

2. (No change.)  
 3. Owner of record and [particulars] **fiscal records** regarding purchase of equine;  
 4.-9. (No change.)

(c) The attending veterinarian shall certify the cause of death and shall submit [a report] **treatment records** describing all [administration of medication or drugs to said animal] **veterinarian treatments administered to the horse** within the [96 hour] **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 track during racing or training, or upon the death of a horse within one hour after racing or training on any racetrack:**

1. **Verbal notice of the death of the horse shall be given 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 or training, or upon the death of a horse within one hour after racing or training on any racetrack, the remains of the deceased horse shall not be removed without the written consent of the State Steward, or his or her designee, or the Chief State Veterinarian, or his or her 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.**

[(d)] (f) **Failure to file the [foregoing] equine fatality report or the required veterinary records in a timely fashion or filing in an incomplete fashion may subject the owner, trainer, [custodian] 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, [custodian] and/or veterinarian to disciplinary action [as provided in N.J.A.C. 13:71-31.3].**

[(e)] (g) **An equine fatality report shall not be required in connection with any pony or mascot.**

(a)

## NEW JERSEY RACING COMMISSION

### Horse Racing

### Riding Crop Prohibited; Emergency Use of Riding Crop; Riding Crop

### Proposed Repeal and New Rule: N.J.A.C. 13:70-11.12

### Proposed New Rules: N.J.A.C. 13:70-11.12A and 11.12B

Authorized By: New Jersey Racing Commission, Judith A. Nason, 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 2019-149.

Submit written comments by January 31, 2020, to:

Judith A. Nason, Executive Director  
 Department of Law and Public Safety  
 New Jersey Racing Commission

PO Box 088  
 Trenton, New Jersey 08625-0088  
 Or via email to: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us)

The agency proposal follows:

#### Summary

Existing N.J.A.C. 13:70-11.12 allows the use of the riding crop to encourage the horse. The proposed repeal and replacement of this section will ban that usage, as the new rules prohibit the use of riding crops by jockeys and exercise riders at any time and for any reason, except when necessary for the safety of the horse or rider. The proposed repeal and replacement of N.J.A.C. 13:70-11.12 prohibits the use of the riding crop to encourage a horse to run faster under any circumstances. Protection of the equine participants is of the utmost importance and it is incumbent upon the New Jersey Racing Commission (Commission) to ensure the health, safety, and welfare of the racehorses that compete in this State. For this reason, the Commission believes it is necessary to make substantive changes to the rules governing the use of riding crops in thoroughbred racing.

The riding crop can be an important tool in controlling a horse's focus and running direction. The Commission has the responsibility to ensure the safety, health, and welfare of all human and equine racing participants and, for that reason, the proposed repeal and new rules must allow the use of a riding crop when necessary to control the horse to avoid injury to the horse or rider.

Proposed new N.J.A.C. 13:70-11.12A enumerates the restrictions placed on the emergency use of the riding crops that can be used by jockeys and exercise riders to avoid injury by controlling the horse.

The language of existing N.J.A.C. 13:70-11.12 is proposed for repeal. As stated in the Summary above, the former industry practice of encouraging a horse to run faster through use of a riding crop is no longer in the best interests of the sport. Therefore, the proposed repeal and new rule clearly prohibit the use of the riding crop, except when necessary for safety, and specify the penalties that shall be assessed when a violation occurs.

Proposed new N.J.A.C. 13:70-11.12(a) states that no jockey or exercise rider may use a riding crop at any time and for any reason, except when necessary for safety. Jockeys and exercise riders will need to encourage horses by means that do not involve actual or perceived harm to the horse.

Proposed new N.J.A.C. 13:70-11.12(b)1 and 2 set forth the penalties that may be imposed should an exercise rider or a jockey violate this rule.

Proposed new N.J.A.C. 13:70-11.12A, Emergency use of riding crop, sets forth the limited emergencies when use of a riding crop is permissible. Generally, such emergency use is only permissible to control the horse to avoid injury to the horse or rider.

Proposed new N.J.A.C. 13:70-11.12A(a) requires that the riding crops carried by jockeys and exercise riders conform to the parameters set forth in proposed new N.J.A.C. 13:70-11.12B, which permits jockeys and exercise riders to use the riding crop when necessary to control the horse to avoid injury to the horse or rider. Proposed new subsection (b) requires that an announcement be made to the public before a race whenever a jockey is going to ride without a riding crop. Proposed new subsection (c) prohibits the use of the riding crop on a horse's head, flanks, or any other part of the horse other than the shoulders or hind quarters. Proposed new subsection (d) prohibits the jockey or exercise rider from contacting the horse with any part of the riding crop other than the soft tube portion of the riding crop. Proposed new subsection (e) prohibits a jockey or exercise rider from striking a horse in a manner that causes any visible sign, mark, welt, or break in the skin of a horse, or striking a horse in a manner that is otherwise excessive.

Proposed new N.J.A.C. 13:70-11.12A(f) requires that the riding crop shall be shown to a horse before its use whenever possible. Proposed new subsection (g) requires that, under the supervision of the stewards, a visual inspection of each horse following each race for evidence of excessive or brutal use of the riding crop shall be conducted when the riding crop was used to avoid injury. Proposed new paragraphs (h)1 and 2 set forth the penalties to be imposed should a jockey or exercise rider violate this rule.

Proposed new N.J.A.C. 13:70-11.12B, Riding crop, is proposed to detail the specifications required of the only riding crop allowed for use by jockeys and exercise riders. The riding crop specifications are intended to minimize any possible exposure of the horse to harm. Proposed new

subsection (a) requires that all riding crops must be soft-padded. Proposed new subsection (b) enumerates the construction requirements of a riding crop. The subsection requires that each riding crop have a shaft that is held by the rider and a soft tube that is the only portion that can make contact with the horse. Proposed new paragraph (b)1 requires the riding crop to be no heavier than eight ounces. Proposed new paragraph (b)2 allows a maximum length of the shaft and soft tube combined to be 30 inches. Proposed new paragraph (b)3 requires that the minimum diameter of the shaft shall be three-eighths of an inch. Proposed new paragraph (b)4 requires that the shaft, beyond the grip, shall be smooth, with no protrusions or raised surfaces, and that the shaft shall be covered by shock absorbing material that gives a compression factor of at least one millimeter throughout its circumference.

Proposed new N.J.A.C. 13:70-11.12B(c) states that the only allowable attachment to the shaft is the soft tube and enumerates the specifications of the soft tube attachment. Proposed new paragraph (c)1 requires the soft tube to have a maximum length beyond the shaft of one inch. Proposed new paragraph (c)2 requires the minimum width of the soft tube to be 0.8 inches and the maximum width to be 1.6 inches. Proposed new paragraph (c)3 prohibits any reinforcements or additions beyond the end of the shaft. Proposed new paragraph (c)4 prohibits any binding within seven inches of the end of the shaft. Proposed new paragraph (c)5 requires that the soft tube be made of shock absorbing material with a compression factor of at least five millimeters throughout its circumference. Proposed new paragraph (c)6 requires that the soft tube be composed of a waterproof, ultraviolet, and chemical resistant foam material that is durable and preserves its shock absorption in use under all conditions. Proposed new paragraph (c)7 requires that the soft tube be replaced when reasonable wear and tear becomes visibly evident. Proposed new subsection (d) states that all riding crops are subject to inspection and approval by the stewards and the clerk of the scales.

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 prohibition of the use of riding crops, except when necessary for the safety of the horse or rider, will be perceived in a positive light by the general public. The proposed repeal and new rules are of the utmost importance in adapting the industry to avoid the currently negative public perception of whipping a horse. It is possible that members of the industry will initially be resistant to such change; however, the proposed repeal and new rules will apply equally to all competitors, such that all race participants will be adjusting to the proposed repeal and new rules at the same time. Moreover, the public is essential to horse racing and the industry must learn to adapt if it is to survive. The proposed repeal and new rules allow the limited use of the riding crop, when necessary, for the health, safety, and welfare of the racing participants.

Further, the new required specifications of the riding crop itself will greatly reduce any real or perceived harm to the horse should the crop be needed in an emergency.

#### Economic Impact

The proposed repeal and new rules will have a *de minimus* impact on the industry. The only direct cost of the proposed repeal and new rules will require jockeys and exercise riders to purchase new riding crops that conform to the specifications set forth at N.J.A.C. 13:70-11.12B.

#### Federal Standards Statement

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

#### Jobs Impact

The Commission has evaluated this rulemaking and determined no new jobs will be created by the proposed repeal or new rules.

#### Agriculture Industry Impact

The Commission has evaluated the proposed repeal and new rules and determined that they will not have an impact on the agricultural industry in the State. Accordingly, no further analysis is required.

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required as the proposed repeal and new rules will have no impact on the reporting, recordkeeping, or compliance requirements of small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

#### Housing Affordability Impact Analysis

The Commission has evaluated the proposed repeal and new rules and determined that they will not have an impact on housing affordability or evoke a change in the average costs associated with housing in the State because the proposed repeal and new rules concern restricting the use of the riding crop by jockeys. Accordingly, no further analysis is required.

#### Smart Growth Development Impact Analysis

The Commission has evaluated the proposed repeal and new rules and determined that they will not evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in the State because the proposed repeal and new rules concern restricting the use of the riding crop by jockeys. Accordingly, no further analysis is required.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

#### SUBCHAPTER 11. POST TO FINISH

##### [13:70-11.12 Abusive whipping by a jockey

Every jockey shall be responsible for the proper use of his or her whip during the running of a race. Whips may be used for the purpose of encouraging a horse to give forth its best effort during the running of a race, but shall not be used in an abusive or reckless manner. The stewards shall take cognizance of the manner in which a whip is used during the riding of a race and at all times thereafter and shall make such determinations as they deem appropriate with respect to whether or not there has been an abusive use of a whip and/or reckless use of a whip. If, in the opinion of the stewards, an abuse of the whip or a reckless use of the whip has been committed, the offending jockey shall be fined and/or suspended by the stewards.]

##### 13:70-11.12 Riding crop prohibited

**(a) No jockey or exercise rider may use a riding crop at any time, or for any reason, except when necessary to control the horse for the safety of the horse or rider.**

**(b) If a jockey or exercise rider uses the riding crop in a manner contrary to this section:**

**1. The jockey or exercise rider may be suspended and/or fined by the stewards; and**

**2. The jockey's share of the purse shall be forfeited if, in the opinion of the stewards, the unauthorized use of the crop caused the horse to achieve a better placing.**

##### 13:70-11.12A Emergency use of riding crop

**(a) Only riding crops, as permitted, and as defined at N.J.A.C. 13:70-11.12B, shall be allowed. The riding crop shall only be used when necessary to control the horse to avoid injury to the horse or rider.**

**(b) In all races where a jockey will not ride with a riding crop, an announcement shall be made over the public address system.**

**(c) The riding crop shall never be used on the head, flanks, or on any other part of the horse other than the shoulders or hind quarters.**

**(d) A jockey or exercise rider shall not contact the horse with anything except the soft tube of the riding crop.**

**(e) A jockey or exercise rider shall not strike a horse in a manner that causes any visible sign, mark, welt, or break in the skin of the horse, or that is otherwise excessive.**

(f) The riding crop should be shown to the horse before use, whenever possible.

(g) If the riding crop is used, under the supervision of the stewards, there shall be a visual inspection of each horse following each race for evidence of excessive or brutal use of the riding crop.

(h) If a jockey or exercise rider uses the riding crop in a manner contrary to this section:

1. The jockey or exercise rider may be suspended and/or fined by the stewards; and

2. The jockey's share of the purse shall be forfeited if, in the opinion of the stewards, the unauthorized use of the crop caused the horse to achieve a better placing.

#### 13:70-11.12B Riding crops

(a) All riding crops must be soft-padded.

(b) Riding crops shall have a shaft and a soft tube and must conform to the following dimensions and construction:

1. The maximum allowable weight shall be eight ounces;

2. The maximum allowable length, including the soft tube attachment, shall be 30 inches;

3. The minimum diameter of the shaft shall be three-eighths of one inch; and

4. The shaft, beyond the grip, must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one millimeter throughout its circumference.

(c) The soft tube is the only allowable attachment to the shaft and must meet the following specifications:

1. Shall have a maximum length beyond the shaft of one inch;

2. Shall have a minimum width of 0.8 inches and a maximum width of 1.6 inches;

3. There shall be no reinforcements or additions beyond the end of the shaft;

4. There shall be no binding within seven inches of the end of the shaft;

5. The soft tube shall be made of shock absorbing material with a compression factor of at least five millimeters throughout its circumference;

6. The soft tube shall be made of a waterproof, ultraviolet, and chemical resistant foam material that is durable and preserves its shock absorption in use under all conditions; and

7. The soft tube shall be replaced after reasonable wear and tear is visibly evident.

(d) The riding crops are subject to inspection and approval by the stewards and the clerk of the scales, based upon (c) above.

(a)

## NEW JERSEY RACING COMMISSION

### Harness Racing

### Cancellation of Racing to Protect the Health, Safety, and Welfare of Racing Participants

### Proposed New Rule: N.J.A.C. 13:71-1.38

Authorized By: New Jersey Racing Commission, Judith A. Nason, 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 2019-152.

Submit written comments by January 31, 2020, to:

Judith A. Nason, Executive Director  
Department of Law and Public Safety  
New Jersey Racing Commission  
PO Box 088  
Trenton, New Jersey 08625-0088  
Or via email to: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us)

The agency proposal follows:

#### Summary

N.J.S.A. 5:5-30 grants the New Jersey Racing Commission (Commission) "power to prescribe rules, regulations and conditions under which all horse races shall be conducted in the State." Implicit in that statutory grant of authority is the Commission's discretion to conditionally cancel or postpone horse races in the State. Proposed new N.J.A.C. 13:71-1.38 will grant the Commission explicit authority to cancel or postpone races in the event of an imminent risk to the health, safety, and welfare of equine and human race participants. This proposed new rule will also clarify, for the public, a process for emergency cancellation or postponement of horse racing in the State should a permit holder persist with the conduct of races in dangerous conditions.

As an objective regulatory body not influenced by the same external concerns of the private-entity permit holders, the Commission should have independent discretion to cancel racing in the State in the occurrence of dangerous conditions. The decision to cancel racing will reside with the Executive Director, who is in the best position to make an objective and reasonable judgment. A determination to cancel or postpone races shall be based on the health, safety, and welfare of the equine athletes and horsemen and shall also consider the best interests of the industry. Prior to making the decision to cancel or postpone races, the Executive Director may consult with members of the industry, Commission staff, regulatory bodies from neighboring jurisdictions, and any other relevant experts. Placing this authority in the discretion of the Executive Director is a responsible and prudent decision that aligns with the paramount goal of the Commission, which is to ensure the health, safety, and welfare of the racing participants. Further, this rulemaking will provide clarity regarding the process for determining whether certain factors exist that would make racing unsafe for the equine and human racing participants. Such factors include, but are not limited to, excessive heat or humidity, the presence of lightning, or icy conditions.

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

Vesting the authority to cancel races in the Executive Director is of great social benefit because such a decision will ensure the public that an objective body is making a determination based on the health, safety, and welfare of the race participants and no other external factors. The rulemaking will promote the safety of the racing participants, the integrity of the sport, and the trust of the wagering public.

#### Economic Impact

Should the Executive Director determine to cancel races on a particular day, the permit holders and horsemen will likely lose the opportunity to gain racing-related income during the time affected by the cancellation or postponement. Such losses include attendance and concession sales at the racetracks, as well as the racetrack operator's share of pari-mutuel wagering that would have occurred on the races that were cancelled or postponed. These losses are somewhat reduced by the fact that the operator will not have to pay purse money. In addition, trainers, owners, and jockeys will lose racing-related income due to the cancellation or postponement of races.

The negative impacts could be mitigated if the permit holder applies to reschedule the canceled race day and the Commission approves the new date. The Commission believes that losses related to cancellation in dangerous conditions are outweighed by the benefits of protecting the health, safety, and welfare of the racing participants.

#### Federal Standards Statement

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

#### Jobs Impact

The Commission has evaluated this proposed new rule and determined that it will not add or decrease any jobs in the State.