

completed, no horse shall be allowed to enter a race until such time as the owner or trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the samples taken.]

(j) The trainer of a horse that was claimed outside of the State of New Jersey or purchased in a private sale in any state may request that the claimed horse be tested for the presence of anabolic steroids prior to entering that horse to race in New Jersey. The trainer who requests such testing shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the blood **and urine** samples consistent with [(h) and] (i) above. A horse that tests in violation of this section shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, the horse shall not be allowed to compete until such time as the trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. Any trainer who fails to request this testing prior to entering a horse claimed outside of the State of New Jersey or purchased in a private sale to race and the horse tests positive for the presence of anabolic steroids in violation of this section, the trainer shall be liable for all penalties set forth in this section.

(a)

## NEW JERSEY RACING COMMISSION

### Harness Racing Anabolic Steroids

#### Proposed Amendment: N.J.A.C. 13:71-23.16

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 2017-243.

Submit written comments by December 1, 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](mailto:NJRCWebinfo@lps.state.nj.us)

The agency proposal follows:

#### Summary

Subchapter 23, Medication and Testing Procedures, sets forth the rules of the New Jersey Racing Commission (Commission) relating to the permissible and prohibited practices of administering medications and therapies, as well as the penalties associated with same. The Commission proposes an amendment to the subchapter to protect the health and welfare of racehorses in New Jersey, to update threshold and testing methodology to align with current scientific research and specifications and, to safeguard the integrity of the sport.

N.J.A.C. 13:71-23.16 is proposed for amendment to align with current industry standards. Since New Jersey adopted its anabolic steroid rule in 2010, testing procedures have advanced and research conducted since that time support the new thresholds that have been adopted by the Association of Racing Commission International (ARCI) and most major racing jurisdictions in North America. The Commission has determined that adopting the newly recognized thresholds is in the best interest of racing in New Jersey as it will bring New Jersey threshold levels into conformance with the ARCI and the majority of neighboring racing jurisdictions.

N.J.A.C. 13:71-23.16(c) sets forth the permissible thresholds for the naturally occurring anabolic steroids boldenone, nandrolone, and

testosterone when testing the blood of a racehorse. The current rule states that a racehorse cannot have a level of boldenone in its blood at a level that exceeds 200 picograms/milliliter (pg/mL). The subsection is proposed for amendment to lower the threshold from 200 pg/mL to 25 pg/mL. Further, the subsection currently sets a threshold level for nandrolone at 500 pg/mL in the blood of an intact male horse (colt or stallion) and 200 pg/mL in the blood of all other horses. The proposed amendments change the reference from “all other horses” to “females and geldings.” Additionally, the proposed amendments eliminate testing the blood of an intact male horse for nandrolone and lower the threshold for females and geldings to 25 pg/mL in the blood. The subsection is amended to advise that male horses other than geldings will be tested for nandrolone in their urine. Finally, the subsection currently sets a threshold level of testosterone at 2,000 pg/mL in the blood of an intact male horse and 200 pg/mL in the blood of all other horses. The subsection is proposed for amendment to change the language “all other horses” and replace it with “females and geldings.” Additionally, the threshold level for testosterone in the blood of females and geldings will be reduced to 25 pg/mL unless a female horse is in foal. The parenthetical “unless a female is in foal” will be added because a threshold level for a female horse’s testosterone cannot be reliably established when she is in foal.

New N.J.A.C. 13:71-23.16(d) is proposed to create threshold levels for the naturally occurring anabolic steroids boldenone, nandrolone, and testosterone when testing the urine of a racehorse. The new thresholds shall be set at levels comparable to those of the ARCI and many neighboring racing jurisdictions. In an intact male’s urine, boldenone cannot be present at levels above 15 nanograms/milliliter (ng/mL) and nandrolone cannot be present at levels above 45 ng/mL. An intact male’s urine will not be tested for the presence of testosterone. Additionally, as stated in (c) above, intact males will be tested exclusively via urine for the presence of nandrolone. In a female or gelding’s urine, neither boldenone nor nandrolone can be present at levels above one ng/mL. Both females and geldings will have their urine tested for testosterone. A female racehorse cannot have a level of testosterone in its urine above 55 ng/mL unless she is in foal. A gelding cannot have a level of testosterone in its urine above 20 ng/mL. Similar to subsection (c), proposed language excepts a female racehorse from a positive testosterone finding if that female is in foal.

The Commission is proposing to recodify existing subsection (d) as (e) and to add language referencing the newly created urine testing thresholds.

The Commission is proposing to recodify existing subsections (e) and (f) as (f) and (g).

The Commission is proposing to recodify existing subsection (f) as (g).

The Commission is proposing to recodify existing subsection (g) as (h) and to make a minor grammatical amendment restructuring a prepositional phrase at the end of the first sentence.

The Commission is proposing to recodify existing subsection (h) as (i).

Existing subsection (i) is proposed for deletion as the timeframes referenced in the subsection are no longer relevant.

Subsection (j) is proposed for a minor technical amendment to add language referencing the newly created urine testing procedures.

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

The proposed amendments will aid the Commission in protecting the health, safety, and welfare of the racehorses under its purview and help safeguard the integrity of the sport.

The primary impact of these proposed amendments will be felt by those responsible for conducting the blood and urine testing of the racehorses. The actual procurement of samples will not be altered, but the testing laboratories are going to have to test both blood and urine for anabolic steroids and will also have to declare samples positive for substances at thresholds far lower than those presently being utilized.

The proposed amendments enact more stringent threshold levels, which are consistent with those established by the ARCI and most neighboring jurisdictions, for three known naturally occurring anabolic steroids. This will affect any trainers or members of the racing industry who use steroids impermissibly to gain a racing advantage.

The proposed amendments will also positively enhance the public's perception of the racing industry because New Jersey will have much more stringent anabolic steroid thresholds.

#### Economic Impact

Implementation of these proposed amendments will impact any person or entity found in violation of these rules as they will be assessed a fine and ordered to serve a suspension. Due to the nature of the practices being prohibited, enforcement of these rules will come at no additional cost to the Commission, industry, or State. Due to the fact that the threshold levels are being newly configured, there is no way to estimate the number of offenders who may be found in violation of this rule and, thus, no way to approximate the amount in fines that will be assessed. By statute, all fines paid to the Commission are directed to the Backstretch Fund to be used for the benefit of those who work in the backstretch. The testing laboratory utilized by the Commission already tests both blood and urine samples so there should be nothing more than a negligible increase in the cost associated with such testing. No other economic impacts are envisioned at this time.

#### Federal Standards Statement

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

#### Jobs Impact

These proposed amendments are not expected to create or eliminate any jobs in the racing industry. It is likely that additional job responsibilities will be required for certain employees of the Commission, but the responsibilities should be marginal and can be attended to by existing staff.

#### Agriculture Industry Impact

The proposed amendments may have an insignificant impact on the agriculture industry in New Jersey but there is an extreme unlikelihood that the amendments will evoke a change in the costs or practices associated with agriculture.

#### Regulatory Flexibility Statement

The proposed amendments will have an insignificant impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There is an extreme unlikelihood that these proposed rule amendments will evoke a change in the operation and practice of any small businesses because these proposed amendments relate to the post-race testing of a racehorse's blood and urine. The procurement of samples is handled by Commission employees and sent to a Commission-contracted laboratory for testing. There will be no need to involve any small businesses in the procurement of post-race samples.

#### Housing Affordability Impact Analysis

It is anticipated that the proposed amendments will not have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the proposed amendments will evoke a change in the average costs associated with housing because these proposed amendments relate to the post-race drug testing of horses.

#### Smart Growth Development Impact Analysis

It is anticipated that the proposed amendments will not have an impact on smart growth. There is an extreme unlikelihood that the amendments will 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 because these amendments relate to the post-race drug testing of horses.

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

## SUBCHAPTER 23. MEDICATION AND TESTING PROCEDURES

### 13:71-23.16 Anabolic steroids

(a)-(b) (No change.)

(c) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test **at or** below the following threshold levels in blood plasma:

Boldenone – [200] **25** picograms/milliliter ([200] **25** pg/mL);

Nandrolone – [200] picograms/milliliter (200 pg/ml);

Intact Male Horses: 500 picograms/milliliter (500 pg/mL);

All Other Horses: 200 picograms/milliliter (200 pg/mL);]

**Females and geldings: 25 picograms/milliliter (25 pg/mL);**

Testosterone – Intact [Male Horses] **male horses**: 2,000 picograms/milliliter (2,000 pg/mL);

[All Other Horses] **Females and geldings**: [200] **25** picograms/milliliter ([200] **25** pg/mL) **(unless a female is in foal)**.

For the purposes of this section, "intact male horse" shall mean a male horse that has not been gelded. **Male horses other than geldings shall be tested for nandrolone in urine only. See (d) below.**

**(d) Test results identifying the presence of boldenone, nandrolone, and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following threshold levels in urine:**

**Boldenone – Intact males: 15 nanograms/milliliter (15 ng/mL);**

**Females and geldings: 1 nanogram/milliliter (1 ng/mL)**

**Nandrolone – Intact males: 45 nanograms/milliliter (45 ng/mL);**

**Females and geldings: 1 nanogram/milliliter (1 ng/mL);**

**Testosterone – Females: 55 nanograms/milliliter (55 ng/mL)**

**(unless in foal);**

**Geldings: 20 nanograms/milliliter (20 ng/mL)**

[(d)] (e) Any blood **or urine** samples containing one of the three anabolic steroids listed in (c) **and (d)** above that quantitatively measures [at or] above the threshold levels shall constitute a violation of this section. Any samples identifying the presence of more than one of the three permitted anabolic steroids shall constitute a violation of this section regardless of the threshold levels identified in the sample. Any samples identifying the presence of one of the three permitted anabolic steroids, even if it tests **at or** below the threshold level, shall constitute a violation of this section if the samples also indicate the presence of any other anabolic steroid.

Recodify existing (e)-(f) as **(f)-(g)** (No change in text.)

[(g)] **(h)** In addition to the liability of the trainer, any person licensed in any capacity by the Commission who is involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to the penalties up to or equal to penalties set forth **for trainers** in [(f)] **(g)** above [for trainers]. Persons not licensed by the Commission who have been involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to penalties as determined by the Commission.

[(h)] **(i)** (No change in text.)

[(i)] The Commission shall commence testing for anabolic steroids pursuant to this section April 19, 2010. In recognition of the amount of time that horsemen may need to "wash out" their horses in order to return their metabolisms to the range of normal, the imposition of the penalties set forth in (f) and (g) above will begin on August 18, 2010, with the following exception. Any horse which tests in violation of the terms of this section between April 19, 2010 and August 17, 2010, shall be disqualified from the race and denied the purse money, which shall be redistributed consistent with N.J.A.C. 13:71-23.7(b). Consistent with (h) above, a horse that tests in violation to this section during the "wash out" period, shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, no horse shall be allowed to enter a race until such time as the owner or trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by

the Executive Director, that are related to the collection and testing of the samples taken.]

(j) The trainer of a horse that was claimed outside of the State of New Jersey or purchased in a private sale in any state may request that the claimed horse be tested for the presence of anabolic steroids prior to entering that horse to race in New Jersey. The trainer who requests such testing shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the blood **and urine** samples consistent with [(h) and] (i) above[, a]. A horse that tests in violation of this section shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, the horse shall not be allowed to compete until such time as the trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. Any trainer who fails to request this testing prior to entering a horse claimed outside of the State of New Jersey or purchased in a private sale to race and the horse tests positive for the presence of anabolic steroids in violation of this section, the trainer shall be liable for all penalties set forth in this section.

## TRANSPORTATION

### (a)

#### MOTOR VEHICLE COMMISSION

##### Executive and Administrative Service

##### Proposed Readoption with Amendments: N.J.A.C. 13:18

##### Proposed Repeals: N.J.A.C. 13:18-6 Appendices C and D

Authorized By: Motor Vehicle Commission Board, Raymond P. Martinez, Chairman and Chief Administrator, in consultation with Richard Badolato, Commissioner, Department of Banking and Insurance, as to N.J.A.C. 13:18-6.

Authority: N.J.S.A. 17:33B-41, 39:2-3, 39:2-3.3 et seq., 39:2A-13.a(6), 39:2A-28; 39:2A-33.c, 39:2A-33.e, 39:2A-36.1, 39:3-4e, 39:3-6.12b, 39:3-20, 39:3-43, 39:3-84, 39:5-30, 39:6-25, 39:6-50, 39:6-86.1, 39:6-86.4, 47:1A-1 et seq., 52:14B-1 et seq., 52:14B-3(1) and 54:39A-24.

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

Proposal Number: PRN 2017-239.

Submit written comments by December 1, 2017, to:

Kate Tasch, APO  
Attention: Regulatory and Legislative Affairs  
New Jersey Motor Vehicle Commission  
225 East State Street  
PO Box 160  
Trenton, NJ 08666-0160  
or via e-mail to [rulecomments@mvc.nj.gov](mailto:rulecomments@mvc.nj.gov)

The agency proposal follows:

#### Summary

The public comment period for this notice of proposal will be 60 days, since the notice is not listed in the agency rulemaking calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (Commission) proposes to readopt with amendments, the provisions of N.J.A.C. 13:18, Executive and Administrative Service. These rules were scheduled to expire on March 9, 2018. As the Commission submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to September 5, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Commission has reviewed the rules and has determined that they are necessary, reasonable, and proper for the purpose for which they were promulgated.

The rules contained in N.J.A.C. 13:18 implement the public policy of this State as set forth in various provisions of the Motor Vehicle and Traffic Laws (N.J.S.A. 39:1-1 et seq.) pertaining to: permits for overdimensional and overweight vehicles; reciprocal registration of commercial vehicles used in interstate commerce pursuant to the International Registration Plan (IRP); procedures pertaining to motor vehicle insurance verification; and guidelines for the posting of security deposits with the Commission by uninsured owners and operators who are involved in motor vehicle accidents. The rules also implement the International Fuel Tax Agreement (IFTA), N.J.S.A. 54:39A-1.1 et seq., concerning the reciprocal assessment and collection of motor fuel use taxes from owners of commercial vehicles used in interstate commerce. The rules also set forth the Commission's organizational structure as required by N.J.S.A. 52:14B-3(1) and set forth procedures and fees for the inspection and purchase of government records in accordance with the New Jersey Drivers' Privacy Protection Act (N.J.S.A. 39:2-3.3 through 39:2-3.7) and the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

The subchapters of N.J.A.C. 13:18 are briefly summarized below, together with proposed changes, additions, and deletions to various rules contained therein.

Subchapter 1, Permits for Overdimensional or Overweight Vehicles, sets forth the Commission's permit procedures for vehicles that exceed statutory dimensional or weight limitations. The subchapter establishes fees, expiration dates, and minimum insurance coverage for such vehicles and sets forth escort vehicle, warning sign, warning flag, and lighting requirements for overdimensional or overweight vehicle combinations that are subject to the subchapter. The Commission proposes amendments to this subchapter at N.J.A.C. 13:18-1.2 to reference the following recent Federal regulatory requirements: (1) 23 U.S.C. § 127(a)(13), which allows a permit for a vehicle carrying fluid milk products in excess of the gross weight limit of 80,000 pounds or the maximum weight allowed by the Federal Bridge Formula; (2) 23 U.S.C. § 127(m), which allows a permit for a vehicle that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility in excess of the gross vehicle weight of the disabled vehicle being transported; (3) 23 U.S.C. § 127(r), which allows a permit for a vehicle designed to be used under emergency conditions to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations in excess of the weight limit; (4) 23 U.S.C. § 127(s), which allows a permit for a vehicle operated by an engine fueled primarily by natural gas in excess of the weight limit; (5) 49 U.S.C. § 31111, which allows a permit for any vehicle combination designed and used for the transport of assembled highway vehicles in excess of weight and length limits; and (6) 49 U.S.C. § 31111, which allows a permit for a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers in excess of the length limit.

Subchapter 2, International Registration Plan, establishes the procedure for the reciprocal registration of commercial vehicles used in interstate commerce.

Subchapter 3, International Fuel Tax Agreement Implementation, establishes the procedure for the collection of motor fuel taxes by the State of New Jersey and the distribution of tax proceeds on a reciprocal basis to member states.

Subchapter 4, Rulemaking Petition Procedures, establishes the procedure for any interested person to petition the Commission to adopt a new rule or amend or repeal an existing rule.

Subchapter 5 is Reserved.

Subchapter 6, Insurance Verification, pertains to the submission of insurance information to the Commission by insurers concerning motor vehicle liability insurance policy cancellation due to nonpayment of premium. The subchapter also provides the administrative framework for the suspension of motor vehicle registrations and driver licenses by the Commission as a result of such insurance cancellation. The Commission proposes amendments to this subchapter, as follows: (1) N.J.A.C. 13:18-6.1, Definitions, would be amended to include the word