

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 order 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

All purses contested for shall be distributed according to the conditions of the race. No deduction, voluntary or involuntary, may be made from any purse or stake or futurity other than for payment to be made to owners, drivers, trainers, nominators or breeders of money winning horses and organization or promotion expenses stipulated for stakes and futurities. Five percent of the owner's payment shall be deducted and paid to the driver, and five percent of the owner's 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.

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 these rules. Examples of drugs and/or substances foreign to the natural horse, and thus prohibited pursuant to this section and these rules 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. Erythropietin (epogen, EPO);
9. Pain killers;
10. Sodium bicarbonate (baking soda);
11. Confectionery sugar;
12. Stamina builders; and
13. Mixtures, compounds or solutions commonly referred to as "milkshakes" which contain any prohibited drug and/or substance.

(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 which does not contain any of the 13 examples of prohibited items as set forth in (b) above, or additionally, any other substance foreign to the natural horse which 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).

Case Notes

District court would abstain from reaching merits of harness race-horse trainers' applications for stays of orders. *Bongiorno v. Lalomia*, D.N.J.1994, 851 F.Supp. 606, affirmed 39 F.3d 1168.

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.

13:71-23.3C Pre-race blood gas analyzing machine 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 a blood gas analyzing machine testing program authorized pursuant to N.J.A.C. 13:71-23.3A, or with regard to any procedures set forth in or implemented pursuant to N.J.A.C. 13:71-23.3A or 23.3B, in addition to ordering the horse scratched from competition, the judges may, consistent with this chapter, impose fines or suspensions, or both, on the non-cooperating person. In determining the length of suspension or amount of the fine, the judges may consider prior violations of N.J.A.C. 13:71-23.3A or 23.3B.

New Rule, R.1993 d.513, effective October 18, 1993.
See: 25 N.J.R. 3427(a), 25 N.J.R. 4751(b).

13:71-23.4 Post-race testing program

(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.

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 race-horse trainers' applications for stays of orders. *Bongiorno v. Lalomia*, D.N.J.1994, 851 F.Supp. 606, affirmed 39 F.3d 1168.

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 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. *Caltigirone 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 a second or subsequent violation of N.J.A.C. 13:71-23.6(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 N.J.A.C. 13:71-23.6 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. 13:71-23.6(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 judges.

(See N.J.A.C. 13:71-3 for rules concerning appeals.)

13:71-23.8 Administering medication to respiratory bleeders; standards for the administration of phenylbutazone

(a) The judges may permit the administration of medication to control respiratory bleeding in animals that:

1. At any time have received a comprehensive cardiopulmonary examination at an approved equine hospital or school of veterinary medicine and as a result thereof are certified as bleeders and therefore are in need of medication in order to race; or

2. Are observed in New Jersey to bleed during the running or driving or a workout or race at a duly licensed New Jersey racetrack, or in the detention barn following such workout or race by the State or Associate State Veterinarian and have been placed on a veterinarian's list for at least 10 days; or

3. Have been certified as respiratory bleeders in other racing jurisdictions by a veterinarian employed by that jurisdiction's regulatory body or have been placed on another racing jurisdiction's respiratory bleeder's list.

(b) All horses that are placed on the veterinarian's list shall be required to be treated by a licensed practicing veterinarian in the stall assigned to that horse on the grounds of the Racing Association or in the receiving barn. During this period the horse shall be under the care and custody of a groom or caretaker appointed by the trainer. Furosemide, a diuretic medication that is intended to control respiratory bleeding, shall be administered by a licensed practicing veterinarian and shall be limited to an intravenous dose of 0.25 milligrams (mg) per pound of body weight (0.50 mg per kilogram) or 250 milligrams (five cubic centimeters (cc)) in a 1,000 pound horse at least four hours prior to race time. Said practicing veterinarian shall make daily reports of all said treatments and file said reports with the State Veterinarian each day.

(c) 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 above. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide exceeds a level of 50 nanograms per milliliter of plasma (50 ng/ml) the trainer and/or the practicing veterinarian shall be liable to the penalties as set forth in (e) below.

(d) A horse placed on the veterinarian's list for bleeding must remain on the list for 10 calendar days, a second time bleeder must remain on the respiratory list for 30 days, and a third time bleeder must remain on the respiratory list for 90 days. A bleeder in the above categories is automatically released from the veterinarian's list after these dates; however, a horse which evidences respiratory bleeding a fourth time is barred from further racing in New Jersey.

(e) Should the stewards determine that any person or persons have violated (c) above, they shall punish the offending party as follows:

1. A trainer and/or veterinarian shall receive a warning for the first time a horse in his or her care shall show a test result in excess of 50 nanograms per milliliter of plasma.

2. A trainer and/or veterinarian shall receive a fine not to exceed \$500.00 for a second time the same horse shows a test result in excess of 50 nanograms per milliliter of plasma.

3. Should the same horse show a test result in excess of 50 nanograms per milliliter of plasma for a third time, the trainer and/or veterinarian shall be suspended, fined or both.

4. Repeated violations of (c) above by a trainer and/or veterinarian for any horse under their care may subject said trainer and/or veterinarian to fine and/or suspension, regardless of whether or not the same horse is involved.