

HARNESS RACING

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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 TCO₂ level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO₂ 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 TCO₂ level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO₂ 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 TCO₂ level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO₂ 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 TCO₂ 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 sample

(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) For each horse to be tested, the State Veterinarian or a designated employee shall cause one sample of the horse's urine to be sent to the Racing Commission laboratory. Following the testing of the urine sample (hereinafter "primary sample"), any residue portion of the urine sample taken (hereinafter "split sample") shall be preserved by the Racing Commission laboratory until either: it is determined by said laboratory that the primary urine sample is negative for a foreign substance; or, if the primary urine sample is determined positive for a foreign substance, for 10 days following the issuance of written notification of such finding to the owner and trainer at their respective addresses as set forth in their current license applications on file with the Racing Commission. The owner or trainer, prior to the expiration of such 10-day time period, may request in writing to the Racing Commission's Executive Director that any split sample be sent to another laboratory for testing (hereinafter "outside laboratory"). The outside laboratory shall be selected by the requesting owner or trainer from a minimum of three appearing on a list of eligible laboratories to be previously approved by the Racing Commission. If no such request is timely made, upon expiration of the 10-day period, the Racing Commission laboratory shall properly dispose of any split sample and the findings of its testing shall be conclusive. If such a request is timely made, and if the entire primary sample was consumed during the Racing Commission laboratory testing process, the results of the Racing Commission laboratory testing on the primary sample shall be conclusive. If such a request is timely made, and a split sample remains, the Racing Commission laboratory shall cause the split sample or portion thereof to be delivered to the selected outside laboratory for testing. If the Board of Judges determines that the outside laboratory confirms substantially the Racing Commission laboratory findings, or that the split sample was not of sufficient quantity for the outside laboratory to conduct valid testing or to reach a valid testing conclusion, those findings of the Racing Commission laboratory shall be considered conclusive. If the Board of Judges determines that the outside laboratory does not confirm substantially the Racing Commission laboratory findings, any outstanding allegation or determined finding that the foreign substance in question was in the horse's system at the time of the subject race shall be dismissed. 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 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. 13:71-23.4.

(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 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 circumstance 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".

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.