

(a)

NEW JERSEY RACING COMMISSION

Harness Racing

Pylons

Adopted New Rule: N.J.A.C. 13:71-20.25

Proposed: July 1, 2019, at 51 N.J.R. 1101(a) (The notice of proposal would have expired on July 1, 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 12, 2021, as R.2021 d.097, without change.

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 August 30, 2019. The New Jersey Racing Commission (Commission) received comments from the following individuals:

1. Howard Bruno, General Manager of Freehold Raceway commented on behalf of Freehold Raceway.

2. Jean Public, a member of the public.

1. COMMENT: Mr. Bruno supports the portion of the rule that "relates to guidelines for the judges to enforce infractions involving the existing pylon rules."

RESPONSE: The Commission thanks the commenter for supporting this section of the proposed rule.

2. COMMENT: Mr. Bruno comments that although he theoretically supports the concept of uniformity among racetracks, he opposes the proposed new rule. Mr. Bruno states he is concerned that Freehold Raceway would incur more than a *de minimus* cost as the new rule would require the track to purchase "all new pylons as well as a fifty percent (50%) increase in the number of pylons currently in place around the Freehold Raceway racing surface."

RESPONSE: The Commission has obtained data regarding the cost of pylons that indicates that the cost of purchasing all of the pylons the racetrack will be less than \$1,000 per annum. This increase in the annual cost in outfitting the racetrack will therefore be a *de minimus* increase in the operating costs of the racetrack. The Commission believes that the benefits provided by the uniformity of pylon placements outweighs this *de minimus* cost.

3. COMMENT: Mr. Bruno states that installing the new pylons will require Freehold Raceway "to hire outside services for engineering and placement in order to be in compliance with the new rule."

RESPONSE: While there may be some initial cost incurred due to the installation of approximately 55 pylons at Freehold Raceway, digging the holes and placing the underground cups that will hold the pylons will be a one-time cost. The Commission believes that need for uniformity in the placement of the pylons outweighs this cost.

4. COMMENT: Mr. Bruno comments that there are "several instances during each racing season where it becomes necessary to delay races in the middle of [Freehold Raceway's] racing card to perform maintenance, namely to 'scrape the track' due to excessive moisture." This process normally takes between 45 minutes and one hour. He continues that "adding additional pylons, which all need to be removed and then replaced, will add significant time to the process." Mr. Bruno concludes that "it would be more than likely that we cancel races under similar circumstances rather than undertake this task as we do currently."

RESPONSE: The Commission has obtained data from the operator of another harness racetrack that indicates that the process of "scraping" or "dragging" the racetrack when needed due to inclement weather and the removal and reinstallation of the pylons can be accomplished between races without causing delay or cancellation. The Commission believes that the relatively small increase in the total number of pylons will have minimal, if any, effect on the length of time it takes to maintain the track.

5. COMMENT: Mr. Bruno states that, in Pennsylvania rules were adopted "which mirror" this rule proposal and that "[o]ver time, the requirement of pylons at a 30 degree angle has been relaxed and two of the three tracks have reverted to straight pylons."

RESPONSE: The Commission believes that the 30 degree angle requirement is an important safety measure as it creates a buffer zone between the base of the pylons, the horse's hooves, and the sulky's wheels. This buffer zone will, in turn, lead to fewer horses and sulkies contacting the base of the pylons.

6. COMMENT: Ms. Public comments that the pylons should be made of hard rubber and be "5 ft. apart so that no horse can get any part of their feet or body inside the inside of the track."

RESPONSE: Ms. Public suggests that spacing pylons in very close proximity to one another would be safer for the horses. Spacing pylons closely together, as suggested, may prevent a horse and driver from being able to maneuver the sulky safely into the inner boundary of the track to avoid potential on-track collisions. Hard rubber, as suggested, would also be more dangerous for the horses. Pylons that are made of a foam material that is soft and flexible are less likely to cause injury to the horse. The rule, as proposed, will promote the health, safety, and welfare of the racing participants.

7. COMMENT: Ms. Public urges the Commission to advance equine safety.

RESPONSE: Ms. Public's comment is outside the scope of the rulemaking.

Federal Standards Statement

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

Full text of the adoption follows:

SUBCHAPTER 20. RULES OF RACING

13:71-20.25 Pylons

(a) It shall be a violation of this rule if a horse, while on stride, or part of the horse's sulky, travels inside the existing pylons when not forced to do so by the actions of another driver or horse. The pylons shall constitute the inside limits of the racetrack.

(b) When an act of interference causes a horse, or part of the horse's sulky, to cross inside the pylons and the horse is placed by the Judges, the offending horse shall be placed behind the horse with which it interfered. The horse that was forced inside the pylons must attempt to return to the racetrack as soon as is safely possible. A horse remaining inside the pylons once, in the Judge's discretion, it is safe to return to the racetrack, may be penalized in accordance with this rule.

(c) For purposes of placing, the following shall apply:

1. If a horse while on stride, or any part of the horse's sulky, goes inside a pylon and, in the opinion of the Judges, that action improved the position of the horse or gave that horse an unfair advantage over other horses in the race, the horse may be placed at the discretion of the Judges;

2. If a horse while on stride, or any part of the horse's sulky, goes inside two consecutive pylons and was not forced to do so by the interference of another horse or driver, the offending horse shall be placed behind all horses that are lapped to the offending horse at the wire;

3. If a horse while on stride, or any part of the horse's sulky, goes inside three or more consecutive pylons and was not forced to do so by the interference of another horse or driver, the offending horse shall be placed last; and

4. If a horse while on stride, or any part of the horse's sulky, goes inside a single pylon more than one time in a single race and was not forced to do so by the interference of another horse or driver, each occurrence will be considered an individual violation of this rule.

(d) Pylons at all racetracks shall be spaced consistently and shall conform to the following:

1. Pylons, other than the pylon at the wire, shall be white, red, yellow, or orange in color but all pylons at a single racetrack must be the same color except for the pylon at the wire, which can be any color of the racetrack's choosing;

2. All pylons must have a red band at the point furthest from the ground to make the point more visible to race participants and officials. Should

the pylon itself be red, the pylon must have a white or yellow band at the point furthest from the ground;

3. At all racetracks, pylons shall be:

i. Thirty inches above ground;

ii. Set at a 30-degree inward angle to the track surface;

iii. Forty feet apart on the turns; and

iv. Sixty feet apart on the straightaways.