

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

9A:11-2.2 Student eligibility

(a)-(e) (No change.)

(f) Students who have successfully completed [a] **an NJ GEAR UP State project/New Jersey College Bound Grant Program or a Federal TRIO program** and who have been admitted to the institution under its regular standards of admission (where applicable) or who not demonstrate need as specified [in] **at** (e)2 above shall also be eligible to participate in the EOF program, assuming they meet all other eligibility criteria in this subchapter, except those in (e) above.

(g)-(h) (No change.)

9A:11-2.11 NJ GEAR UP [and], [NJ] **New Jersey College Bound, and TRIO grant program support-services-only student**

(a) A student who has successfully completed an NJ GEAR UP [state] **State project, [and/or an NJ] a New Jersey College Bound grant program, and/or a New Jersey Federally supported TRIO program,** but is unable to demonstrate financial eligibility for an initial Article III student grant as set forth in N.J.A.C. 9A:11-2.4 shall be termed an NJ GEAR [UP/NJ] **UP/New Jersey College Bound/TRIO support-services-only** ([NJGEARUP/NJ College Bound/SSO] **NJ GEAR UP/New Jersey College Bound/TRIO/SSO**) student.

(b) An [NJGEARUP/NJ] **NJ GEAR UP/New Jersey College [Bound/SSO] Bound/TRIO/SSO student is eligible for EOF admission consideration by the participating EOF campus program. If admitted, the student is eligible** to receive both Article III and Article IV benefits of the pre-first year student EOF summer program and subsequent academic year Article IV program support services throughout his or her enrollment in college.

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 cancel or postpone horse races in the State because of the existence of unsafe conditions. Proposed new N.J.A.C. 13:70-1.43 will grant the Commission explicit authority to cancel or postpone races in the event that weather conditions pose an imminent risk to the health, safety, and welfare of equine and human race participants. This rulemaking will also clarify for the public that an objective regulatory body is overseeing race conditions in order to protect the race participants.

As an objective regulatory body not influenced by the business concerns of the permit holders, the Commission must be allowed to exercise independent discretion to cancel racing in the State due to 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 expeditious and objective decision in response to emergent conditions, including, but not limited to, weather conditions. A determination to cancel or postpone races shall be based on the health, safety, and welfare of the equine athletes and horsemen, and weigh, to the extent possible, 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 other relevant experts. Placing this authority in the discretion of the Executive Director is a responsible and prudent action consistent 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 and reassure the public that a regulatory process is in place for protecting the equine and human racing participants during extreme weather conditions, such as excessive heat or humidity, dangerous 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 with the Executive Director is a social benefit as it will bolster public confidence by ensuring that an objective regulatory process is in place to make a decision in furtherance of the health, safety, and welfare of the race participants. The proposed new rule 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.

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY RACING COMMISSION

Horse Racing

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

Proposed New Rule: N.J.A.C. 13:70-1.43

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 2019-151.

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:

Agriculture Industry Impact Statement

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 the 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 grants authority to the Executive Director to postpone or cancel a race to protect the health, safety, or welfare of the racing participants. Accordingly, no further analysis is required.

Smart Growth Development Impact Analysis

The Commission has evaluated the proposed new rule and determined that it will not have an impact on smart growth 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 in the State because the proposed new rule grants authority to the Executive Director to postpone or cancel a race to protect the health, safety, or welfare of the racing 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

13:70-1.43 Cancellation of racing to protect the health, safety, and welfare of racing participants

In the event a permit holder decides to proceed with the conduct of 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**Horse Racing
Equine Fatality Report****Proposed Amendments: N.J.A.C. 13:70-2.1 and
14.16**

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 2019-153.

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. 13:70-14.16 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 the 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. 13:70-14.16 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.

N.J.A.C. 13:70-2.1 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. 13:70-14.16 is proposed for amendment to include the term "post-mortem necropsy," as the proposed amendment will now require a necropsy upon the death of any thoroughbred racehorse on the track during racing or training and also upon the death of any racehorse within one hour after racing or training on any racetrack.

N.J.A.C. 13:70-14.16(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. 13:70-14.16(b) is proposed for amendment to require that the trainer file the form prescribed and furnished by the Commission. The proposed amendments also require that all of the requested information shall be provided and legible. N.J.A.C. 13:70-14.16(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 the records regarding the purchase of equine are fiscal records.

N.J.A.C. 13:70-14.16(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.

Proposed new N.J.A.C. 13:70-14.16(d) creates several requirements relating to the actions taken following the death of a horse on the racetrack or within one hour after that horse having raced or trained.

N.J.A.C. 13:70-14.16(d)1 requires verbal notice, within one hour to the State Steward or a Commission veterinarian of the death of a horse that died on the racetrack or of a horse that died within an hour of having trained or raced. The paragraph also states that giving verbal notice does not negate the requirement that the trainer submit an equine fatality report within 48 hours of the horse's death.