

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Harness Racing

Anti-Recombinant Human EPO Antibody Testing Program

Adopted New Rule: N.J.A.C. 13:71-23.14

Proposed: October 3, 2005 at 37 N.J.R. 3793(a)

Adopted: January 18, 2006 by the New Jersey Racing Commission,

Frank Zanzuccki, Executive Director

Filed: \_\_\_\_\_ As R. 2006 \_\_\_\_\_, without change

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

Effective Date: February 21, 2006

Expiration Date: June 17, 2010

Summary of Public Comments and Agency Responses:

COMMENT:

Barbara Sachau of New Jersey filed comments in opposition to the proposed new rule. Ms. Sachau states that she does not want horse racing to be a major industry, and believes that racehorses are treated abusively and are drugged.

RESPONSE:

The Racing Commission disagrees with these comments. Ms. Sachau's comments relate to her opposition to horse racing and her expressed desire not to see horse racing be a major industry. However, pari-mutuel wagering on

horse racing has long been legal in this state. Although Ms. Sachau opposes the sport for various reasons, including her stated reason that horses are drugged, the Racing Commission's medication rules and this new proposed rule specifically are directed toward preventing and deterring the administration of a drug to horses within the legal environment of horse racing.

**COMMENT:**

Richard J. Alampi, Executive Director of the New Jersey Veterinary Medication Association ("NJVMA"), on behalf of the NJVMA, comments that the NJVMA supports the proposed new rule. However, the NJVMA suggests that the rule be expanded to allow for anti-recombinant human EPO antibody testing in the following circumstances: the private sale of a horse that will race in New Jersey; horses coming to race in New Jersey from other racing jurisdictions that do not utilize the same test; when there is a trainer change; and regarding horses purchased at consignment sales. Comments substantially identical to those filed by the NJVMA were received from Patrick J. Knapman, D.V.M.

**RESPONSE:**

The Racing Commission accepts the comments of the NJVMA and Dr. Knapman to the extent they support the proposed new rule, but disagrees with the comments as they suggest that the proposed new rule be expanded to allow access to the Racing Commission testing process for private or other purposes. Where a sale or transfer of a horse, potential racehorse or racehorse is contemplated, potential purchasers or transferees may in their discretion

exercise the level of due diligence they see fit in connection with that purchase or transfer. For example, a potential purchaser of transferee may have the horse tested for chemical substances, at his or her expense, through a private laboratory to determine whether he or she desires to purchase or receive the horse. The Racing Commission's jurisdiction does not extend to such situations and, as a regulatory agency conducting chemical testing, its jurisdiction in terms of chemical testing is set forth in its rules and is triggered once a horse is entered to race. While the Racing Commission therefore declines to accept this aspect of the comments of the NJVMA and Dr. Knapman, we positively note that the proposed new rule will allow for antibody testing of a claimed horse and will allow the successful claimant to have the claim voided where the horse tests positive.

#### Federal Standards Statement

A Federal standards analysis is not required because the rules of racing are dictated by State statute, N.J.S.A. 5:5-22, et seq., and the adopted amendment is not subject to any Federal requirements or standards.

The full text of the adopted rule can be found in the New Jersey Register at 37 N.J.R. 3793(a).