

# **NEW JERSEY RACING COMMISSION**

## **Horse Racing Rules**

### **Proposed Readoption N.J.A.C. 13:70**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki  
Executive Director

Authority: N.J.S.A. 5:5-30

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-39

Submit written comments by April 8, 2005 to:

Michael Vukcevich, Deputy Director  
New Jersey Racing Commission  
140 East Front Street  
P.O. Box 088  
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The agency proposal follows:

### **Summary**

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 13:70 is scheduled to expire on June 20, 2005. The rules have been reviewed pursuant to Executive Order No. 66 (1978) and the Commission has found them to continue to be reasonable, necessary, and effective for the purposes for which they were originally promulgated, that is, to regulate the running (hereinafter "thoroughbred") racing industry. The Commission, in past years, has acted to keep its rules current. It has proposed 24 amendments to the rules in the last five years in response to industry concerns, concerns of the public and as a result of evolving circumstances. The Commission will continue to review its rules on a regular basis, proposing and adopting amendments as necessary, desirable and as

appropriate.

The rules proposed for readoption have had an advantageous impact on the regulation and conduct of racing, industry participants and racetrack permit holders. The chapter proposed for readoption contains 32 subchapters, described as follows:

Subchapter 1, General Rules, contains the chapter's rules of general applicability, including applicability of the rules, standards of behavior and racetrack policing requirements.

Subchapter 2, Definitions, defines various terms used in Chapter 70, including the definition of racing terminology as relevant to the thoroughbred industry.

Subchapter 3, Racing Associations, sets forth various requirements placed upon permitted racing associations, including conditions and procedures for licensure, equipment and facility maintenance, prohibited activities on the grounds of a racetrack, insurance maintenance requirements, and admission age criteria.

Subchapter 4, Licensing, contains the procedures and fees for licensure.

Subchapter 5, Stable Name, Corporations, Multiple Ownerships, establishes requirements and licensure procedures with respect to stable names, corporations and multiple ownerships.

Subchapter 6, Entries and Subscriptions, sets forth the requirements for entries and subscriptions. This subchapter includes provisions with respect to the coupling of horses, tattooing requirements and work out program requirements.

Subchapter 7, Declarations and Scratches, establishes the methods of declaring horses to start and scratching of horses.

Subchapter 8, Weights, establishes the method of assigning weights to horses and equipment requirements.

Subchapter 9, Jockeys, Jockey Apprentices and Jockey Agents, sets forth requirements and restrictions with respect to jockeys, jockey equipment and fees, jockey agents and jockey apprentices.

Subchapter 10, Paddock to Post, sets forth the requirements for horses from paddock to post, which includes the post parade.

Subchapter 11, Post to Finish, contains the requirements for post to finish, including jockey requirements related thereto.

Subchapter 12, Claiming, sets forth the rules and procedures with respect to the claiming of horses.

Subchapter 13, Objections and Protests, sets forth the procedures to lodge objections and protests.

Subchapter 13A, Appeals, sets forth the procedures to file appeals.

Subchapter 14, Illegal Practices, sets forth illegal practices, imposes requirements on individuals to cooperate in its investigations or prosecutions, and to report violations to the stewards, sets forth various responsibilities of the New Jersey State Police, and requires filing of equine fatality reports as appropriate.

Subchapter 14A, Medication and Testing Procedures, sets forth the procedures for implementation and penalties for detection, concerning testing of horses for foreign substances, and the testing of individuals subject to the Commission's jurisdiction for alcohol, controlled dangerous substances or contraband.

Subchapter 15, Racing Officials, defines race officials and sets forth various

restrictions and duties with respect thereto.

Subchapter 16, Stewards, establishes the qualifications, authority and various duties of the thoroughbred stewards.

Subchapter 17, Starter, establishes the qualifications for starters and the responsibilities placed upon the starter.

Subchapter 18, Racing Secretary, sets forth the duties of the race secretary.

Subchapter 19, Other Officials, establishes the qualifications and duties of other officials, including the clerk of scales, the jockey room custodian, paddock judge, patrol judges, placing judges and State Veterinarians.

Subchapter 20, Trainers, establishes the qualifications and responsibilities placed upon the trainers.

Subchapter 21, Owners, sets forth the qualifications and responsibilities placed upon the owners.

Subchapter 22, Authorized Agents, establishes the qualification and responsibilities of those granted authority on behalf of another, namely authorized agents and sub-agents.

Subchapter 23, Disciplinary Action, sets forth penalties and certain disciplinary related items.

Subchapter 24, Steeplechasing, establishes procedures in connection with steeplechase or hurdle race events.

Subchapter 25, Dead Heats, sets forth the procedures in the event a race competition ends in a dead heat.

Subchapter 26, Produce Races, sets forth the qualifications for produce races.

Subchapter 27, Vendors, establishes the licensing procedures for vendors and imposes labeling requirements with respect to drugs, etc., on race association grounds.

Subchapter 28, Winnings, establishes the procedures utilized for computing the winnings of horses.

Subchapter 29, Mutuels, sets forth the procedures and methods for computing prices to be paid to the patrons in the various types of wagering, as well as the duties of the Supervisor of Mutuels.

Subchapter 30, Initial Track Application, sets forth the qualifications for an initial application for a permit to conduct a horse racing meeting.

Subchapter 31, Violations, sets forth violations of the rules and regulations of the Commission and provides for penalties to be imposed.

Subchapter 32, Self-Exclusion List, incorporates N.J.A.C 13:74 herein that establishes procedures for problem gamblers to voluntarily exclude themselves from racetracks, the account wagering system, and off-track wagering facilities.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for readoption provide various procedures, requirements and conditions necessary for the orderly administration and conduct of the thoroughbred racing industry and participant therein. The racing industry, with its allowance for wagering, is an industry which affects the public interests and thus requires strong regulation. By its rules, the Racing Commission attempts to keep undesirables and

individuals convicted of serious crimes from participation in the sport.

The rules proposed for readoption will assist the Commission in achieving its statutory mandate to provide revenue to the State of New Jersey, to ensure the orderly, continuation of a racing circuit to maintain and enhance the employment it provides, to provide the public with a recreational opportunity, and to improve the State's competitive position with neighboring jurisdictions where horse racing is permitted. The rules proposed for readoption, in that they enhance these purposes, are considered by the Commission as having a positive social impact.

### **Economic Impact**

The rules proposed for readoption will impose no new economic burdens upon the participants in racing. However, persons subject to the rules will continue to experience an economic impact from the operation of the rules proposed for readoption. This includes licensing and registration fees (maximum of \$50.00) set forth in Subchapter 4; costs to licensees attendant to participation as, for example, costs related to the equipment that jockeys must wear (Subchapter 8 and 9); costs to licensees as concerns hearing fees (Subchapter 13A); costs borne by racetrack permit holders as the maintenance of a starting gate and photo finish equipment (Subchapter 3); the imposed duties of employees of the racing associations for example, the Race Secretary (Subchapter 18); payment of the salary of various individuals who report to the Racing Commission as, for example, the State Veterinarian (Subchapter 15) and, among other things, costs related to chemical testing (Subchapter 14A). Additionally, an economic impact may result from suspensions or fines being issued to racetrack permit holders or licensees, which impact may arise as a result of monetary fines or the resulting

inability to participate in race related activities.

Additionally, horse racing is an important industry which provides substantial direct and indirect benefits to the State, provides employment and recreational opportunities to thousands of individuals and, at the same time, helps to preserve agricultural farm land. Nearly 1.9 million people attended permitted racetracks in 2003 alone and wagered (within New Jersey) an excess of \$271 million of which approximately \$216 million was returned to the patrons. The State of New Jersey received more than \$1.1 million in revenue from expired tickets and license fees.

Total New Jersey live and simulcast wagering was over \$942 million of which the track associations, the horsemen and horsemen organizations received \$190.2 million in 2003. Each track association conducts a limited number of charity days each year, which in 2003 resulted in \$90,206 in revenue being forwarded to the Developmental Disabilities Council to be distributed to organizations designated by the council, \$20,152 to the Horse Park of New Jersey, and \$19,804 to the Backstretch Benevolence Fund. The Commission also contributed in 2003 \$17,976 to qualifying municipalities to offset increases in expenses from the operation of racetracks situated in their areas.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for readoption are authorized by the provisions of N.J.S.A. 5:5-22 et seq., and are not subject to any Federal requirements or standards.

### **Jobs Impact**

The rules proposed for readoption will not have any impact upon the number

of persons employed by racetracks, by Racing Commission licensees or other employers. The operation of the Commission's rules, however, serve to create and generate jobs in New Jersey in a positive fashion.

For example, the Commission's rules at Subchapter 15 require race official employment positions at racetracks; require veterinary employment positions at racetracks at Subchapter 19; require that race horses be under the supervision of a trainer, who is employed by the horse owner or representative thereof; and require that any horse competing in a race be ridden by a jockey licensed by the Commission, at Subchapter 9.

The existence of racing in New Jersey, and the regulation incident thereto, thus generate and maintain jobs directly related to racing.

Additionally, the Commission's rules serve to promote jobs in New Jersey in an indirect fashion. For example, the Commission rules at Subchapter 3 require that a photographic system be in place and maintained at each racetrack to record the complete finish of each race. Such a requirement results in job opportunities related to the production and maintenance of such systems, as well as the distribution thereof.

### **Agriculture Industry Impact**

While racehorses are not considered livestock, because the Commission's rules governing horse racing set forth criteria for horses to compete in New Jersey, they have a positive indirect impact on aspects of New Jersey's agriculture industry. This is because many horses which compete in racing are situated on farmlands in New Jersey, many of which farms are issued licenses by the Racing Commission consistent with Subchapter 5 of its rules. The availability of racing in this State, and the



advantageous impact of the Commission's rules toward insuring integrity, fairness and safe conduct of racing, indirectly serve to encourage the establishment of and maintenance of horse farms, as well as horse breeding facilities in New Jersey. Accordingly, while the rules proposed for readoption will not have any impact on the agriculture industry, the proposed readoption of the Racing Commission's rules beyond the June 20, 2005 expiration date will result in continued benefits to the agriculture industry.

### **Regulatory Flexibility Analysis**

The rules proposed for readoption, to a limited extent, impact upon certain small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These small businesses principally include veterinarians and owners.

The impact on small business was considered in connection with prior adoptions or amendments to the Commission's rules. The requirements of the Regulatory Flexibility Act, to the extent consistent with factors including the Commission's intent on promulgating rules, the public interest, overall safety and animal health, were then applied and incorporated to minimize impact on small businesses.

Practicing veterinarians, who are required to be licensed by the Racing Commission, are upon request required to furnish original treatment records of horses and related materials to the Racing Commission pursuant to N.J.A.C. 13:70-19.41. Where the Racing Commission makes such a request, a veterinarian is required to respond within 24 hours. The cost of this reporting, recordkeeping and production requirement on practicing veterinarians is minimal and necessary to enhance regulatory enforcement.

A requirement imposed upon owners who may be involved in a stable name, and thus perhaps a small business, is the completion of an application for license as an owner and in connection with the stable. Such a filing requirement is necessary to ascertain the ownership interests of the horse or horses and, consequently, to ensure proper enforcement of the underlying rules.

The rules proposed for readoption require the services of outside professionals to a limited extent, principally when audits are required for compliance. In most other matters, small businesses involved in the racing and training of racehorses must be licensed by the Commission and are not considered outside professionals.

#### **Smart Growth Impact**

The rules proposed for readoption will continue to have a positive effect on smart growth policies associated with the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002). Retention and/or increase in open space are major components of the plan. Thoroughbred breeding farms and training facilities occupy substantial amounts of open space in New Jersey at present.

Providing continued regulatory oversight through the readoption of the rules will assist in maintaining or perhaps increasing the amount of open space dedicated to the thoroughbred horse racing uses.

Text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:70.