

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).

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).

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

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.

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 Abusive whipping by a jockey

Every jockey shall be responsible for the proper use of his or her whip during the running of a race. Whips may be used for the purpose of encouraging a horse to give forth its best effort during the running of a race, but shall not be used in an abusive or reckless manner. The stewards shall take cognizance of the manner in which a whip is used during the riding of a race and at all times thereafter and shall make such determinations as they deem appropriate with respect to whether or not there has been an abusive use of a whip and/or reckless use of a whip. If, in the opinion of the stewards, an abuse of the whip or a reckless use of the whip has been committed, the offending jockey shall be fined and/or suspended by the stewards.

New rule, R.1988 d.559, effective December 5, 1988.
See: 20 N.J.R. 2038(a), 20 N.J.R. 3025(a).

SUBCHAPTER 12. CLAIMING

13:70-12.1 Claiming races on the flat

In claiming races on the flat, other than open claiming pursuant to N.J.A.C. 13:71-14.36, any horse is subject to claim for its entered price by any owner who has started a horse on the flat at the meeting at which the claim is made and who also has been assigned stalls on a permanent basis on the premises of a licensed New Jersey racetrack, or who has been assigned stabling at an approved farm in the State of New Jersey.

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).

13:70-12.2 Restrictions; claiming privileges

The stewards at their discretion may permit an owner racing from out-of-state to replace a horse claimed from him even though the owner does not meet the stabling requirements of N.J.A.C. 13:70-12.1.

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.”

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 25 percent more 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.

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 prevent anyone from racing a horse in any claiming race for which it is entered.

As amended, R.1980 d.95, eff. February 27, 1980.
See: 11 N.J.R. 463(a), 12 N.J.R. 208(c).

13:70-12.13 Affidavits

The Stewards may, at any time, at their discretion, require any person who has filed a claim to make affidavit in writing that he is claiming in accordance with the rules; and claims which are not made in keeping with the rules shall be void.

As amended, R.1980 d.95, eff. February 27, 1980.
See: 11 N.J.R. 436(a), 12 N.J.R. 208(c).

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 accurate in every detail, otherwise, the claim shall be void. 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).

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 account with the association's horsemen's accountant of not less than the amount of the claim, plus New Jersey sales tax. No claimant shall deplete his account after entering a claim for any horse for a period of two hours from the time the said claim was entered.

As amended, R.1980 d.95, eff. February 27, 1980.
See: 11 N.J.R. 463(a), 12 N.J.R. 208(c).

13:70-12.16 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.

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 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 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).

(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 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 Stewards 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 Stewards 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. 13:70-14A.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 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. 13:70-13A.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).

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).

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 a second or subsequent violation of N.J.A.C. 13:70-14A.6(a), (b), (d) or any comparable rule of any other racing commission or turf governing body may be deemed a repetitive offender. A second or subsequent violation of 13:70-14A.6 may constitute grounds for further disciplinary action by the Commission.

- (d) Horses owned wholly or in part by persons suspended for violation of N.J.A.C. 13:70-14A.6(a), (b) or (d) are ineligible to start during the period of such suspension, unless sold to a bona fide purchaser. Horses trained by a person suspended for such a violation, 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.)

Case Notes

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).

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: