

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. i and ii 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Repealed old rule and adopted this new rule.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).

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 N.J.R. 1146(b), 15 N.J.R. 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 N.J.R. 2529(a), 18 N.J.R. 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.

(f) Notwithstanding anything to the contrary herein 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 phenylbutazone, as a result of an administration prior to the day of the race, in a quantity of 2.5 micrograms per milliliter or less as determined by post-race testing.

(g) Should the judges or stewards, as appropriate, determine that any trainer or persons have violated (f) above, as a result of an administration prior to the day of the race, they shall punish the offending party as follows:

1. In the event post-race testing determines that any horse carried in its body on the day of the race phenylbutazone in a quantity above 2.5 micrograms per milliliter up to and including 3.0 micrograms per milliliter, the trainer and any other responsible party shall be subject to the following penalties regardless of whether or not the same horse is involved:

i. First violation of N.J.A.C. 13:70-14A.9(g)1—\$250.00 fine;

ii. Second violation of N.J.A.C. 13:70-14A.9(g)1—\$500.00 fine and seven days suspension;

iii. Third violation of N.J.A.C. 13:70-14A.9(g)1—\$500.00 fine, loss of any purse and suspension; and

iv. Fourth or subsequent violation of N.J.A.C. 13:70-14A.9(g)1—such fines, suspensions and/or other penalties allowed by this chapter.

2. In the event post-race testing determines that any horse carried in its body on the day of the race phenylbutazone in quantities exceeding 3.0 micrograms per milliliter up to but not including 5.0 micrograms per milliliter, the trainer and any other responsible party shall be subject to the following penalties regardless of whether or not the same horse is involved:

i. First violation of N.J.A.C. 13:70-14A.9(g)2—\$500.00 fine;

ii. Second violation of N.J.A.C. 13:70-14A.9(g)2—\$500.00 fine, loss of any purse and 15 days suspension;

iii. Third violation of N.J.A.C. 13:70-14A.9(g)2—\$500.00 fine, loss of any purse and suspension; and

iv. Fourth or subsequent violation of N.J.A.C. 13:70-14A.9(g)2—such fines, suspensions and/or other penalties allowed by this chapter.

3. In the event post-race testing determines that any horse carried in its body on the day of the race phenylbutazone in a quantity equal to or exceeding 5.0 micrograms per milliliter, the trainer and any other responsible party shall be subject to the following penalties regardless of whether or not the same horse is involved:

i. First violation of N.J.A.C. 13:70-14A.9(g)3—\$500.00 fine, loss of purse and 15 days suspension; and

ii. Second or subsequent violations of N.J.A.C. 13:70-14A.9(g)3—such fines, suspension and/or other penalties allowed by this chapter.

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.

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.