

(a)

**NEW JERSEY RACING COMMISSION****Harness Racing****Equine Fatality Report****Adopted Amendments: N.J.A.C. 13:71-4.1 and 20.24**

Proposed: December 2, 2019, at 51 N.J.R. 1751(a) (The notice of proposal would have expired on December 2, 2020, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 103, to January 1, 2022).

Adopted: July 21, 2021, by the New Jersey Racing Commission, Judith A. Nason, Executive Director.

Filed: August 7, 2021, as R.2021 d.099, with non-substantial changes not requiring additional notice and public comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: September 7, 2021.

Expiration Date: August 28, 2024.

**Summary of Public Comments and Agency Responses:**

The official comment period ended on January 31, 2020. The New Jersey Racing Commission (Commission) received comments from the following individuals.

1. Dennis A. Drazin, Chairman and CEO of Darby Development.

2. Jean Public, a member of the public.

1. COMMENT: Commenting on the notification requirement at N.J.A.C. 13:70-14.16(d)1, Mr. Drazin believes that there is "ambiguity in designating exactly who is responsible to provide the verbal notification" and he thinks that "there should be clarification that it is the trainer's responsibility" to notify the State Steward or a Commission veterinarian. Mr. Drazin states that he assumes that the Commission does "not intend to require multiple verbal notifications by trainers, veterinarians, and owners of horses."

RESPONSE: The Commission will change N.J.A.C. 13:71-20.4(d)1 upon adoption to incorporate the non-substantial change of the additional language "by the trainer or the trainer's designee" to specify that it shall be the trainer or the trainer's designee who must notify the State Steward or Commission veterinarian of the death of a horse under the trainer's care. The trainer or the trainer's designee must provide such verbal notification within one hour of the horse's death and the trainer shall be the party ultimately liable for any failure of notice.

2. COMMENT: Ms. Public comments that the form of the equine fatality report should be subject to public review "so that the public can comment on whether that form has enough information on it."

RESPONSE: N.J.A.C. 13:71-20.24(b) sets forth certain information that must be included in the equine fatality report and allows the Commission to require any other information deemed necessary. A person or entity who would like to review the equine fatality report may file a request pursuant to the Open Public Records Act to obtain a copy of the form. Any request to change the information required at N.J.A.C. 13:71-20.24(b) beyond the amendments proposed at 51 N.J.R. 1751(a) and adopted herein may be submitted to the Commission in a petition for rulemaking.

3. COMMENT: Ms. Public makes comments regarding the age of horses racing, the use of medication in race horses, and her perceptions on the motives of horse owners and veterinarians.

RESPONSE: Ms. Public's comments on these subjects are outside the scope of this rulemaking.

**Federal Standards Statement**

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the adopted amendments.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisk \*[thus]\*):

## SUBCHAPTER 4. DEFINITIONS

## 13:71-4.1 Definitions

(a) (No change.)

(b) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Post-mortem necropsy” means 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 a deceased horse.

## SUBCHAPTER 20. RULES OF RACING

## 13:71-20.24 Equine fatality report; post-mortem necropsy

(a) Upon the death of a horse on any part of the grounds of a New Jersey racetrack or off-track training facility, an equine fatality report shall be submitted to the New Jersey Racing Commission within 48 hours. It shall be the responsibility of the trainer of the deceased animal to file the equine fatality report with the State Steward or Chief State Veterinarian.

(b) The equine fatality report shall be on forms prescribed and furnished by the Commission and shall be filled out entirely, legibly and specifically, and include the following information and any other information deemed necessary by the Commission:

1. Name and tattoo number or other registration identification of deceased equine;
2. (No change.)
3. Owner of record and fiscal records regarding purchase of equine;
- 4.-9. (No change.)

(c) The attending veterinarian shall certify the cause of death and shall submit treatment records describing all veterinarian treatments administered to the horse within the 30-day period preceding the time of death. These records shall be submitted to the State Steward within 48 hours of the time of death. Failure to produce these records may result in the immediate suspension of the trainer and/or veterinarian.

(d) Upon the death of any horse on the racetrack during racing, training, or warming-up the horse, or upon the death of a horse within one hour after racing on any racetrack:

1. Verbal notice of the death of the horse shall be given **\*by the trainer or the trainer’s designee\*** to the State Steward or to a New Jersey Racing Commission veterinarian within one hour of the horse’s death. Said notice shall not negate the obligation to submit an equine fatality report within 48 hours of the time of death; and
2. An appropriate post-mortem necropsy shall be conducted, by a qualified veterinarian at a facility designated by the Commission, to determine the cause of death and other relevant information about the condition of the deceased horse. The cost of the necropsy, including related transportation and other costs, shall be borne by the owner of the deceased horse.

(e) Upon the death of any horse on the racetrack during racing, training, or warming-up the horse, or upon the death of a horse within one hour after any such activity, the remains of the deceased horse shall not be removed without the written consent of the State Steward, or **\*[his or her]\* \*the State Steward’s\* designee, or the Chief State Veterinarian, or **\*[his or her]\* \*the Chief State Veterinarian’s\* designee.** It shall be the joint responsibility of the racetrack and the owner of the horse to prevent the unauthorized removal of the remains of a deceased horse.**

(f) Failure to file the equine fatality report or the required veterinary records in a timely fashion or filing in an incomplete fashion may subject the owner, trainer, and/or veterinarian to disciplinary action.

1. Any falsification or misstatement submitted in connection with an equine fatality report may also subject the owner, trainer, and/or veterinarian to disciplinary action.

(g) (No change in text.)