

(f) The riding crop should be shown to the horse before use, whenever possible.

(g) If the riding crop is used, under the supervision of the stewards, there shall be a visual inspection of each horse following each race for evidence of excessive or brutal use of the riding crop.

(h) If a jockey or exercise rider uses the riding crop in a manner contrary to this section:

1. The jockey or exercise rider may be suspended and/or fined by the stewards; and
2. The jockey's share of the purse shall be forfeited if, in the opinion of the stewards, the unauthorized use of the crop caused the horse to achieve a better placing.

13:70-11.12B Riding crops

(a) All riding crops must be soft-padded.

(b) Riding crops shall have a shaft and a soft tube and must conform to the following dimensions and construction:

1. The maximum allowable weight shall be eight ounces;
2. The maximum allowable length, including the soft tube attachment, shall be 30 inches;
3. The minimum diameter of the shaft shall be three-eighths of one inch; and
4. The shaft, beyond the grip, must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one millimeter throughout its circumference.

(c) The soft tube is the only allowable attachment to the shaft and must meet the following specifications:

1. Shall have a maximum length beyond the shaft of one inch;
 2. Shall have a minimum width of 0.8 inches and a maximum width of 1.6 inches;
 3. There shall be no reinforcements or additions beyond the end of the shaft;
 4. There shall be no binding within seven inches of the end of the shaft;
 5. The soft tube shall be made of shock absorbing material with a compression factor of at least five millimeters throughout its circumference;
 6. The soft tube shall be made of a waterproof, ultraviolet, and chemical resistant foam material that is durable and preserves its shock absorption in use under all conditions; and
 7. The soft tube shall be replaced after reasonable wear and tear is visibly evident.
- (d) The riding crops are subject to inspection and approval by the stewards and the clerk of the scales, based upon (c) above.

(a)

NEW JERSEY RACING COMMISSION

Harness Racing

Cancellation of Racing to Protect the Health, Safety, and Welfare of Racing Participants

Proposed New Rule: N.J.A.C. 13:71-1.38

Authorized By: New Jersey Racing Commission, Judith A. Nason, 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 2019-152.

Submit written comments by January 31, 2020, to:

Judith A. Nason, Executive Director
Department of Law and Public Safety
New Jersey Racing Commission
PO Box 088
Trenton, New Jersey 08625-0088
Or via email to: NJRCWebinfo@lps.state.nj.us

The agency proposal follows:

Summary

N.J.S.A. 5:5-30 grants the New Jersey Racing Commission (Commission) "power to prescribe rules, regulations and conditions under which all horse races shall be conducted in the State." Implicit in that statutory grant of authority is the Commission's discretion to conditionally cancel or postpone horse races in the State. Proposed new N.J.A.C. 13:71-1.38 will grant the Commission explicit authority to cancel or postpone races in the event of an imminent risk to the health, safety, and welfare of equine and human race participants. This proposed new rule will also clarify, for the public, a process for emergency cancellation or postponement of horse racing in the State should a permit holder persist with the conduct of races in dangerous conditions.

As an objective regulatory body not influenced by the same external concerns of the private-entity permit holders, the Commission should have independent discretion to cancel racing in the State in the occurrence of dangerous conditions. The decision to cancel racing will reside with the Executive Director, who is in the best position to make an objective and reasonable judgment. A determination to cancel or postpone races shall be based on the health, safety, and welfare of the equine athletes and horsemen and shall also consider the best interests of the industry. Prior to making the decision to cancel or postpone races, the Executive Director may consult with members of the industry, Commission staff, regulatory bodies from neighboring jurisdictions, and any other relevant experts. Placing this authority in the discretion of the Executive Director is a responsible and prudent decision that aligns with the paramount goal of the Commission, which is to ensure the health, safety, and welfare of the racing participants. Further, this rulemaking will provide clarity regarding the process for determining whether certain factors exist that would make racing unsafe for the equine and human racing participants. Such factors include, but are not limited to, excessive heat or humidity, the presence of lightning, or icy conditions.

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

Social Impact

Vesting the authority to cancel races in the Executive Director is of great social benefit because such a decision will ensure the public that an objective body is making a determination based on the health, safety, and welfare of the race participants and no other external factors. The rulemaking will promote the safety of the racing participants, the integrity of the sport, and the trust of the wagering public.

Economic Impact

Should the Executive Director determine to cancel races on a particular day, the permit holders and horsemen will likely lose the opportunity to gain racing-related income during the time affected by the cancellation or postponement. Such losses include attendance and concession sales at the racetracks, as well as the racetrack operator's share of pari-mutuel wagering that would have occurred on the races that were cancelled or postponed. These losses are somewhat reduced by the fact that the operator will not have to pay purse money. In addition, trainers, owners, and jockeys will lose racing-related income due to the cancellation or postponement of races.

The negative impacts could be mitigated if the permit holder applies to reschedule the canceled race day and the Commission approves the new date. The Commission believes that losses related to cancellation in dangerous conditions are outweighed by the benefits of protecting the health, safety, and welfare of the racing participants.

Federal Standards Statement

A Federal standards analysis is not required as there are no Federal laws or standards applicable to the proposed new rule. The Commission proposes this new rule pursuant to the rulemaking authority set forth at N.J.S.A. 5:5-30.

Jobs Impact

The Commission has evaluated this proposed new rule and determined that it will not add or decrease any jobs in the State.

Agriculture Industry Impact

The Commission has evaluated this proposed new rule and determined that it will not have an impact on the agricultural industry in the State. Accordingly, no further analysis is required.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required as the proposed new rule will have no impact on the reporting, recordkeeping, or compliance requirements of small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The Commission has evaluated this proposed new rule and determined that it will not have an impact on housing affordability or evoke a change in the average costs associated with housing in the State because the proposed new rule empowers the Executive Director to postpone or cancel a race for the health, safety, or welfare of the race participants. Accordingly, no further analysis is required.

Smart Growth Development Impact Analysis

The Commission has evaluated this proposed new rule and determined that it will not have an impact on smart growth in the State and is unlikely to evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed new rule empowers the Executive Director to postpone or cancel a race for the health, safety, or welfare of the race participants. Accordingly, no further analysis is required.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposed new rule follows:

SUBCHAPTER 1. GENERAL RULES

13:71-1.38 Cancellation of racing to protect the health, safety, and welfare of racing participants

In the event a permit holder decides to conduct races, the Executive Director shall have the authority to order the postponement or cancellation of racing for any reason determined to pose a serious risk to the health, safety, and welfare of the equine and human race participants, including, but not limited to, extreme weather conditions, such as high heat and humidity.

(a)

NEW JERSEY RACING COMMISSION

**Harness Racing
Equine Fatality Report**

Proposed Amendments: N.J.A.C. 13:71-4.1 and 20.24

Authorized By: New Jersey Racing Commission, Judith A. Nason, 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 2019-154.

Submit written comments by January 31, 2020, to:

Judith A. Nason, Executive Director
Department of Law and Public Safety
New Jersey Racing Commission
PO Box 088
Trenton, New Jersey 08625-0088
Or via email to: NJRCWebinfo@lps.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 13:71-20.24 currently requires submission of an equine fatality report on the death of any racehorse upon the grounds of a New Jersey racetrack or off-track training facility. The fatality report includes, among other things, a statement as to cause of death. Failure to submit such a report results in the assessment of penalties upon the trainer of the racehorse and any other persons involved in the failure to submit a report. The rule assists the New Jersey Racing Commission (Commission) in maintaining oversight on the general health of the racehorses under its jurisdiction, as well as observing any trends in racing-related fatalities of racehorses in New Jersey.

The safety and welfare of equine racing participants is a matter of paramount concern and the Commission is dedicated to taking steps intended to prevent as many racing-related or training-related deaths as possible. To do so, the Commission must be able to keep at-risk horses from starting in a race. Therefore, the Commission proposes to amend N.J.A.C. 13:71-20.24 to give the Commission additional data on causes of death, so that it can identify trends and other factors that may contribute to equine fatalities. In addition to requiring a necropsy, the Commission also proposes to require submission of the prior month's treatment records, instead of records from the previous 96 hours. Gathering data is vital to any subsequent measures the Commission may take towards monitoring at-risk horses to ensure they receive the proper care prior to being allowed to race, thereby safeguarding the health and welfare of the equine racing participants under its jurisdiction.

Although there are significantly fewer standardbred fatalities than thoroughbred, any equine fatality is a tragedy. The proposed amendments will allow the Commission to obtain important data regarding the cause of the breakdown and enable staff to identify trends in the types of racing injuries and other factors that may contribute to equine fatalities. Gathering data is vital to any subsequent measures the Commission may take towards monitoring at-risk horses to ensure they receive the proper care prior to being allowed to race and thereby safeguarding the health and welfare of the equine racing participants under its jurisdiction.

N.J.A.C. 13:71-4.1 is proposed for amendment to include a definition of the term "post-mortem necropsy." The term will be defined as "a thorough examination of a horse's remains by a licensed veterinary practitioner to determine the cause of death and other information about the condition of the deceased horse."

The heading of N.J.A.C. 13:71-20.24 is proposed for amendment to include the term "post-mortem necropsy," as the rule will now require a necropsy upon the death of any standardbred racehorse on the racetrack and also upon the death of any racehorse within one hour after racing, training, or warming up the horse on any racetrack.

N.J.A.C. 13:71-20.24(a) is proposed for amendment to create a strict 48-hour timeframe within which the deceased horse's trainer must submit an equine fatality report. The proposed amendment also requires the report to be submitted with the State Steward or the Chief State Veterinarian. The subsection is also proposed for amendment to remove "custodian" to make it clear that the trainer is the person that must file the equine fatality report.

N.J.A.C. 13:71-20.24(b) is proposed for amendment to require that the trainer file the form prescribed and furnished by the Commission. The proposed amendments require that all of the requested information shall be provided and legible. N.J.A.C. 13:71-20.24(b)1 and 3 are proposed for amendment to clarify that the equine fatality report can include other registration identification, in addition to tattoo number, and to clarify that the records regarding the purchase of equine are fiscal records.

N.J.A.C. 13:71-20.24(c) is proposed for amendment to require that the deceased horse's attending veterinarian submit all records detailing treatments administered to the deceased horse within the 30-day period preceding the time of the horse's death. Such records shall be submitted to the State Steward within 48 hours of the time of the horse's death. Should the attending veterinarian fail to produce the treatment records within the 48-hour timeframe, the trainer and/or veterinarian may be subject to immediate suspension of their respective licenses if the Commission determines that one or both engaged in actionable delay.