 541, effective November 4, 1991

See 23 N J R 2268(b), 23 N J R 3342(a)

### 13:71-27.58 Expiration of mutuel tickets

(a) All mutuel tickets shall expire six months and one day from the day of issuance (that is, tickets purchased on January 1 will expire at the close of business on July 1)

(b) Vouchers issued on or after May 26, 2006, where issued at a permitholder's racetrack premises, shall expire three years and one day from the date of issue (for example, a

voucher issued on July 1, 2006 will expire at the close of business on July 1, 2009)

New Rule, R 1991 d 541, effective November 4, 1991

See 23 N J R 2268(b), 23 N J R 3342(a)

Amended by R 2002 d 348, effective November 4, 2002

See 33 N J R 3627(a), 34 N J R 3782(b)

Deleted "and vouchers" following "tickets" throughout

Amended by R 2007 d 113, effective April 16, 2007

See 38 N J R 4822(a), 39 N J R 1488(c)

Inserted designation (a), in (a), substituted "on" for "of" preceding "July", and added (b)

### 13:71-27.59 Superfecta

(a) The superfecta (or other approved name) is a form of pari-mutuel wagering where each bettor selects, in order, the first, second, third and fourth placed horses in the designated superfecta race. The superfecta pool shall be held entirely separate from all other pools, and is not part of a daily double, exacta or other wagering pool. The permitholder may request the approval of the Racing Commission to conduct a superfecta in the carryover method as provided in (l) below. All superfectas not approved for conduct in the carryover method shall be conducted in the non-carryover method as provided in (f) below

(b) Superfecta tickets shall be sold in not less than \$1 00 denominations

(c) Races in which superfecta pools shall be conducted shall be approved by the Commission and shall be clearly designated in the program

(d) If a horse is scratched or declared a non-starter, no further superfecta tickets may be issued designating such horse and all superfecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool

(e) Where a field in a superfecta race is fewer than six at wagering time, said race shall not be run as a superfecta. A late scratch after wagering starts will not affect the superfecta

(f) The net non-carryover superfecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish

1 As a single price pool to those whose combination finished in correct sequence as the first four different betting interests, but if there are no such wagers, then

2 As a single pool to those whose combination included, in correct sequence the first three different betting interests, but if there are no such wagers, then

3 As a single price pool to those whose combination included, in correct sequence, the first two different betting interests, but if there are no such wagers, then

4 As a single price pool to those whose combination correctly selected the first place betting interest only, but if there are no such wagers, then

5 The entire pool of superfecta wagers shall be refunded for that contest

(g) If less than four different betting interests finish the race and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. Balance of any selection beyond the number of different betting interests completing the race shall be ignored

(h) If there is a dead heat for first involving

1 Contestants representing four or more different betting interests, all of the wagering combinations selecting the four betting interests which correspond with any of the

betting interests involved in the dead heat shall share in a profit split

2 Contestants representing three different betting interests, all of the wagering combinations selecting the three dead-heated different betting interests, irrespective of order, along with the fourth place different interest shall share in a profit split

3 Contestants representing two different betting interests, both of the wagering combinations selecting the two dead-heated different betting interests, irrespective of order, along with the third place and fourth place different betting interest shall share in profit split

(i) If there is a dead heat for second involving





1 Contestants representing three or more different betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three different betting interests involved in the dead heat for second shall share in a profit split

2 Contestants representing two different betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated different betting interests, irrespective of order, and the fourth place betting interest shall share in a profit split

(j) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the different betting interests involved in the dead heat for third shall share in a profit split

(k) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three different finishers, in correct sequence, along with any of the different betting interests involved in the dead heat for fourth shall share in a profit split

(l) The net carryover superfecta pool shall be distributed to winning wagers based on the following and in accordance with the official order of finish

1 If tickets are sold on the winning combination of the superfecta, the net pool shall have added to it to any carryover monies from previous superfecta races, and shall then be equally divided among those ticket holders

2 If no tickets are sold on the winning combination of the superfecta, then the net pool shall be divided into two separate pools. Eighty percent of the net pool shall be paid into a pool known as the Jackpot, and carried over to the next regularly scheduled superfecta race. The remaining 20 percent of the net pool shall be paid into a pool known as the superfecta consolation pool, and this pool equally divided among those ticket holders who correctly selected the first three finishers in exact order. If no ticket has been sold correctly selecting the first three finishers in exact order, then the superfecta consolation pool shall be paid to the first two finishers in exact order. If no ticket has been sold correctly selecting the first two finishers in exact order, then the superfecta consolation pool shall be paid to those ticket holders who selected the winning horse. In the event no ticket has been sold correctly selecting the winning horse to finish first, then the superfecta gross pool (excluding monies carried over from previous superfecta races) shall be refunded.

3 If the superfecta gross pool is refunded in accordance with the above-described rules, then all monies carried over, if any, shall be held in escrow until the next regularly scheduled superfecta

4 If fewer than four horses finish, the payoff shall be made from the superfecta consolation pool only, and shall be made to holders of tickets correctly selecting the actual finishing horses in exact order, ignoring the balance of the

selection. In this event, the Jackpot will be carried over to the next regularly scheduled superfecta race.

5 In the event the accumulated Jackpot has not been distributed prior to the final day of the meeting in which the Jackpot was generated, then the accumulated Jackpot and the net pool in the final superfecta race of the meet shall be distributed to closing day holders of superfecta tickets who correctly select the first four official finishers in exact order, or if no ticket is sold as above described, to those who correctly select the first three finishers in exact order, or if no ticket is sold as above described, to those who correctly select the first two finishers in exact order, or if no ticket is sold as above described to those who correctly selected the winning horse to finish first. In the event no ticket has been sold correctly selecting the winning horse to finish first, then the gross superfecta pool will be refunded and the Jackpot distributed equally to all closing day superfecta ticket holders.

New Rule, R 1994 d 91, effective February 22, 1994

See 25 N J R 5451(a), 26 N J R 1107(b)

Petition for Rulemaking

See 34 N J R 3655(b), 3995(a)

Petition for Rulemaking

See 35 N J R 279(b), 897(b)

Amended by R 2003 d 492, effective December 15, 2003

See 35 N J R 3464(a), 35 N J R 5550(a)

Rewrote (a), in (f), inserted "non-carryover" preceding "superfecta pool" in the introductory paragraph, added (l)

Amended by R 2003 d 493, effective December 15, 2003

See 35 N J R 3465(a), 35 N J R 5550(b)

In (e), substituted "six" for "seven"

### 13:71-27.60 Distribution of funds derived from casino simulcasting in lieu of N.J.S.A. 5:12-203g(2)

(a) Pursuant to N J S A 5 12-204, the formula contained in N J S A 5 12-203g(2) is superseded and revised as set forth in this section to harness races, and as set forth in N J A C 13 70-29 62 as to running races. Of that amount remaining after the deduction of the amounts under subsections a, b, c, d, e, f and paragraph g(1) of N J S A 5 12-203, 43 percent shall be paid to the New Jersey Racing Commission and shall be distributed, in the following year, as provided herein, to New Jersey racetracks for payment as purse money and for programs designed to aid horsemen and horsemen's organizations as provided in section 46a(4) of P L 1940, c 17 (N J S A 5 5-66), section 2d of P L 1984, c 236 (N J S A 5 5-66 1), section 5a(2) of P L 1982, c 201 (N J S A 5 5-98), or section 7f(1)(b) of P L 1971, c 137 (N J S A 5 10-7). This money shall be distributed in accord with the percentages set forth in (b) and (c) below, using the formula set forth in (d) below. Where a New Jersey permit-holder conducts both running races and harness races, this section shall be applicable to the permit-holder's harness races and N J A C 13 70-29 62 shall be applicable to the permit-holder's running races.

(b) Of the monies referred to in (a) above, and pursuant to N J A C 13 70-29 62, 60 percent of the total shall be distributed to permit-holders conducting running races and 40

percent of the total shall be distributed to racetracks conducting harness races for 1998 and 1999

(c) Following 1999, of the monies referred to in (a) above, and pursuant to N J A C 13 70-29 62, 50 percent of the total shall be distributed to permitholders conducting running races and 50 percent of the total shall be distributed to racetracks conducting harness races

(d) The formula upon which the monies referred to in (a) above is to be distributed to the New Jersey racetracks conducting harness races, under either (b) or (c) above, whichever is applicable, shall be as follows

$$A/B = C/D$$

where

A = the total amount distributed by each racetrack conducting harness racing, pursuant to section 46a(4) of P L 1940, c 17 (N J S A 5 5-66), section 2d of P L 1984, c 236 (N J S A 5 5-66 1), section 5a(2) of P L 1982, c 201 (N J S A 5 5-98), or section 7f(1)(b) of P L 1971, c 137 (N J S A 5 10-7), during the preceding calendar year, plus any additional amounts paid out by each racetrack for overnight purses during the preceding calendar year from the permitholders' share of the pari-mutuel pool,

B = the total amount distributed by all harness racetracks Statewide pursuant to section 46a(4) of P L 1940, c 17 (N J S A 5 5-66), section 2d of P L 1984, c 236 (N J S A 5 5-66 1), section 5a(2) of P L 1982, c 201 (N J S A 5 5-98), and section 7f(1)(b) of P L 1971, c 137 (N J S A 5 10-7), during the preceding calendar year, plus any additional amounts paid out by racetracks for overnight purses during the preceding calendar year from the permitholder's share of the pari-mutuel pool,

C = the amount to be distributed to each racetrack conducting harness races from the moneys available for distribution pursuant to this section,

D = 40 percent (50 percent after 1999) of the total amount of moneys available for distribution pursuant to this section

New Rule, R 1998 d 87, effective February 17, 1998  
See 29 N J R 4397(a), 30 N J R 702(a)

### 13:71-27.61 Handicapping contests

(a) Notwithstanding any other provision of law to the contrary, a permit holder, casino simulcasting licensee or a combination thereof may operate a handicapping contest at which the participants may be charged an entry fee. The contest must be conducted in accordance with the provisions of this rule

(b) The operator of a handicapping contest shall distribute all of the entry fees as prizes to the winners of the contest where the contest consists of a single contest, as opposed to a series. Where a handicapping contest series is offered, which means a series of individual contests concluding with a final

contest in the series, the operator may retain an amount not to exceed 25 percent of the entry fees from the individual handicapping contests preceding the last contest in the series. However, the total portion of entry fees retained by the operator shall be distributed to the winner or winners of the last contest in the series. Nothing in this section shall preclude an operator from providing additional prizes or promotions

(c) Operators must apply to and receive the approval of the New Jersey Racing Commission to conduct a handicapping contest in New Jersey. The operators must secure the Commission's written approval of the rules and the payment of prizes prior to the acceptance of any entry fees regarding said contest

(d) The horse races that are the subject of the handicapping contest must be races on which the operator of the contest is authorized to conduct wagering

(e) The operator of a handicapping contest must apply to the Racing Commission for approval of each and every contest

(f) An entrant must personally place all wagers. No person shall directly or indirectly act as a transmitter, intermediary, or agent in placing wagers for the entrant

(g) Winners of wagers where taxes apply are solely responsible for the reporting, signing and deductions made to the appropriate State or Federal tax agencies

(h) Employees or their families of the venue conducting a handicapping contest are not eligible to participate in any tournament

(i) Denominations of wagers and types of pools wagered must be agreed to in contract form between the contest venue and the racetracks participating in a handicapping contest

(j) Racetracks, for the purpose of this section, are defined as both in and out-of-State

(k) All track rulings are official in the event of scratches and disqualifications

New Rule, R 2003 d 212, effective May 19, 2003

See 34 N J R 3926(a), 35 N J R 2250(b)

Public Notice Receipt of Petition for Rulemaking Handicapping Contests

See 38 N J R 850(a)

Petition for Rulemaking Racing Commission harness racing action on rulemaking petition regarding handicapping contests

See 38 N J R 1353(a)

Public Notice Racing Commission Thoroughbred Racing Notice of Action (Final) on Petition for Rulemaking

See 38 N J R 2534(b)

Amended by R 2006 d 321, effective September 5, 2006

See 38 N J R 1793(b), 38 N J R 3627(b)

Rewrote (b)

### 13:71-27.62 The Choose (N)

(a) The Choose (N) is a wager which requires that a patron select the first place winners in each of (N) races, with the

letter (N) representing the number of races comprising the wager. The number of races comprising the Choose (N), and thus representing the letter (N), shall be determined by the racing association (licensee) offering the Choose (N). The number of eligible races, from which a patron in his or her discretion may place a Choose (N) wager, may equal or

exceed the number of races comprising the wager (N) and shall be determined by the licensee. For example, where a licensee determines that the Choose (N) shall consist of selecting the first place winners in five races (that is, a Choose (5)), with nine eligible races for the patron to select from, the patron would be required to select the first place



finishers in any five of the nine eligible races. A licensee may not offer a Choose (N) unless the format associated with the particular Choose (N) wagering event is first approved by the Racing Commission Executive Director (Executive Director), as required by (k) and (l) below. In approving any request of a licensee associated with a Choose (N), the Executive Director may impose such conditions as are consistent with the best interests of racing and the interests of the wagering public.

(b) The races eligible for a Choose (N) may be conducted on the same day or may extend over any number of days as determined by the licensee, and some races may be closed to Choose (N) wagering at the discretion of the licensee. The eligible races to a Choose (N) need not be consecutively contested races. In a Choose (N), the first race wagered upon by a patron as part of the wager may begin with any of the eligible races provided that the total number of eligible races remaining uncontested at the time the wager is placed equals or exceeds the number of races comprising the Choose (N). For example, in a Choose (6) with 10 eligible races, the following would be examples of permissible wagers assuming none of the 10 eligible races have been conducted, a patron could select one horse as the first place winner in any six of the 10 eligible races (for example, the patron could wager on races 1 through 6, races 2 through 4 and 6 through 8, etc.), and, assuming races 1 and 2 of the 10 eligible races have been conducted, the patron could select one horse to finish first in any six of the remaining eight eligible races (for example, the patron could wager on races 4 through 9, race 3, 5 and races 7 through 10, etc.). However, assuming the first five or more of the 10 eligible races in this example have been contested, a patron could not place any Choose (6) wager because the wager requires the selection of the first place finishers in six separate races.

(c) Each Choose (N) wagering pool shall be maintained separately from all other wagering pools offered by the licensee, and the proceeds to be paid on winning Choose (N) wagers shall be made only from the Choose (N) wagering pool. The Choose (N) wagering pool shall close after each Choose (N) eligible race, but shall reopen with respect to subsequent eligible races for the particular Choose (N) provided there are at least as many races remaining as required to be selected on a winning Choose (N) ticket. Following the conduct of all eligible races comprising any Choose (N), the Choose (N) wagering pool shall be distributed as follows:

1 A Choose (N) with no "carryover amount" requires that the "net wagering pool," which for purposes of this section means the amount of dollars wagered for the particular Choose (N) to be returned to the wagering public as winnings, be distributed immediately following the last eligible race of the particular Choose (N) offering. In such case, the Choose (N) "net wagering pool" shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select each first place winner in each race

(N) from the eligible races comprising the Choose (N). If no Choose (N) ticket correctly selects each first place winner in each race comprising the Choose (N), the "net wagering pool" of a Choose (N) with no "carryover amount" shall be equally distributed to the ticket holder or holders selecting the greatest number of first place winners of the races comprising the Choose (N).

2 A "carryover amount" is the portion of a Choose (N) "net wagering pool" which, in circumstances as set forth in this section, is carried over and added to the wagering pool in one or more designated subsequent Choose (N) offerings that also have a "carryover amount" feature. In an initial offering of a Choose (N) with "carryover amount" feature, as no "carryover amount" has then accumulated, 100 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N). However, if no Choose (N) ticket correctly selects the first place winner in each race comprising any Choose (N) with "carryover amount" feature, 25 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the remaining 75 percent of the "net wagering pool" for that particular Choose (N) shall be added as the "carryover amount" portion of the wagering pool for a designated subsequent Choose (N) offering of the licensee. In any Choose (N) with a "carryover amount" feature, 100 percent of the "net wagering pool" for the particular Choose (N), plus any accumulated "carryover amount", shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N).

1 With the written approval of the Racing Commission Executive Director, the licensee may contribute to the Choose (N) "carryover amount" a sum of money.

3 A Choose (N) with "carryover amount" feature, as described in (c)2 above, may with the prior approval of the Executive Director have its carryover capped at a designated maximum dollar level, as determined by the licensee. If the cap amount has not been reached, and no Choose (N) ticket correctly selects the first place winner in each race comprising the Choose (N), 25 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the remaining 75 percent of the "net wagering pool" for that particular Choose (N) shall be added as the "carryover amount" portion of the wagering pool for a designated subsequent Choose (N) offering of the licensee. If the "carryover amount cap" is reached, no additional money shall be added from the "net wagering pool" to the carryover amount in any subsequent Choose (N). In such

event, and where no Choose (N) ticket correctly selects the first place winner in each race comprising the Choose (N) where the "carryover amount cap" has been reached, 100 percent of the "net wagering pool" for that particular Choose (N) shall be equally distributed to the holder or holders of Choose (N) tickets correctly selecting the greatest number of first place winners of the races comprising the Choose (N), and the capped carryover amount shall be applied to a subsequent Choose (N) offering designated by the licensee. In any Choose (N) with a "carryover amount cap" feature, regardless of whether the cap amount has been reached, the "net wagering pool" for the particular Choose (N), plus any accumulated "carryover amount", shall be equally distributed to the holder or holders of Choose (N) tickets which correctly select the first place winners in each race (N) comprising the Choose (N)

i A request to place a cap on a Choose (N) "carryover amount" may be approved by the Executive Director in the following circumstances: at the time a licensee first requests authorization to offer a Choose (N) pursuant to (l) below (that is, where the licensee seeks approval to offer a Choose (N) with "carryover amount cap" feature), and, where the licensee has previously had approved Choose (N) with "carryover amount" feature, where a carryover amount exists as a result of no one winning a prior Choose (N) offering, and the licensee seeks to impose a cap on the "carryover amount"

ii With the written approval of the Executive Director, the licensee may contribute to the Choose (N) "carryover amount cap" a sum of money up to but not exceeding the designated cap

(d) Notwithstanding (c)2 and 3 above, a Choose (N) with "carryover amount" or Choose (N) with "carryover amount cap," with the prior approval of the Executive Director, may be designated for "specified date distribution" at the conclusion of a specified Choose (N) wagering event. In such case, the "net wagering pool, plus the "carryover amount" or "carryover cap amount" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets which have correctly selected the first place finishers in each race (N) comprising the Choose (N). If on the specified date of distribution no Choose (N) ticket correctly selects the first place winners in each race comprising the "specified date distribution" Choose (N) wager, the "net wagering pool," plus the "carryover amount" or "carryover cap amount" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets selecting the greatest number of first place winners in each race (N) comprising the Choose (N). A licensee's request for "specified date distribution" shall be approved by the Executive Director where the licensee establishes to the Executive Director's satisfaction that the "specific date distribution" is consistent with the best interests of racing and the best interests of the wagering public

(e) Notwithstanding the provisions of (c)2, (c)3 and (d) above, a Choose (N) "carryover amount" or "carryover amount cap" shall not extend beyond the last date of any race meeting where Choose (N) wagering is offered, except for reasons beyond the control of the licensee and upon the approval of the Executive Director. On the last day of the final Choose (N) at any race meeting, the "net wagering pool," plus the "carryover amount" or "carryover amount cap" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets which have correctly selected the first place winners in each race (N) comprising the Choose (N). If no Choose (N) ticket correctly selects the first place winners in each race comprising the Choose (N) wager on the last date of any race meeting where Choose (N) wagering is offered, the "net wagering pool," plus the "carryover amount" or "carryover amount cap" as applicable, shall be equally distributed to the holder or holders of Choose (N) tickets selecting the greatest number of first place winners in each race (N) comprising the Choose (N)

1 If the licensee contends that for reasons beyond its control the "carryover amount" with or without cap cannot be distributed on the last date of any race meeting where Choose (N) wagering is offered, the Executive Director upon written application of the licensee may approve the "carryover amount" or "carryover amount cap" being applied to a Choose (N) offering in the next racing meeting of the licensee where the licensee establishes to the Executive Director's satisfaction that the reasons for the request are beyond the control of the licensee, and to grant the request would be consistent with the best interests of racing and the best interests of the wagering public. An example of a valid reason beyond the control of the licensee would be where inclement weather resulted in the cancellation of racing on the last day of the race meeting where Choose (N) wagering is offered, the "Choose (N) with "carryover amount" or "carryover amount was cap" was scheduled for offering on that day, and the Choose (N) could not reasonably be rescheduled during the same race meeting

(f) Those horses constituting an entry or field shall race in any Choose (N) eligible race as a single wagering interest for purposes of the Choose (N) wager and Choose (N) wagering pool calculations. At any time after wagering has begun on a Choose (N) eligible race, a scratch of any part of the entry or field selection shall have no effect with respect to the status of the entry or field as a viable wagering interest. At any time after wagering has begun on a Choose (N) eligible race, if any horse, entire entry or entire field selection is declared a non-starter or scratched, no further tickets selecting such shall be issued and wagers upon such selection shall be deemed as a wager upon the horse, entry or field on which the most money has been wagered in the win pool at the close of win betting for that Choose (N) eligible race. However, in the event of a tie with regard to such monies wagered, and subject to the approval of the Racing Commission Executive Director pursuant to (k) below, either the horse with the most inside

post position or the horse with the lowest program number shall be designated

(g) If there is a dead heat for win between two or more horses in any Choose (N) eligible race, all such horses shall be considered as the first place winning horse in that race for the purpose of distributing the Choose (N) wagering pool

(h) If for any reason one or more of the Choose (N) eligible races are cancelled or declared a "no contest," the ramifications thereof on the Choose (N) offering and Choose (N) wagering pool shall be approved by the Executive Director pursuant to (l) below, and made available to the public at least 24 hours prior to the commencement of wagering on the related Choose (N) offering. Following a declaration of the race as a "no contest" race for any reason, no Choose (N) tickets shall be sold selecting a horse scheduled to compete in the "no contest" race

(i) Choose (N) tickets shall be sold in minimum denominations approved by the Executive Director. The physical design of Choose (N) tickets shall be distinguishable in appearance from other parimutuel tickets sold, and the Executive Director shall approve said design. The approved ticket design shall be used for each Choose (N) wager offered, and the approved design of the Choose (N) ticket shall not be changed for any Choose (N) unless first authorized by the Executive Director. The Executive Director shall approve such a request if the licensee establishes to the Executive Director's satisfaction that the approval is consistent with the best interests of racing and the best interests of the wagering public

(j) The licensee may suspend a previously approved Choose (N) with the prior approval of the Executive Director. In such event, any "carryover amount" with or without cap shall be held, and the "carryover amount" shall be maintained until the suspended Choose (N) is reinstated. In approving such suspension, based upon the circumstances present and the length of suspension period proposed by the licensee, the Executive Director may impose conditions including that the carryover amount be placed in an interest bearing account with interest accruing to the carryover wagering pool

(k) Races in which Choose (N) wagering is permitted shall be approved in advance by the Executive Director. A licensee desiring to offer a Choose (N) must file a written approval request with the Executive Director at least 15 days prior to the commencement of public wagering on the proposed Choose (N), and the licensee may not offer public wagering on the proposed Choose (N) until written approval of the Executive Director is issued. The written approval request of the licensee shall contain a detailed description of the proposed Choose (N), including

1 The minimum monetary denomination of the proposed wager,

2 The number of races comprising the letter (N) in which a patron must select each first place winner,

3 The number of eligible races upon which the Choose (N) may be placed,

4 The identity of the specific eligible races including the date or dates on which they are to be conducted,

5 Whether the proposed Choose (N) will have a "carryover amount" or "carryover amount with cap" (and, if so, the cap amount),

6 Whether any "specified date distribution" is proposed for any carryover feature;

7 Whether the horse with the most inside post position or the horse with the lowest program number will be designated pursuant to (f) above,

8 The ramifications to the Choose (N) offering and Choose (N) wagering pool if there is a cancellation or "no contest" as required by (h) above,

9 The patron base to which the wager will be offered (for example, to racetrack patrons, account wagering patrons, casino simulcast facility patrons, simulcast outlets, off-track wagering facility patrons), and

10 The method and time of advertisement of the Choose (N) rules to the wagering public

(l) After determining that the proposed Choose (N) wager complies with this section in all aspects, the Executive Director shall approve the request of the licensee under (k) above to offer the Choose (N) wager. Any approval shall be subject to the condition that the rules of the Choose (N) be made available to the public at least 24 hours prior to commencement of wagering. Although a Choose (N) wager may be advertised to the public prior to the licensee obtaining such approval, any advertisement must contain language that "the offering of this wager is contingent upon and subject to the prior approval of the New Jersey Racing Commission"

(m) No employee or agent of the licensee, and no employee or agent of the totalisator operator, shall provide information to any person regarding covered combinations, amounts wagered on specific combinations, or number of tickets sold, outside the performance of their normal employment responsibilities

(n) If circumstances occur which are not specifically addressed by this rule, questions arising thereby shall be resolved by the Racing Commission Board of Judges in accordance with the general pari-mutuel practice as set forth in this Chapter. The Racing Commission Board of Judges shall resolve any question regarding the distribution of the Choose (N) wagering pool consistent with this section

(o) The penalties for violation of this section shall be as set forth in N J A C 13 71-2 3

New Rule, R 2006 d 84, effective February 21, 2006  
See 37 N J R 3795(a), 38 N J R 1220(a)

**13:71-27.63 The "Group Bet"**

(a) The "Group Bet" is a wager which requires that a patron select one of two groups of horses in a particular race, with the letter (A) representing one group of horses and the letter (B) representing the second group of horses. The "Group Bet" constitutes a win wager on each participant in the selected group and, therefore, in order to win a "Group Bet" wager, one horse in the particular group selected by the patron must win the race. In each race where the "Group Bet" is offered, standard win wagering shall also be offered, and the minimum permissible wager for the "Group Bet" shall be the same as the minimum permissible standard win wager. In addition to standard win wagering being offered in any race where the "Group Bet" is offered, the racing association may in its discretion offer any other wager authorized by this Chapter.

(b) The horses comprising Group (A) and Group (B) shall be selected by the racing association offering the "Group Bet." The horses comprising each group shall number two or more horses, and the number of horses in each group need not be the same. In each race where a racing association offers a "Group Bet," in addition to selecting the horses comprising Group (A) and Group (B), the racing association shall select one horse which shall not be a member of either group (that is, the "non-group horse"). Each horse in a race where the "Group Bet" is offered must be a member of Group (A), a member of Group (B), or the sole "non-group horse." If the "non-group horse" wins the race, a patron who bet on Group (A) or Group (B) would lose his or her "Group Bet" wager. The identity of the horses comprising Group (A) and Group (B), and the identity of the horse comprising "the non-group horse," shall be advertised to the public in the race program and in any other manner approved by the Racing Commission Executive Director pursuant to (g) below.

(c) The racing association offering the "Group Bet," rather than designating each group of horses as Group (A) or Group (B), subject to the approval of the Racing Commission Executive Director pursuant to (g) below, may designate a particular name for each group.

(d) "Group Bet" wagers shall be combined into, and become a part of, the standard win wager pool for the particular race where the "Group Bet" is offered. The takeout rate for a "Group Bet" wager shall, therefore, be the same as that applied to the standard win wager pool. The winning payout for a "Group Bet" wager shall be the same no matter which member of the particular group wagered upon wins the race.

1 The monies wagered as a "Group Bet" shall be allocated to the standard win wagering pool as follows. The racing association shall cause "Group Bet" wagers to be allocated to the win wagering pool for each horse within the specific group subject of the "Group Bet" wager, in proportion to the monies wagered upon each such horse to win the race in the standard win wagering pool. Specifically,

this win pool wager allocation for an individual horse within a particular group shall be determined by adding the total monies wagered on all horses comprising the group (that is, Group (A) or Group (B)) as standard win wagers, then dividing such figure into the total amount wagered on the individual horse within the group (that is, Group (A) or Group (B)) as standard win wagers, and then multiplying the determined figure for that individual horse by the total wagered on the group to which it belongs as "Group Bets." For example, assume a race where the "Group Bet" is offered has five entries with horse 1 being the "non-group horse," horses 2 and 3 comprising Group (A), and horses 4 and 5 comprising Group (B). Assume further that, at the close of wagering, the following total wagers have been placed: \$1,000 in standard win wagers on horse 1, \$1,333 in standard win wagers on horse 2, \$1,000 in standard win wagers on horse 3, \$1,000 in standard win wagers on horse 4, \$667.00 in standard wagers on horse 5, \$1,000 in "Group Bet" wagers on Group (A), and \$1,000 in "Group Bet" wagers on Group (B). Applying the above described formula to Group (A), the win pool allocation for Group (A) would equal \$571.00 for horse 2 (that is, the total standard win pool wagers for each horse in the group (\$1,333/horse 2 + \$1,000/horse 3 = \$2,333), divided into the standard win wager total for horse 2 (\$2,333 divided into \$1,333/standard win wager total for horse 2 = 571), times the total wagered on the Group (571 x \$1,000/total wagered on "Group A" = \$571.00)), and \$429.00 for horse 3.

2 Although the allocation described in (d)1 above shall be made as soon as possible after wagering has closed on the race, because the amount of money wagered upon each horse to win in any race is subject to change prior to the closing of the wagering pool, such allocation shall periodically be revised during the wagering process. Although the minimum wager for a "Group Bet" shall be the same as the minimum permissible wager for a standard win wager, such allocations may be made in fractional amounts less than the minimum permissible standard win bet wager.

3 The "Group Bet" probable win payout amount for each group shall be displayed to the public on a periodic basis prior to the closing of the wagering pools. Following the closing of the wagering pools, the actual win payout for any winning group shall be displayed to the public. The probable win payout amounts and actual win payout amount for a "Group Bet" shall be displayed to the public based upon a \$2.00 wager, by the same method by which the probable win payout amounts and actual win payout amount for a standard win wager is displayed to the public.

4 The actual payout for a winning "Group Bet" shall be determined by multiplying the standard dollar win payout price for the race winner by the dollar amount allocated to the win wagering pool for the race winner (from the total dollar amount wagered upon the Group as "Group Bets" to which the race winner belongs), and then dividing the determined figure by the total wagered upon



the Group (as "Group Bets") to which the race winner belongs. For example, and using the same hypothetical race example set forth in (d)1 above, after applying applicable breakage and assuming horse 2 wins the race, the standard win bet payout would be approximately \$3.30 per dollar wagered and the "Group Bet" payout would be approximately \$1.80 per dollar wagered (that is, \$3.30 (standard win payout price) multiplied by \$571.00 (amount allocated to the win wagering pool for horse 2 from the total dollar amount wagered upon Group (A) as "Group Bets"), which determined amount (\$1,884.30) is divided by \$1,000 (total bet on Group (A) as "Group Bets").

(e) In the event of a dead heat for win between two or more horses in the same group, the "Group Bet" winning payout shall be calculated in the same manner as if there was one winner of the race and such winner was a member of such group. In the event of a dead heat for win between one or more members of either group and the non-member of the group, or between one or more members of different groups, the "Group Bet" payout shall be determined in the same manner as the calculation of the win payoff, that is, by dividing the "net win wagering pool" (that is, for purposes of this section, the total win wagering pool, which includes standard win wagers and "Group Bet" wagers, less takeout).

(f) In the event the "non-group horse" is scratched or declared a nonstarter, group betting shall cease and all "Group Bet" wagers previously placed on the race shall be refunded. In the event of a scratch or a declaration of non-starter of all of the members of Group (A) or all of the members of Group (B), group betting on the race shall cease and all "Group Bet" wagers previously placed on the race shall be refunded. In the event of a scratch or declaration of non-starter of a member of Group (A) or a member of Group (B), monies previously allocated to the scratched horse or non-starter shall be reallocated amongst the remaining member or members of that particular group.

(g) A racing association may not offer a "Group Bet" unless the format associated with the particular "Group Bet" wagering event is first approved by the Racing Commission Executive Director (Executive Director). A racing association desiring to offer a "Group Bet" must file a written approval request with the Executive Director at least three days prior to the commencement of public wagering on the proposed "Group Bet," and the licensee may not offer public wagering on the proposed "Group Bet" until written approval of the Executive Director is issued. The written approval request of the racing association shall contain the date of and race where the "Group Bet" is proposed to be offered; the name of each group, in the event the racing association intends to identify each group by a designation other than Group (A) and Group (B); the patron base to which the wager will be offered (for example, to racetrack patrons, account wagering patrons, casino simulcast facility patrons, simulcast outlets, off-track wagering facility patrons), and the method and time of advertisement of the "Group Bet" rules to the wagering public. Such a request shall be approved by the Executive

Director, subject to a determination by the Executive Director that the proposed "Group Bet" complies with this section in all aspects. In approving any request of a racing association related to a "Group Bet," the Executive Director may impose such conditions as are consistent with the best interests of racing and the interests of the wagering public. Any approval shall, however, be subject to the condition that the rules of the "Group Bet" be made available to the public at least 24 hours prior to the commencement of wagering. Although a "Group Bet" may be advertised to the public prior to the racing association obtaining such approval, any advertisement must contain language that "the offering of this wager is contingent upon and subject to the prior approval of the New Jersey Racing Commission."

(h) In the event circumstances occur which are not specifically addressed by this section, questions arising thereby shall be resolved by the Racing Commission Board of Judges in accordance with the general pari-mutuel practice as set forth in this Chapter. The Racing Commission Board of Judges shall resolve any question regarding the distribution of the wagering pool consistent with this rule.

New Rule, R 2006 d 85, effective February 21, 2006  
Sec. 37 N.J.R. 3799(a), 38 N.J.R. 1222(a)

**13:71-27.64 Requirements under which permitholders may request Racing Commission approval for new pari-mutuel wagers**

(a) The Racing Commission may approve or disapprove, at a public meeting, applications from permitholders for new forms of pari-mutuel wagering consistent with the best interests of racing. All applications must be filed with the Racing Commission on a form provided by the Racing Commission a minimum of 30 days prior to a scheduled public meeting and must include the following items before it will be considered by the Racing Commission.

1. A detailed description of the proposed wager along with the permitholder's rules of the wager including, but not limited to, the following:

- i. The minimum dollar amount of the wager;
- ii. The minimum number of starters,
- iii. Carryover provisions, if any,
- iv. The method of pool distribution, and
- v. A description of all contingencies including how the wager is handled in the event of a scratch, dead heat, race cancellation or change of surface, etc.,

2. The application shall describe the provisions that will be implemented by the permitholder to notify the public of the new wager and of the permitholder's rules of the wager, as well as when the wager will be offered, provided it is approved by the Racing Commission, and

3. The application shall include a certification from the totalisator company confirming the wager has been successfully programmed, tested and conforms with the permit holder's rules of the wager in all respects.

New Rule, R 2007 d.114, effective April 16, 2007  
See 39 N.J.R. 25(a), 39 N.J.R. 1488(d)

## SUBCHAPTER 27A SINGLE-POOL WAGERING

### 13:71-27A.1 Applicability of rules in this subchapter

The rules in this subchapter are applicable to Racing Commission-approved single-pool wagering events. Single-pool wagering events shall also be governed by the rules set forth in this chapter, unless such rules are superseded by the rules in this subchapter. If there is a conflict between a rule in this subchapter, and any other rule set forth in this chapter, the rule set forth in this subchapter shall apply.

### 13:71-27A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Multi-pool traditional wagering" means the form of parimutuel wagering traditionally associated with horse race wagering in this State, as authorized by this chapter, and the varieties of wagers authorized for such wagering, including, but not limited to, trifecta, exacta, win, place, and show.

"Odds calculation engine" means a computer and its related hardware and software components which, upon prior approval of the Racing Commission, may interface with the totalisator to receive wagering data from the totalisator, to perform single-pool wagering odds calculations, to calculate payoffs for winning single-pool wagering tickets, and after performing these functions, to then return the single-pool wagering odds calculation information to the totalisator. An odds calculation engine may be part of the totalisator or integrated within the totalisator, or it may be a separate component to the totalisator.

"Single-pool wager placement type" means a special form of wager to be specified by a patron at the time that he or she places a wager on a single-pool wager variety. Single-pool wager placement types authorized by this subchapter are a "combination wager," a "multiple race wager," a "limit wager," an "all-or-none wager," and such additional single-pool wager placement types that may be approved by the Racing Commission pursuant to N.J.A.C. 13 71-27A.7.

"Single-pool wager variety" means any wager variety authorized by this chapter for multi-pool traditional wagering, including, but not limited to, win, place, show, exacta, trifecta, and superfecta, and such additional wager varieties

that may be authorized for single-pool wagering by the Racing Commission pursuant to N.J.A.C. 13 71-27A.7.

"Single-pool wagering" means the form of wagering authorized by this subchapter where the cumulative proceeds of different single-pool wager varieties, including but not limited to trifecta, exacta, win, place, and show, on one or more races, are combined to form a single wagering pool, and following the deduction of the required takeout from the resulting single wagering pool proceeds, and applying parimutuel properties, the remaining balance of the proceeds are distributed to those individual winning ticket holders for the race or races whose cumulative wagers formed the single wagering pool.

"Single-pool wagering event" means a horse race wagering event, which, following approval by the Racing Commission of the race or races to be used to form the event, the single-pool wager placement types to be used to form the event, and the single-pool wager varieties to be used to form the event, may be offered for wagering to the public by a single-pool wagering outlet.

"Single-pool wagering outlet" means the following entities authorized by the Racing Commission to offer single-pool wagering events: a racetrack permit holder, an off-track wagering license holder, the account wagering licensee, and, subject to any required approval of the New Jersey Casino Control Commission, any Atlantic City casino authorized to participate in casino simulcasting.

"Single-pool wagering provider" means a person, persons, association, partnership, organization, or other entity who is the operator of the odds calculation engine. The single-pool wagering provider may or may not also be the operator of the totalisator.

"Single wagering pool" means the single wagering pool formed as a result of a Racing Commission approved single-pool wagering event.

"Single wagering pool unawarded surplus" means the unawarded surplus which might arise in connection with a single-pool wager variety for a race, which single-pool wager variety and race is part of a Racing Commission-approved single-pool wagering event. For example, if no wager on a "place" single-pool wager variety was a winner, a single wagering pool unawarded surplus would arise because no winning bettor would be available to collect the portion of the funds, within the single wagering pool, arising from the inclusion within the pool of wagers placed for that single-pool wagering "place" variety.

"Totalisator," means a computer situated within the hub facility which, among other things, directly or indirectly through one or more other totalisators receives pari-mutuel wagering information, calculates payoffs for winning pari-mutuel tickets, generates reports with respect to such information, and in the event that the transmission of data from a sending or host track has been interrupted, automat-

ically ceases wagering in accordance with the internal control procedures of the hub facility. The totalisator, for purposes of single-pool wagering, interfaces with the odds calculation engine and receives single-pool odds calculation information from it. The totalisator may from time to time perform certain functions of the odds calculation engine, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, or in the event of a mechanical breakdown of the odds calculation engine

### 13:71-27A.3 Licensing of single-pool wagering provider, principals, and employees

(a) The single-pool wagering provider shall be licensed as a vendor, pursuant to N.J.A.C. 13:71-7.1. In order for the application of a single-pool wager provider to be considered complete, the following documents must be submitted with its application for licensure, and such application and documents must be found to be complete by the Racing Commission Executive Director:

1 Written internal control procedures, consistent with N.J.A.C. 13:71-27A.4;

2 A written evaluation of the accuracy and reliability of the odds calculation engine, at cost to the applicant and performed by an independent testing facility acceptable to the Racing Commission Executive Director, as determined on a case-by-case basis, which includes a mathematical analysis of the odds calculation engine,

3 A fully executed contract, between the single-pool wager provider, and a single-pool wagering outlet, which provides for the offering of single-pool wagering events to the public,

4. Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a fully executed contract between the single-pool wager provider and totalisator operator, which contract is to address the interface between the totalisator and odds calculation engine, the specific single-pool wagering-related reports that are to be maintained by the totalisator operator, the specific single-pool wagering-related reports to be maintained by the single-pool wagering provider, and related terms;

5 Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a certification from a high managerial agent of the totalisator operator, indicating that the totalisator operator has reviewed the internal control procedures of the single-pool wagering provider, and as a result of that review, is of the opinion that the implementation of said procedures will not be inconsistent with the operation of the totalisator, and

6. A written list identifying all principals of the single-pool wagering provider, all the employees of the single-pool wagering provider, and those principals and employees who will have access to the odds calculation engine. The Racing Commission Executive Director, in his or her discretion, may require such persons to secure a Racing Commission "certificate of identification" license pursuant to N.J.A.C. 13:71-7.1(a)5

### 13:71-27A.4 Written internal control procedures requirement for the single-pool wagering provider

(a) The single-pool wagering provider shall maintain written internal control procedures that address the following areas:

1 Procedures to demonstrate that the odds calculation engine is subject to an actively managed security policy which meets auditable recognized information security management standards. The security procedures shall comply and conform to the existing security requirements of the totalisator and hub facility, that is, the in-State location where the totalisator is located;

2 Procedures to effectively operate the odds calculation engine in connection with single-pool wagering, and to protect the fiscal soundness, technical reliability, and integrity of single-pool wagering,

3. Procedures to insure that the odds calculation engine hardware and networked communication infrastructure between the odds calculation engine and totalisator, support redundancy sufficient to prevent the implementation from being subject to any single point of failure,

4. Procedures to insure that any extensions of the totalisator requirements, as a result of interfacing with the odds calculation engine, or as a result of changes to hardware or software to the odds calculation engine, including alterations to the calculation engine algorithm or odds calculation engine system software, shall result in successful testing of both the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification, consistent with this paragraph shall be provided to the Racing Commission,

5. Procedures to insure that any extensions of the odds calculation engine system requirements, as a result of interfacing with the totalisator, or as a result of changes to

hardware or software to the totalisator, shall result in successful testing of the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator system or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification, consistent with this paragraph shall be provided to the Racing Commission;

6 Procedures to insure the secure maintenance of a written record documenting access to the odds calculation engine, including its software, hardware, and any peripheral devices,

7 Procedures to insure that the odds calculation engine allows for an independent integrity check of its devices and software, including the ability to read the critical software files or code of the odds calculation engine for the purpose of performing a cryptographic hash to create an electronic signature of the software; and

8 Procedures to insure that data for reports and logs are maintained directly or through backup for a period equal to the totalisator system's data retention period, which time period shall be identified as part of the procedure

(b) Where the odds calculation engine is to operate as a separate computer component to the totalisator, or by a single-pool wagering provider other than the totalisator operator, the internal control procedures of the single-pool wagering provider shall additionally address the following areas.

1 Procedures setting forth a defined protocol by which the odds calculation engine and totalisator shall communicate, which communication protocol shall employ methods of error detection and handling;

2. Procedures setting forth a documented method for odds calculation responsibilities to fall back to the totalisator in the event of communication failure,

3. Procedures to insure that logs, automated or otherwise, are maintained showing the detected communication failures and mechanical breakdowns, and if discernible, the cause of the failure. Such procedures shall further insure that logs, automated or otherwise, are maintained showing the resolution or restoration of communications after such failures. Logs shall include times and dates of any failure, and the times and dates of the restoration of communication, and

4 Procedures to allow for the totalisator to perform certain functions of the odds calculation engine where within the existing technological capabilities of the totalisator, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, and in the event of a mechanical breakdown of the odds calculation engine

**13:71-27A.5 In-State requirement for odds calculation engine; dedicated requirement for odds calculation engine; access by Racing Commission**

(a) The odds calculation engine, including its related hardware and software components and peripheral devices, shall be physically located within the State of New Jersey. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the single-pool wagering provider, shall be stored in a secure fashion at the same in-State location where the odds calculation engine is located. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the totalisator operator, shall be stored in a secure fashion at the same in-State location where the totalisator is situated. The odds calculation engine may be located, but is not required to be located, at the same in-State location where the totalisator is located.

(b) The odds calculation engine shall be dedicated to its functions consistent with this subchapter, and absent approval of the Racing Commission, shall not be part of a larger computer system designed to perform any other functions or responsibilities not the subject of this subchapter.

(c) The Racing Commission, and its authorized employees and agents, shall have absolute and on-demand access to the in-State location where the odds calculation engine is situated, to the odds calculation engine system, and to all reports related to the conduct of single-pool wagering maintained or required to be maintained by the single-pool wagering provider or totalisator operator.

**13:71-27A.6 Petitions to the Racing Commission to offer a single-pool wagering event**

(a) A petition for approval to conduct a single-pool wagering event shall be in writing, and submitted to the Racing Commission for approval in advance of the event offering, by a single-pool wagering outlet. The petition shall set forth the race or races used to form the event, the single-pool wager placement type or types to be offered as part of the event, and the single-pool wager variety or varieties to be offered as part of the event. The petition shall explain, consistent with N.J.A.C. 13:71-27A.8, how any unawarded surplus is proposed to be distributed. The petition will further specify whether the odds calculation engine will directly support and conduct the calculation of odds in connection with the proposed single-pool wagering event, or whether the

totalisator will be responsible for supporting and calculating some or all of such odds for any aspect of the proposed single-pool wagering event. The petition shall further specify, consistent with N.J.A.C. 13.71-27A.9, the method proposed by the single-pool wagering outlet to calculate the odds in the event of a dead heat finish in connection with any race or wager subject of the proposed single-pool wagering event.

(b) Where the petition of a single-pool wagering outlet, to conduct a single-pool wagering event, seeks approval for a number of races to form the event, which number of races has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said number of races has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(c) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager placement type to form the event, which single-pool wager placement type has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said single-pool wager placement type has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(d) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager variety to form the event, which single-pool wager variety has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the application shall include documentation from the single-pool wagering provider evidencing that said single-pool wager variety has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(e) Where a petition seeking Racing Commission approval to conduct single-pool wagering implicates (b), (c), or (d) above, the petition of the single-pool wagering outlet shall

include any certifications required by N.J.A.C. 13.71-27A.4(a)4 and 5

(f) Where a petition seeking Racing Commission approval to conduct a single-pool wagering event implicates N.J.A.C. 13.71-27A.12(b), the petition shall set forth the take-out structure for the proposed single-pool wagering event

#### **13:71-27A.7 Single-pool wager placement types; single-pool wager varieties**

(a) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to, and approval of the Racing Commission pursuant to N.J.A.C. 13:71-27A.6, may offer the single-pool wager placement types listed in this subsection, and such other single-pool wager placement types as the Racing Commission determines are consistent with the best interests of racing, and consistent with the technological ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets.

1. A "combination wager" means a wager placed on one or more horses and shall be a winning wager only if the horses selected finish in any of the positions selected as part of the wager. For example, a combination wager to select two of the top three finishers would be a winning wager only if both selected horses finish the race in any combination of first through third.

2. A "multiple race wager" means a wager on the outcome of multiple races. This wager may include any combination of number of races, on races contested at one or multiple racetracks, provided that each combination offered for wagering shall have its own associated odds.

3. A "limit wager" means a wager placed on an outcome that has associated with it specified odds or higher odds. A limit wager, once placed, only enters the single wagering pool to the extent that the actual odds calculated for the wager equal or exceed the odds specified as part of the limit wager when placed. Because a limit wager is removed from the single wagering pool to the extent that the calculated odds move below the odds specified as part of the limit wager when placed, a partial fill of the placed wager may result.

4. An "all-or-none wager" means a limit wager in which the wager must be able to be placed within the single wagering pool in its entirety, or the wager may not be accepted.

(b) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to and approval of the Racing Commission pursuant to N.J.A.C. 13:71-27A.6, may offer any wager variety authorized by this chapter for multi-pool traditional wagering, and such additional single-pool wager variety or varieties that the Racing Commission determines is consistent with the best interests of racing, and consistent with the technological

ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets.

#### **13:71-27A.8 Single wagering pool unawarded surplus**

The distribution of any single wagering pool unawarded surplus, which could arise in connection with a single-pool wagering event, shall be subject to the approval by the Racing Commission at the time it considers any petition of a single-pool wagering outlet for a single-pool wagering event. The single-pool wagering outlet shall have the burden to demonstrate, to the satisfaction of the Racing Commission, that any single wagering pool unawarded surplus will be distributed in a fair and consistent fashion to persons who have wagered on the same race, or races, resulting in the single wagering pool unawarded surplus

#### **13:71-27A.9 Calculation of odds in the event of a dead heat finish**

(a) In the event of a dead heat for any position in any race comprising a single-pool wagering event, the payoff shall be calculated using either of the two methods set forth below, as approved by the Racing Commission.

1. The method set forth in N.J.A.C. 13:71-27.45, or
2. The payoff for each winning wager, in the event of a dead heat finish involving two horses, shall be equal to  $\frac{1}{2}$  of the expected payout for each horse involved in the dead heat. In the event of a dead heat finish involving three or more horses, the payout for each winning wager shall be divided equally for each horse involved in the dead heat.

#### **13:71-27A.10 Notification to public of single-pool wagering event; display of odds information**

(a) A single-pool wagering outlet shall provide sufficient notice to the public of all single-pool wagering events, whether offered in connection with live racing or simulcasting. The public notification shall be included in the race program, unless otherwise approved by the Racing Commission, and shall identify the races, the single-pool wager varieties, and the single-pool wager placement types included in the single-pool wagering event.

(b) The odds information for all single-pool wager varieties forming a single-pool wagering event shall be displayed to the public consistent with N.J.A.C. 13:71-27.8, unless the Racing Commission approves such other method. Such odds information shall be displayed in a continuously updated manner, unless otherwise approved by the Racing Commission.

#### **13:71-27A.11 Single-pool wagering with out-of-State racetracks**

The Racing Commission may approve a single-pool wagering event imported from an out-of-State racetrack, or

exported to an out-of-State racetrack, provided that such single-pool wagering event is consistent with law. Any petition to the Racing Commission to approve such a single-pool wagering event shall contain a certification, signed by a high managerial agent of both the single-pool wagering outlet and single-pool wagering provider, that the proposed single-pool wagering event is consistent with the law of such other jurisdiction or jurisdictions

#### **13:71-27A.12 Take-out structure for single-pool wagering events; calculation of net pool amount**

(a) Where a Racing Commission-approved single-pool wagering event includes a single-pool wager variety, which same variety is also authorized by this chapter for multi-pool traditional wagering events, the take-out for such single-pool wagering variety shall be the same as that applied in multi-pool traditional wagering.

(b) Where a Racing Commission approved single-pool wagering event includes a single-pool wager variety, which variety is not authorized by this chapter for multi-pool traditional wagering, the take-out rate for such single-pool wager variety shall be determined by the single-pool wagering outlet petitioning the Racing Commission for approval of the single-pool wagering event, but in no case shall the take-out rate be less than 17 percent or greater than 25 percent of the portion of the single wagering pool comprising said single-pool wager variety

(c) Where a Racing Commission-approved single-pool wagering event is imported from another jurisdiction as a simulcast event, the take-out rate governing that race in the sending jurisdiction shall be applied

(d) In no case shall any take-out rate for any single-pool wager variety be inconsistent with the take-out rate percentages provided for in P.L. 1940 c. 17 (N.J.S.A. 5:5-22 et seq.)

(e) To arrive at the net pool amount for a single-pool wagering event, the take-out authorized by this section shall first be applied to and deducted from the total wagered on each single-pool wager variety for each race comprising the single-pool wagering event. The total amount wagered on each horse race wager variety shall then be divided into the corresponding net pool amount, which calculation results in the payoff price for each horse race wager variety for each race forming the single-pool wagering event

#### **13:71-27A.13 Integration of single-pool wagering data with Racing Commission mutuel system**

Any data necessary for the Racing Commission computerized mutuel system to reconcile wagering information, and to insure that the distribution of wagers made is consistent with law, shall be made available to the Racing Commission by the single-pool wager provider or totalisator operator, as appropriate. In the event that any resulting hardware or software changes are required to be made to the Racing

Commission computer system, the single-pool wager provider shall be directly responsible for all related costs incurred by the Racing Commission. Nothing contained in this section shall preclude the single-pool wager provider from contracting with any other person or entity to reimburse any such costs to it.

**13:71-27A.14 System failure for single-pool wagering event**

Where, due to any system failure in connection with a Racing Commission approved single-pool wagering event, including as a result of a system failure of the odds calculation engine, the totalisator, or any interface between the odds calculation engine and the totalisator, odds cannot be calculated or wagers cannot be processed utilizing the single-pool wagering system, such odds shall be calculated utilizing the multi-pool traditional wagering system. In the event that the multi-pool wagering system cannot be utilized, the rules in effect governing totalisator failure for multi-pool traditional wagering shall apply.

**SUBCHAPTER 28 INITIAL TRACK APPLICATION**

**13:71-28.1 Permit to hold race meetings**

(a) No license or permit shall be transferable or assignable in any manner or in any particular.

(b) An application for a permit to conduct a horse race meeting shall be filed on form R-1 in the case of harness races and on form R-2 in the case of running races, which forms shall be prescribed and furnished by the Commission. The Commission may require from time-to-time additional information which shall be attached to, and made a part of, and filed with the application. The application and additional information shall be submitted in affidavit form, sworn to and subscribed before a person legally competent to take oaths. The application shall be filed with the Commission prior to August 1, of any year.

(c) The applicant shall furnish, at his expense, such data as the Commission shall require to enable it to carry out fully and effectually all the provisions and purposes of the law which may include, but shall not be limited to, the following

1 Blueprints and specifications of the track and its surface, and blueprints and specifications of buildings and grandstands; and

2. Surveys, studies and analyses by competent and qualified experts which may be required by the Commission to ascertain such factors as proposed attendance, traffic flow, income or any and all matters necessary for the Commission to make a determination with respect to the matter of the application

(d) When, in the judgment of the Commission, the services of special legal counsel are necessary to carry out fully and effectually all the provisions and purposes of the law and to serve the public interest, the Commission may request the Attorney General to appoint such counsel and the applicant shall pay the reasonable expenses to his services. Special counsel shall submit, in affidavit form, a detailed accounting of his services to the Attorney General who shall certify said accounting to the Commission upon being satisfied that it is reasonable and necessary to carry out fully and effectually the purpose of this act. The Commission shall, in no event, require payment for such services without the said approval of the Attorney General.

(e) In any case where the Commission may require expenses by the applicant, pursuant to this request, the Commission may, in its discretion, require the applicant to give bond or other satisfactory security to guaranty payment of the aforesaid expenses.

(f) The application for a permit to hold or conduct horse race meetings within the State of New Jersey shall include, but not be limited to, the following information.

1 The name of the person, association or corporation making such application;

2. Post-office address of the applicant,

3. If the applicant is a corporation or an association, the names and addresses of the officers and directors thereof and the name and address of each owner or holder, directly or indirectly, of any share of stock or certificate or other evidence of ownership of any interest in such corporation or association.

4. If the applicant is a partnership, it shall furnish the names and addresses of all general and limited partners,

5. In the case of a corporate applicant, the date of incorporation, name of the state in which incorporated, and a copy of the original certificate of incorporation and of any amendments thereto;

6 The dates on which it is intended to conduct or hold such horse race meeting and the hours of each racing day between which it is intended to hold or conduct horse racing at such meeting,

7 The location of the place, track or enclosure where it is proposed to hold or conduct such horse race meeting,

8. Detailed information and specifications of the track, buildings and grandstand possessed or to be constructed by the applicant, including a blueprint of the track and specifications of the construction and of the surface of same, and blueprints and detailed architect's specifications of the construction of any buildings and grandstands of the applicant. The Commission reserves the right to reject inadequate or unsatisfactory specifications or to demand additional information and specifications from the applicant;

9 A financial statement of the applicant, certified by a certified public accountant of New Jersey;

10. A statement by a certified public accountant of New Jersey showing details of all financing arrangements made or contemplated by the applicant in connection with the construction of the race track buildings and grandstand;

11 Any other information which is set forth on form R-1 or form R-2 or as may be required by the Commission.

(g) The application, if made by an individual, shall be signed and verified under oath by such individual, and, if made by two or more individuals or a partnership shall be signed and verified under oath by all of the individuals or by all of the members of the partnership, whether general or limited, as the case may be. If the application is made by an association or corporation, it shall be signed by the president or vice-president thereof and attested by the secretary or assistant secretary under the seal of such association or corporation, if it has a seal, and shall be verified under oath by one of the officers signing the same

(h) In addition to the requirements in (g) above the applicant shall comply with the following

1. Every applicant shall furnish to the Commission under oath a list of the names, addresses and dates of birth of every person, entity or organization who or which has any interest whatsoever in the applicant, the proposed race track or the proposed horse race meetings, and a detailed account of the nature and extent of said interest. Each such person, entity or organization who or which has such an interest shall furnish a statement, under oath, to the Commission, setting forth that he is acting solely in his own behalf and is a real party in interest, or if he is acting jointly with or solely on behalf of any person, entity or organization, or if he is not a real party in interest, then he shall state the name, address and date of birth of the real property or other party or parties in interest for whom he is acting. In the event that the application and its attachments do not identify any person, entity or organization who or which has any direct or indirect interest in the applicant, proposed race track or proposed horse race meetings, the application may be denied

2. Every applicant member, partner, officer, director, stockholder and person having any direct or indirect interest in the applicant and every real party in interest in the applicant shall furnish a detailed statement, under oath, of his experience and background in racing and of his business and financial background including a financial statement

3 Every applicant shall furnish with its application the fingerprints of each applicant member, partner, officer, director, real party in interest, stockholder and of every person who has any direct or indirect interest whatsoever in the applicant, on forms provided by the Commission.

4 Every applicant member, partner, officer, director, real party in interest and stockholder shall furnish a statement, under oath, to the Commission describing any and all direct or indirect interests that he presently has, or previously had, in any other racing organization, association or race track, presently existing or which has been in existence in any part of the world

(i) If there is any false statement or omission of any material fact in the application or in the additional information required by this section or by the Commission, the application may be denied

(j) The Commission shall designate a certified court reporter to take and record the proceedings at the public hearing on the application. Within 10 days following the date of the public hearing the applicant shall, at its own expense, furnish to the Commission an original and four copies of a transcript of the proceedings

(k) Within 15 days after the filing of an original application, the Commission shall determine whether the same is in due form and upon being satisfied thereof shall set a date not later than September 15 next when a public hearing shall be held on such application

(l) The public hearing shall be held in the county wherein it is proposed to conduct the race meeting for which the permit is sought at such place as may be designated by the Commission in writing to the applicant. Notice of the time and place of the hearing shall be served on the applicant by the Commission by mailing the same postage paid by certified mail to the applicant at the address indicated in the application

(m) The Commission shall cause a display advertisement approximately 11 inches by eight inches in size to be published at least once in weekly newspaper published or circulated, if none be published, in the county wherein it is proposed to conduct the race meeting for which the permit is sought. Such advertisements shall be published at least 15 days before the date of such public hearing and shall contain the following

- 1 The name and address of the applicant,
- 2 The time and place of the hearing;
3. The nature of the permit applied for,

4 A statement to the effect that the purpose of the hearing is to assist the Racing Commission in making a determination whether or not it shall grant a permit to conduct a horse race meeting during the times and at the place indicated in the application,

5 Such other information as is determined to be necessary by the Commission in order to apprise the public as to the purpose of the hearing.

(n) The advertisements for the public hearing shall be prepared and placed by the Commission, but shall be paid for



by the applicant prior to the time of the public hearing. The applicant shall produce proof to the Commission prior to the hearing that it has paid for the advertisements.

(o) The hearing shall be recorded by a certified court reporter of the State of New Jersey, who shall be sworn by the Chairman of the Racing Commission at the beginning of the hearing.

(p) The public hearing shall be held before the Racing Commission. A majority of the Commission shall constitute a quorum for the purpose of the hearing. The Chairman of the Commission shall conduct the hearing, or may designate the counsel assigned to the Racing Commission by the office of the Attorney General to conduct the hearing.

(q) The Commission may continue such hearing from time to time if it deems it to be necessary in the public interest, or for purposes of a more thorough investigation of the application. In conducting the hearing the Commission shall not be bound by technical rules of evidence, but all evidence offered before the Commission shall be reduced to writing and shall, with the petition and exhibits, if any, and the findings of the Commission, be permanently preserved and shall constitute the record of the Commission in the manner of the pending application. Any of the parties affected by such hearings may be represented by counsel and shall have the right to introduce evidence.

(r) Each member of the Commission shall have power to administer oaths and examine witnesses and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, records, correspondence and evidence at the designated place of hearing. Such subpoena shall be authenticated by the seal of the Commission and any parties to a proceeding before the Commission may secure from its subpoenas without charge. Misconduct on the part of a person attending a hearing, or the failure of a witness, when duly subpoenaed, to attend, give testimony or produce any records, shall be punishable in accordance with law by the county court of the county wherein the offense is committed. The Commission shall certify such misconduct, failure to attend or produce records, to such county court.

(s) The Commission, or any member thereof, or any applicant, may in connection with any hearing before the Commission cause the deposition of witnesses within or without the State to be taken on oral or written interrogatories in the manner prescribed by statute for depositions in suits at law in the courts of record in this State.

(t) The Commission, or a majority thereof, shall determine whether a permit to hold or conduct a running race meeting or harness race meeting, as the case may be, is provisionally granted pending approval thereof by the legal voters of the county and of the municipality in which it is proposed to hold or conduct such race meeting. The Commission shall make its determination not less than 30 days before the next ensuing

general election following the date of public hearing. If the Commission acts favorably on such application, it shall in writing certify to the county clerk of the county in which it is proposed to hold or conduct such horse race meeting that such permit has been provisionally granted.

(u) The actual costs and expense of the Commission incurred in connection with any such hearing or investigation of the application shall be paid by the applicant upon the Commission's delivering to the applicant a statement thereof. The Commission in its discretion, may require the applicant, before the hearing as hereinbefore provided, to give a surety bond or other satisfactory assurance that such applicant will pay all costs of such hearing.

OFFICE OF ADMINISTRATIVE LAW NOTE: Forms R-1 (Application for Permit to Hold or Conduct Harness Race Meeting) and R-2 (Application for Permit to Hold or Conduct Horse Race Meeting) were filed as part of R.1982 d 109, effective April 5, 1982. See 13 N.J.R. 820(a), 14 N.J.R. 347(b). Copies of these forms can be obtained from

New Jersey Racing Commission  
 140 East Front Street  
 PO Box 088  
 Trenton, NJ 08625-0888  
 or  
 Office of Administrative Law  
 Administrative Publications and Filings  
 PO Box 049  
 Trenton, NJ 08625-0049

Amended by R 2000 d 35, effective January 18, 2000  
 See 31 N.J.R. 3050(a), 32 N.J.R. 322(a)  
 In Office of Administrative Law Note, changed addresses

SUBCHAPTER 29. SULKY

Subchapter Historical Note

Petition for Rulemaking Sulky  
 See 37 N.J.R. 3078(a), 3464(c), 4477(c).  
 Petition for Rulemaking, Racing Commission harness racing action on rulemaking petition regarding sulky identification  
 See 38 N.J.R. 1353(b)

13:71-29.1 Standardbred sulky standards

(a) A sulky is a dual shafted dual wheeled vehicle designed to be drawn by a horse and driven by a person.

(b) The following requirements apply to sulky wheels

- 1 Each sulky shall contain two wheels.
2. The wheels shall be 26 inches to 28 inches with tire attached
3. All wheels shall be covered by wheel disc covers constructed in such a manner so that they are lightweight and durable.

(c) Wheel discs shall be either uncolored or colorless

(d) The following requirements apply to sulky shafts:

1 Each sulky shall be equipped with two shafts that are attached independent of one another to the horse

2. Inside to inside measurement shall be within a range of 42 inches to 50 inches at the front of the arch.

3. The sulky must be attached to either side of the horse by an approved method with each shaft hooked separately on each side.

4. All shafts will be equipped with quick hitch fixtures or attachable by conventional tie-downs

5. All quick hitches shall have safety straps. The forward ends of the sulky shaft shall not project beyond the shoulder of the horse

6 The shaft shall not be higher than the withers of the horse.

(e) The following requirements apply to the sulky arch

1. The style of arch must be no narrower than 47 inches or wider than 56 inches in distance measuring from the inside of each side of the arch at the axle nuts

2. The front of the arch to the center line of the harness where a horse is hitched shall be no greater than 76 inches as measured along the shaft. The distance from the front of the arch to the back of the seat shall be no greater than 19 inches

3. The distance from the ground to the bottom of the arch shall be between 28 inches and 35 inches measured with the wheels attached

4 The arch shall be parallel to the ground and located at a minimum of one inch higher than the tire at all points

(f) The following requirements apply to the sulky fork.

1. Inside measurements between the inside fork assemblies shall be six inches greater than the inside measurement between the shafts as measured at the front of the arch; that is, shafts 40 inches/inside forks 46 inches, shafts 46 inches/inside forks 52 inches (fork measurements taken from the inside of each side of the arch at the axle nuts)

2 There shall be a fork assembly on both sides of each wheel.

(g) The following requirements apply to sulky stirrups:

1. Each sulky shall be equipped with two stirrups. Each stirrup shall be not more than eight inches wide.

2. The stirrups shall be attached to the inside of each shaft no closer than 30 inches from stirrup to stirrup

3 The measurement from the ground to the heel of the stirrup and ground to seat plate shall have a spread of no more than six inches as measured with the bike hitched at 54 inches

(h) The following requirements apply to sulky seats:

1 The seat plate shall be no lower than one inch below the arch

2. The seat shall be securely attached to the seat bracket in a fixed position

3. The back of the seat shall be no higher than four inches. No high back (bucket type) seats shall be permitted

4 All seats shall have adequate padding to provide comfort for the driver

(i) The mud fenders shall be easily attached to the sulky in such a manner as to make them totally secure to the sulky

### 13:71-29.2 Certification

(a) No sulky shall be used after the expiration of eight years from the year of manufacture or the recommended period for use by the manufacturer, whichever is less

1 If a sulky is involved in an accident, the Paddock Judge will affix a label to the sulky that says "do not use". The owner of the sulky that receives a "do not use" label must then have the sulky inspected by its manufacturer. The manufacturer is authorized to remove the "do not use" label after inspecting the sulky and making any necessary repairs. Only the manufacturer or his representative is permitted to remove the "do not use" label. Any person, other than a manufacturer's representative, removing a "do not use" label is subject to a fine and/or suspension. Documentation identifying the sulky and repairs made must be filed by the trainer with the Paddock Judge prior to its introduction back into use

2. The driver/trainer is responsible for the operation and maintenance of all sulkies used during training, qualifying or racing of horses under his or her care. Sulkies found unfit for use by the Paddock Judge or representative thereof in participation of the above activities will subject the driver/trainer to a fine and/or suspension

Recodified from N.J.A.C. 13:71-29.3 and amended by R.2007 d.115, effective April 16, 2007

See: 38 N.J.R. 3747(a), 39 N.J.R. 1489(a)

Rewrote (a)1 and (a)2; and deleted (a)3 and (a)4. Former N.J.A.C. 13:71-29.2, Inspection stickers, repealed

### 13:71-29.3 Serial numbers

(a) Newly manufactured sulkies shall contain individual serial numbers placed on the arch and shaft by the manufacturer denoting the date of manufacturing and space made to reflect that the sulky passed a scientific testing for use by a reputable firm to be designated by the Racing Commission.

1 Serial number and verification documents on sulkies competing in New Jersey shall be filed with the New Jersey Racing Commission Steward

Recodified from N J A C 13 71-29 4 by R 2007 d.115, effective April 16, 2007.

See 38 N.J.R. 3747(a), 39 N.J.R. 1489(a)

Former N J A C 13 71-29 3, Certification, recodified to 13 71-29 2

**13:71-29.4 Liability insurance**

Each manufacturer shall be required to annually file a true copy of their current product liability insurance/occurrence insurance in the minimum amount of one million dollars per occurrence with the New Jersey Racing Commission Steward

Recodified from N J A C 13 71-29 5 by R.2007 d 115, effective April 16, 2007.

See 38 N.J.R. 3747(a), 39 N.J.R. 1489(a)

Former N J A C 13.71-29 4, Serial numbers, recodified to 13.71-29.3

**13:71-29.5 (Reserved)**

Recodified to N J A C 13 71-29 4 by R.2007 d.115, effective April 16, 2007

See 38 N.J.R. 3747(a), 39 N.J.R. 1489(a)

Section was "Liability insurance"

**SUBCHAPTER 30. "SELF-EXCLUSION LIST" RULES**

**13:71-30.1 "Self-exclusion list" rules incorporated herein by reference**

The Racing Commission rules, at N.J.A.C. 13-74A, Self-Exclusion List, sets forth rules and procedures allowing for individuals to voluntarily place themselves on a list of persons to be excluded from thoroughbred racetracks licensed pursuant to N.J.A.C 13 70, Horse Racing; excluded from standardbred or harness racetracks licensed pursuant to this chapter (N.J.A C 13 71, Harness Racing), excluded from off-track wagering facilities licensed pursuant to N J A C. 13.74; and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to N J A C 13:74 All rules in N J A C. 13.74A are applicable to this chapter and are incorporated herein by reference.

