

(1) A first violation shall result in a suspension for a minimum period of one year and a fine of \$10,000;

(2) A second violation shall result in a suspension for a minimum period of three years and a fine of \$25,000; and

(3) A third or subsequent violation shall result in a suspension for a minimum period of five years and a fine of \$50,000;

6. Should any horse treated with shock wave therapy run in a qualifying race within four days, then the following shall apply:

i. The trainer shall be subject to the following penalties:

(1) For a first violation, the trainer shall have his or her license suspended for a minimum of six months and fined a minimum of \$1,000;

(2) For a second violation, the trainer shall have his or her license suspended for a minimum of one year and shall be fined a minimum of \$2,500; and

(3) For a third or subsequent violation, the trainer shall have his or her license suspended for a minimum of three years and shall be fined a minimum of \$5,000; and

ii. If an owner's horse or horses, cumulatively, are found to have run in a qualifying race within four days of receiving shock wave therapy on three occasions, the horse committing the third violation shall be placed on the Steward's List for a period of 30 days; and

7. A licensed veterinarian's failure to abide by either the pre-note requirement or the requirement to send a "Shock Wave Therapy Treatment Sheet" within 24 hours shall be subject to the following penalties:

i. A first violation shall result in a formal written warning;

ii. A second violation shall result in a \$1,000 fine; and

iii. A third or subsequent violation shall result in a minimum 15-day suspension and a \$2,500 fine.

(b) If shock wave therapy is impermissibly performed upon any horse, the racing of that horse within 10 days or the running of that horse in a qualifying race within four days shall serve to aggravate the penalties imposed in (a)1 or 4 above, respectively, against the offending party who performed shock wave therapy.

(c) Any and all penalties assessed against an owner, trainer, veterinarian, or other person for violation of N.J.A.C. 13:71-23.17 shall be individually assessed against each particular violator based upon his or her own violation history. For example, the same set of facts may be deemed a third violation against the trainer, a second against the owner, and a first against the veterinarian.

(d) Notwithstanding the foregoing, the Judges may punish any person who directed another to violate N.J.A.C. 13:71-23.17. The person who directed the violator shall be subject to the same penalties as the offender. This includes, but is not limited to, the principal veterinarian of a veterinary practice, a veterinarian who directs a veterinarian technician or other person to perform shock wave therapy or act in any other way that would violate N.J.A.C. 13:71-23.17, a trainer or owner who directs any other party to perform shock wave therapy or act in any way which would violate N.J.A.C. 13:71-23.17, or any other person who directs another to violate this rule.

(e) Notwithstanding any of the penalties set forth in (a) above, the Judges may punish any other person found to be acting in concert with a person performing shock wave therapy in violation of N.J.A.C. 13:71-23.17 by imposing penalties in accordance with the severity of the conduct up to the maximum provided in this section.

(a)

**NEW JERSEY RACING COMMISSION
Self-Exclusion List**

Proposed Readoption: N.J.A.C. 13:74A

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

Authority: N.J.S.A. 5:5-30, 5:5-65.1, and 5:5-65.2.

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

Proposal Number: PRN 2017-067.

Submit written comments by June 30, 2017, to:

Frank Zanzuccki, Executive Director
Department of Law and Public Safety
New Jersey Racing Commission
PO Box 088
Trenton, NJ 08625-0088
E-mail: NJRCWebinfo@lps.state.nj.us

The agency proposal follows:

Summary

Chapter 74A, Self-Exclusion List, sets forth the rules regarding the process of an individual's placement upon the New Jersey Racing Commission (Commission)-maintained self-exclusion list, the activities prohibited to those who appear on the self-exclusion list, the actions taken to enforce the restrictions imposed by the self-exclusion list, and the entities responsible for enforcement of those actions.

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 13:74A, Self-Exclusion List, expires on April 14, 2017. The Commission is proposing to readopt N.J.A.C. 13:74A without change. As this notice of proposed readoption was filed with the Office of Administrative Law prior to the expiration date, that date was extended 180 days to October 11, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). As the Commission has provided a 60-day comment period, this notice of proposed readoption is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

An administrative review has been conducted and a determination made that the rules contained in the chapter should be continued because the rules are necessary, reasonable, adequate, efficient, and responsive for the purposes for which they were promulgated.

On November 4, 2002, N.J.S.A. 5:5-65.1 and 65.2 became effective. The law directed the Commission to establish a list of persons who voluntarily seek to be excluded from wagering on horse races in the State of New Jersey. The law also provided the limitations placed upon those who voluntarily seek to be added to the list. Once placed on this list, a person would be prohibited from wagering on horse races and appearing at permitted racetracks and licensed off-track wagering facilities where race horse race wagering is authorized in this State.

The New Jersey Racing Commission, in consultation with members of the racing industry, promulgated rules to comply with the statute. On October 18, 2004, N.J.A.C. 13:74A took effect. The chapter was created to allow procedures for a person to voluntarily exclude themselves from wagering on horse racing in the State of New Jersey and for the enforcement of that exclusion. The Commission wishes to continue to maintain oversight of the self-exclusion list and direction of the enforcement procedures that occur as a result of the list's existence.

A summary of the rule sections follows:

N.J.A.C. 13:74A-1.1 defines and explains the applicability of specific terms used in Chapter 74A.

N.J.A.C. 13:74A-1.2 defines the applicability of Chapter 74A.

N.J.A.C. 13:74A-2.1 sets forth the procedures for placement on the self-exclusion list.

N.J.A.C. 13:74A-2.2 codifies the effects to those who are placed on the self-exclusion list.

N.J.A.C. 13:74A-3.1 explains that the list and the application for placement on the list are confidential.

N.J.A.C. 13:74A-4.1 sets forth the procedures for removal from the self-exclusion list.

N.J.A.C. 13:74A-4.2 explains the procedure taken by the Commission upon receipt of an application of removal from the self-exclusion list.

N.J.A.C. 13:74A-5.1 directs Commission permit holders and licensees to establish internal control procedures to enforce the mandates of Chapter 74A should any self-excluded person attempt to gain access to their premises.

N.J.A.C. 13:74A-5.2 directs Commission permit holders and licensees to report any incidents regarding violation of Chapter 74A to the Executive Director of the Racing Commission.

N.J.A.C. 13:74A-6.1 sets forth the penalties to be imposed upon any permit holder, licensee, or employee thereof who willfully violates Chapter 74A.

N.J.A.C. 13:74A-6.2 limits the liability of the Commission, Commission permit holders and licensees, and any employees thereof, should someone appearing on the self-exclusion list manage to place a wager in violation of Chapter 74A.

Social Impact

Maintenance of a self-exclusion list allows individuals who believe they are problem gamblers to place themselves on a list of persons to be excluded from entry into permitted racetracks, off-track wagering facilities, and from accessing the account wagering system in New Jersey. This is a self-help program, dedicated to providing a deterrent to gambling for such individuals. Readoption of these rules has a positive social impact on problem gamblers by denying them access to gambling, and by preventing them from profiting from receiving or retaining gambling winnings if they violate the terms of their voluntary exclusion by entering or accessing such facilities. The rules also benefit the families and friends of such individuals, as well as the public at large, to the extent that they might be negatively impacted by the gambling activities of a person who elects to place himself or herself on the self-exclusion list.

Additionally, as discussed in detail below within the Economic Impact statement, any money or thing of value forfeited pursuant to N.J.A.C. 13:74A-2.2(d) is to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment programs in the State. Any such forfeiture will result in a positive social impact, as additional funds would be made available to enhance such programs.

Economic Impact

Readoption of this chapter will have a positive economic impact for problem gamblers and their families. Permitting problem gamblers to be voluntarily excluded from entry to wagering facilities and systems limits access to gambling opportunities that often cause personal economic demise. The facilities from which the problem gambler is excluded might experience a slight loss in gambling revenue or profits, which would have little impact on their profitability. In addition, horse racing programs that rely on parimutuel wagering for revenue will not be measurably impacted. The Commission believes that the benefits to the self-excluded individual, and society generally, greatly exceed any such potential negative economic impact.

Readoption of the rules will continue to prohibit a person who voluntarily causes his or her name to appear on the self-exclusion list from entering permitted racetracks, from entering off-track wagering facilities, and from opening or maintaining a wagering account with the account wagering system. To the extent a person violates this prohibition, and engages in horse race wagering, or otherwise, obtains any item of value, any winnings or thing of value obtained or due the individual is subject to forfeiture as set forth in N.J.A.C. 13:74A-2.2(d).

Additionally, any losses sustained by such person as a result of horse race wagering, or otherwise, are not recoverable by said person. To the extent such monetary losses are not recoverable, and to the extent such profits owed or obtained by such person are subject to forfeiture, the self-excluded individual would sustain a negative economic impact. However, in addition to being required by the law authorizing this chapter, the Commission believes that any such potential economic impact is reasonable and necessary to achieve the overriding positive social impact intended.

Additionally, as any such forfeited money or thing of value is to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment programs in the State, a positive economic impact is achieved as additional funds may be made available to enhance such programs.

Readoption of these rules will impose certain administrative and enforcement responsibilities upon New Jersey racetrack permit holders, the off-track wagering licensees, and the account wagering licensee as set forth in N.J.A.C. 13:74A-5.1, and as discussed in the Jobs Impact

statement below. The Racing Commission believes that the requirements of the rule are reasonable in terms of the obligations imposed upon such entities, and that any such economic impact to such entities is outweighed by the resulting positive social impact.

Federal Standards Statement

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the rules proposed for readoption. The Commission proposes this readoption pursuant to the rulemaking authority set forth at N.J.S.A. 5:5-30 and 5:5-65.1.

Jobs Impact

The rules proposed for readoption are not expected to create or eliminate any jobs in the racing industry as no changes to the rules are being made.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption will have no impact on small businesses in New Jersey.

Housing Affordability Impact Analysis

The rules proposed for readoption will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing as the rules pertain to the Commission's self-exclusion list and the effects of the same.

Smart Growth Development Impact Analysis

The rules proposed for readoption will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey as the rules pertain to the Commission's self-exclusion list and the effects of the same.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:74A.

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION Regulations of the Election Law Enforcement Commission

Proposed Readoption: N.J.A.C. 19:25

Authorized By: Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Authority: N.J.S.A. 19:27A-17, 19:44A-6, 19:44A-38, 19:44B-7, and 52:13C-23.2.

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

Proposal Number: PRN 2017-069.

Submit written comments by June 30, 2017, to:

Michelle R. Levy, Esq., Assistant Legal Counsel
Election Law Enforcement Commission
PO Box 185
Trenton, New Jersey 08625-0185
E-mail: elec.rulemaking@elec.nj.gov

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1, the chapter expiration date for N.J.A.C. 19:25 was March 25, 2017. Because the chapter expiration date falls on a Saturday, the 180-day expiration date extension shall take effect if the filing of the notice of proposed readoption occurs no later