

review, redaction, reproduction, and delivering the requested records. The requester shall be given the opportunity to review and object to the special service charge prior to its being incurred. If the requester objects to the special service charge and refuses to withdraw the request, the custodian may deny the request after attempting to reach a reasonable solution that accommodates the interests of the requester and the agency.

(g) The custodian of records shall charge an additional fee representing the cost of postage on records delivered by mail or the cost of any other method of delivery requested by the requester. The custodian shall not provide access to or copies of the requested government records until the custodian has received payment in full of all costs and fees associated with the OPRA request from the requester. The custodian shall deny the request in the event that the requester fails or refuses to pay the costs and fees associated with the OPRA request.

(h) The custodian of records shall provide the requester with a copy of a dated OPRA receipt, which shall indicate the records for which access or copies will be provided, whether redactions were required, the reasons for denial of access, if applicable, and the costs and fees associated with the OPRA request.

(i) No fee shall be required for inspecting or examining government records, except:

1. Where a special service charge is permitted under N.J.S.A. 47:1A-5.c and this chapter;
2. Where redaction and/or copying of government records shall be necessary; and/or
3. When an employee is required to monitor an inspection of original records by a requestor during an on-site inspection.

(j) Upon request, a custodian of records may allow requesters to use their own equipment to copy government records, provided that it will not disrupt the business operations of the agency and will not endanger the public records. A special fee may be charged to a requester as permitted under N.J.S.A. 47:1A-5.c.

#### 13:1E-2.5 Deposit for fees

The custodian of records may require a deposit equal to 50 percent of the estimated cost in advance of preparing copies when the requester is anonymous and the estimated cost exceeds \$5.00.

#### 13:1E-2.6 Delivery of records

The custodian of records shall notify the requester when the records are available and shall collect all fees and charges due, less any deposit required under N.J.A.C. 13:1E-2.5, prior to providing access to or copies of the requested government records.

#### 13:1E-2.7 Failure to respond

Except as provided in N.J.A.C. 13:1E-2.8 or 2.9, if the custodian of records fails to grant or deny a completed request within seven business days after receiving the request or such additional time as may be allowed by law, this subchapter, or as may be agreed to by the requester, the failure to respond shall be deemed a denial of the request, unless the requester has elected not to provide a name, address, telephone number, or other means of contact. If the requester has elected not to provide contact information, the custodian of records shall not be required to respond until seven business days after the requester reappears before the custodian seeking a response to the original request.

#### 13:1E-2.8 Stored records

If the requested record is in storage or is unavailable because it is in active use, the custodian of records shall so advise the requester within seven business days after the custodian receives the request. The custodian shall advise the requester of the date when the record will be made available for review by the custodian.

#### 13:1E-2.9 Requests for copies of a government record in a specified medium

(a) Unless otherwise specifically requested, copies of records shall be provided in printed form on ordinary business size paper. The requester may request that the agency provide a copy of a record in a specific medium. If the agency maintains the government record in the medium requested, the custodian of records shall provide the record in that medium.

(b) If the agency does not maintain the government record in the medium requested, the custodian of records shall convert the record to the medium requested if reasonable or provide a copy in some other meaningful medium. If a requester asks for copies of a record in a medium not routinely used by the agency, not routinely developed or maintained by the agency, or requiring a substantial amount of manipulation or programming of information technology, the custodian may charge, in addition to the actual cost of duplication, a special charge, which shall be reasonable and shall be based upon the cost of any extensive use of information technology and/or for the labor cost of providing the service actually incurred for the programming, clerical, and supervisory assistance required. The requester shall be given the opportunity to review and object to the charge prior to its being incurred. If the requester objects to the charge and refuses to withdraw the request, the custodian may deny the request after attempting to reach a reasonable solution that accommodates the interests of the requester and the agency.

#### 13:1E-2.10 Computation of time

(a) In computing any time period under N.J.S.A. 47:1A-1 et seq., and this subchapter, the business day a written request for access is received shall not be included. The last business day of the period so computed shall be included.

(b) For the purposes of N.J.S.A. 47:1A-1 et seq., and this subchapter, a request for access to government records is deemed to be complete when the requester provides the information required by N.J.A.C. 13:1E-2.3 and pays any deposit required by N.J.A.C. 13:1E-2.5.

#### 13:1E-2.11 Administrative closure

When a requestor has failed to provide payment in full for the requested records, has failed to pick up or otherwise schedule delivery of the requested records, or has failed to schedule or keep an appointment with the custodian to inspect the requested records within 45 days of the issuance of an Open Public Records Act (OPRA) receipt by the custodian of records to the requestor, the custodian shall administratively close the request upon providing written notice to the requestor. The requestor remains liable for all costs and fees associated with the request when such request has been administratively closed by the custodian.

(a)

### NEW JERSEY RACING COMMISSION

#### Thoroughbred Racing

#### Intent of Medication Rules; General Provisions; Penalties; Anabolic Steroids

#### Adopted Amendments: N.J.A.C. 13:70-14A.1, 14A.7, and 14A.17

Proposed: June 16, 2014, at 46 N.J.R. 1414(a).

Adopted: September 22, 2014, by the New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Filed: October 3, 2014, as R.2014 d.163, **without change**.

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

Effective Date: November 3, 2014.

Expiration Date: December 7, 2017.

#### Summary of Public Comment and Agency Response:

**There were no comments received.**

#### Federal Standards Statement

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

**Full text of the adoption follows:**

## SUBCHAPTER 14A. MEDICATION AND TESTING PROCEDURES

## 13:70-14A.1 Intent of medication rules; general provisions

(a) (No change.)

(b) On the day of the race, irrespective of the date, time, and method of administration, no horse entered to start in or participating in any race shall carry in its body any drug and/or substance foreign to the natural horse, excepting external rubs and innocuous compounds as defined in this section and as otherwise provided for in this chapter. Examples of drugs and/or substances foreign to the natural horse, and thus prohibited pursuant to this section, are as follows:

1.-11. (No change.)

12. Stamina builders;

13. Mixtures, compounds, or solutions commonly referred to as "milkshakes," which contain any prohibited drug and/or substance; and

14. Controlled therapeutic medications equal to or in excess of the threshold levels set in the Association of Racing Commissioners International (RCI) Controlled Therapeutic Medication Schedule (Schedule), version 2.1 (Revised April 17, 2014), which is incorporated herein by reference, as amended and supplemented. The Schedule can be accessed at <http://arcicom.businesscatalyst.com/assets/arci-controlled-therapeutic-medication-schedule---version-2.1.pdf>.

(c)-(d) (No change.)

(e) An external rub or innocuous compound is a single substance, mixture of substances, or compound that does not contain any of the examples of prohibited items as set forth in (b) above, or additionally, any other substance foreign to the natural horse that alters its normal physiological state.

## 13:70-14A.7 Penalties

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

(c) Any individual suspended or disciplined in any fashion for multiple violations of this subchapter or any comparable rule of any other racing commission or turf governing body shall be deemed a repeat offender and shall be subject to enhanced penalties pursuant to RCI Model Rule ARCI-011-020B(13), Multiple Medication Violations (MMV) (version 5.7, Approved April 9, 2014), which is incorporated herein by reference, as amended and supplemented, or as otherwise ordered by the Commission or its Stewards (see N.J.A.C. 13:70-16). RCI Model Rule ARCI-011-020B(13), Multiple Medication Violations (MMV) may be accessed at [http://ua-rtip.org/sites/ua-rtip.org/files/Flat%20Racing%20Chapters%20\(5-11\).pdf](http://ua-rtip.org/sites/ua-rtip.org/files/Flat%20Racing%20Chapters%20(5-11).pdf). The Commission may, at its discretion, consider evidence of compliance with the guidelines set forth in the "Dosing Specifications" and "Withdrawal Guideline" columns of the Schedule as mitigating factors, when appropriate, in determining the penalty to be imposed for a violation of the levels listed in the "Threshold" column.

(d) Horses owned wholly or in part by persons suspended for violations of this subchapter or any comparable rule of any other racing commission or turf governing body are ineligible to start during the period of such suspension or as ordered by the Commission or its Stewards, unless sold to a bona fide purchaser (see N.J.A.C. 13:70-16). Horses trained by a person suspended for such violations, wherein the trainer does not have an ownership interest, are automatically eligible to start when placed in the hands of a licensed trainer approved by the Stewards. (See N.J.A.C. 13:70-13A for rules concerning appeals.)

13:70-14A.9 Administering medication to respiratory bleeders; standards for the administration of non-steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications; environmental contaminants

(a)-(c) (No change.)

(d) Post race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with furosemide to control respiratory bleeding pursuant to the requirements set forth in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma, or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations must be below the serum or plasma threshold levels authorized in N.J.A.C. 13:70-14A.1(b)14. In the event a post-race analysis of a blood sample reveals that the

concentration of furosemide is at or above the permitted serum or plasma threshold levels authorized in N.J.A.C. 13:70-14A.1(b)14, or in the event that a post-race analysis of a blood or urine sample reveals no detectable concentration of furosemide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable for the penalties as set forth in (e) below.

(e) (No change.)

(f) Notwithstanding anything to the contrary in this section or in N.J.A.C. 13:70-14A.1, no penalty shall be imposed where on the day of the race, a horse carries in its body either Phenylbutazone or Flunixin, both NSAIDs, under the following conditions:

1. The NSAID level is below the permitted serum or plasma threshold levels authorized in N.J.A.C. 13:70-14A.1(b)14, which are consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered;

2. (No change.)

3. The presence of more than one of the approved NSAIDs or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(g) In the event post-race testing determines that the threshold levels authorized in N.J.A.C. 13:70-14A.1(b)14 have been met or exceeded, there is evidence of more than one of the permitted NSAID(s) present or there is evidence of an unapproved NSAID, the stewards shall penalize the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, as follows, regardless of whether or not the same horse is involved:

1.-2. (No change.)

(h)-(k) (No change.)

## 13:70-14A.17 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 below the following threshold levels in blood plasma:

Boldenone - 200 picograms/milliliter (200 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);

Testosterone -

Intact Male Horses: 2,000 picograms/milliliter (2,000 pg/mL);

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

For the purposes of this section, "intact male horse" shall mean a male horse that has not been gelded.

(d) Any blood samples containing one of the three anabolic steroids listed in (c) 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 below the threshold level, shall constitute a violation of this section if the samples also indicate the presence of any other anabolic steroid.

(e)-(j) (No change.)

(a)

## NEW JERSEY RACING COMMISSION

## Standardbred Racing

## Intent of Medication Rules; General Provisions;

## Penalties; Anabolic Steroids

## Adopted Amendments: N.J.A.C. 13:71-23.1, 23.7, and 23.16

Proposed: June 16, 2014, at 46 N.J.R. 1419(a).