NYCRR Title 9, Executive

Subtitle T

New York State Gaming Commission

Chapter I

Division of Horse Racing and Pari-Mutuel Wagering

Subchapter A

Thoroughbred Racing

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PART 4000

General Provisions

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§ 4000.1. Division of rules.

This Article sets forth the thoroughbred racing rules and regulations of the New York State Gaming Commission.

§ 4000.2. Powers reserved.

All powers of the commission not specifically defined in this Subchapter are reserved to the commission under the laws creating the commission and specifying the commission's powers and duties.

§ 4000.3. Definitions.

(a) *Association* or *racing association* means any corporation or franchised corporation authorized by the Racing, Pari-Mutuel Wagering and Breeding Law, whether or not duly licensed by the commission.

(b) *Bookmaking* or *making book* means the acceptance or solicitation of a wager as defined by article 225 of the Penal Law.

(c) *Commission* means the New York State Gaming Commission or, when referring to other jurisdictions, the governmental body having authority over the horse racing and wagering activities in the jurisdiction.

(d) *Racetrack operator* means the corporation, association or other business entity that is licensed, franchised or otherwise permitted to manage and operate a race track at which pari-mutuel thoroughbred horse racing is conducted in New York State.

(e) *Owner* or *stable*, as applied to the racing of a horse, shall include a managing owner, a racing owner, a part owner, a lessor and a lessee and may comprise one or more natural persons in a partnership or in any other authorized form of collective ownership or control and such entity, as more fully defined in Part 4026 of this Subchapter.

(f) *Race track* or *track* shall mean any and all parts of the plant of a racing association, including but not limited to: the racing strip, the approaches and entrances, the stands and all other accommodations and facilities afforded to the public, the stables, barns, paddocks, quarters of jockeys and others employed in or about the track, judges' and stewards' boxes, photo finish and film patrol plants, pari-mutuel offices, facilities and equipment, totalisator and public annunciator system.

(g) *Rules and regulations* shall be deemed to include all rules of the commission applicable to administration and racing unless other meaning is clearly indicated.

(h) *Stewards* shall mean the steward of the commission, the steward appointed by The Jockey Club, and the steward appointed by the racing association conducting the meeting, or their deputies or substitutes, acting together or such of them as may be acting at the time.

(i) Unless another meaning is clearly indicated, words of any gender shall include the masculine, feminine, and neuter and refer to natural persons and legal entities, including a state department, agency, instrumentality, and government subdivision, and words of number shall include the singular and plural.

§ 4000.4. [Repealed]

PART 4001

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§ 4001.1. General policy—declaration and administration.

General policies on racing matters are to be declared by the commission. The administration thereof shall be in the hands of the executive director acting through the staff of the commission.

§ 4001.2. Office at each track.

The commission shall establish and maintain an office for the commission's use at each track.

§ 4001.3. Daily records to be filed.

The commission shall maintain, in an adequate filing system, records from day to day of all owners, trainers, jockeys, horses and performances and of all applicants for licenses and such other persons or class of persons as may be specified by the commission.

§ 4001.4. Names on daily racing program.

The names of the commission members and the commission's specified employees with their titles, if any, and the address of the commission's offices shall appear on the daily racing programs.

§ 4001.5. Changes in rules.

The commission shall promptly inform the national organization representing state racing commissions and boards and The Jockey Club of all changes in the commission's rules and regulations and of all penalties imposed.

§ 4001.6. Orders—form and execution.

Whenever the commission has adopted a rule or regulation or has rendered a decision, whether on appeal or otherwise, the signature of the individual commission members shall not be required on any written order or other form of determination, but the secretary of the commission shall certify to and promulgate the same, and his or her signature on such written order or other form of determination or on any promulgation of them shall be valid and effective as evidencing the official action taken by the commission.

§ 4001.7. Attendance at stewards' meetings.

The chair of the commission or a member or employee of the commission designated by the chair shall be entitled to attend ex officio all meetings of the stewards of The Jockey Club and of the National Steeplechase and Hunt Association.

§ 4001.10. [Repealed]

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§ 4001.30. [Repealed]

PART 4002

Occupational Licenses

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§ 4002.1. Occupational licenses.

(a) No person shall participate in the affairs of any association or corporation licensed or franchised by the commission or franchise oversight board to conduct thoroughbred race meetings at which pari-mutuel betting is permitted as director, agent, or employee of such track, unless such person shall have received an occupational license from the commission.

(b) No person shall participate in or at any thoroughbred race meet as a managing owner, racing owner, trainer, assistant trainer, jockey, apprentice jockey, jockey agent, veterinarian, farrier, stable employee, track supplier, equipment supplier, salesman, or agent or be the holder or operator of any concession, or perform any service, including but not limited to the conduct of negotiations on behalf of any person or persons who engage in any racing activities or perform any services in connection with the conduct of any thoroughbred race meet, or engage in any occupation or employment at any thoroughbred race meet unless such person shall have received an occupational license from the commission, with the following exceptions:

(1) public officers and public employees engaged in the performance of their official duties; and

(2) persons exempted by the commission from the occupational license requirement.

(c) Every such license shall provide that the license shall comply with this Subchapter and that violation thereof may be punished by suspension or revocation of such license. Such licenses shall be issued only to natural persons.

(d) It shall be the responsibility of each track to prevent any person not holding an occupational license from doing or performing any act or acts at its track.

(e) An application for an occupational license shall be made upon a form supplied by the commission and shall be executed in the manner prescribed by the commission. The commission may issue instructions as to the preparation and execution of applications for occupational licenses, which instructions may be a part of or separate from the application form. Failure to comply with any such instructions shall be grounds for denial, suspension or revocation of an occupational license. When so instructed by the commission, the applicant shall file with the application fingerprints and photographs in requisite number. The fingerprints so obtained shall be transmitted by the commission to the New York State Identification and Intelligence System, the Federal Bureau of Investigation Identification Division, and any other government agency of any state or country selected by the commission, for the purpose of establishing identity and previous criminal record, if any, of the applicant.

(f) Should a licensee lose a license or should a license in some manner be destroyed, such licensee may apply for a duplicate license by filing an affidavit on a form supplied by the commission and the payment of a fee of $5.

(g) Each applicant for an occupational license shall pay an annual license fee at the time of the filing of the application. The license fees are: original owner—$100; owner renewal, jockey—$50; trainer, assistant trainer, veterinarian—$30; jockey agent, farrier, track management—$20; mutuel—$10; stable employees (grooms, etc.) cleaning and food service workers, exercise rider, authorized agent—$5; all others—$10. Such fees shall be multiplied by two for two-year terms and by three for three-year terms.

(h) It shall be the responsibility of the trainer to determine that every person employed by the trainer at a track and every assistant trainer, groom, clerk, assistant or other person working regularly in the trainer's stable at a track is licensed by the commission. It shall be the responsibility of the trainer to refuse to represent any participant at a licensed track under circumstances in which the trainer, by the exercise or reasonable discretion, has reason to believe that said participant has not been licensed by the commission and to report said circumstances to the track steward.

(i) No unlicensed person shall enter or be present in the stable area, paddock, racing strip, infield, or mutuel area of a track without permission from the commission and each track shall use all practicable measures to enforce the above restrictions.

(j) Upon the commission's request, an applicant for an occupational license or a licensee shall furnish to the commission records or information pertaining to such person's service in the Armed Forces, treatment for any physical or mental condition, including confinement in any institution, past or present financial condition, past or present employment and any other information or records that may be deemed necessary by the commission. Failure to furnish such records and information if available, and if not available to cooperate with and assist the commission in obtaining such records and information, shall be grounds for denial, suspension, or revocation or fine by the commission.

(k) Before the commission issues or reinstates an occupational license, it may require as a condition for issuing or reinstating such license, that the person involved produce proof:

(1) that if such person is to be employed, that such person's proposed employer intends to so employ such person upon issuance or reinstatement of the license; or

(2) that if such person is to be otherwise engaged in thoroughbred racing that such person is able, financially or otherwise, to so participate upon licensing.

§ 4002.2. Unlicensed activity forbidden

No person requiring a license from the commission shall carry on any activity whatsoever upon the premises of a licensed racing association unless and until the person has been so duly licensed, except that any such person with the consent of the steward of the commission may so act pending action on such person's application duly filed.

§ 4002.3. Stable employee defined.

The term *stable employee* shall be deemed to include an authorized agent, subagent, stable manager and any other employee of a licensed owner associated with such owner's racing activities, except as otherwise in sections 4002.1 through 4002.3 of this Part.

§ 4002.4. [Repealed]

§ 4002.5. Application for license—form.

The application for the license shall be in writing in such form as the commission may prescribe and contain such information as the commission may require. Such application shall be duly sworn to before a notary public or commissioner of deeds who shall affix his or her seal. Such application shall be accompanied by the amount of the license fee therefore in such form as may be acceptable to the commission.

§ 4002.6. Application for license—procedure.

(a) Applications for such licenses shall be received by the commission on and after January 2 in each year at the principal office of the commission in Schenectady, New York, or by personal delivery at the commission's branch office at the race course at which a meeting is being conducted at the time.

(b) All applications shall be referred to the Bureau of Licensing of the commission, and no license shall be issued until after approval thereof by the commission.

(c) No license shall be delivered to the applicant unless substantial evidence is first presented to the commission that the applicant will participate in racing in New York during the season.

§ 4002.7. Term of license.

Each such license, unless revoked for cause, shall be for the period of no more than one, two or three years, expiring on the applicant's birth date. An applicant who applies for a license that if issued would take effect less than six months prior to the applicant's birth date may, by payment of a 50 percent higher fee, receive a license that shall not expire until the applicant's second succeeding birth date. A renewal license for owner, trainer, assistant trainer, jockey, jockey agent, racing official, mutuel employee, maintenance employee of the NYRA, veterinarian, farrier, track management or track security employee shall be for three years unless an individual establishes good cause for a shorter term or the commission, in the commission's discretion, determines a shorter term.

§ 4002.8. Qualifications for license.

(a) If the commission finds that the financial responsibility, experience, character and general fitness of the applicant are such that the participation of such person will be consistent with the public interest, convenience or necessity and with the best interests of racing generally in conformity with the purposes of the law, the commission shall grant a license. In this connection, the commission may establish criteria to be met concerning specific license occupations as a condition for licensing. If the commission finds that the applicant fails to meet any of said conditions, the commission shall not grant such license and the commission shall notify the applicant of the denial.

(b) In order to maintain a current license, trainers and assistant trainers must complete at least four hours per calendar year of continuing education courses approved by the commission. Trainers and assistant trainers who are not domiciled in New York and have 12 or fewer starts during the previous 12 months may request a waiver of this requirement from the State steward.

§ 4002.9. Grounds for refusal, suspension, revocation.

(a) The commission may refuse to issue or renew a license, or may suspend or revoke a license if it shall find that the applicant or any person who is a partner, agent, employee or associate of the applicant has been convicted of a crime in any jurisdiction, or is or has been associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, touts or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the commission, or shall have violated any rule of racing that shall have been approved or adopted by the commission, or has been guilty of or engaged in similar, related or like practices. Furthermore, the commission may refuse to issue or renew a license, or may suspend or revoke a license if, in the opinion of the commission, the refusal to issue or renew a license or the suspension or revocation of a license is necessary to protect the public health, safety or welfare.

(b) The stockholders, members or beneficiaries of any lessor corporation, syndicate, partnership, estate, trust or other legal entity that leases horses or designates a managing owner, for racing purposes in the State of New York, as well as such entity, shall make and file with the commission as and when requested by the commission, a report or reports under oath containing such information as the commission may specify. Upon refusal or failure to file any such report or reports, the commission may disqualify any horses in which such entity has a property interest from racing or may refuse a license to any lessee or designee of such corporation, syndicate, partnership or other entity or may revoke any such license that it may have granted.

(c) In addition to the commission's powers to suspend or revoke a license or as an alternative to the exercise of any such powers, the commission may impose such civil penalty as may be prescribed by law.

§ 4002.10. Procedure for revocation.

No license shall be revoked unless such revocation is at a meeting of the commission on notice to the licensee, who shall be entitled to a hearing in respect of such revocation. In the conduct of such hearing the commission shall not be bound by technical rules of evidence but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission shall

be permanently preserved and shall constitute the record of the commission in such case. The action of the commission in refusing, suspending or in revoking a license shall be reviewable in the Supreme Court in the manner provided by and subject to the provisions of article 78 of the Civil Practice Law and Rules.

§ 4002.11. Refund of fees.

Within one year from the date of payment and upon the audit of the State Comptroller, the Department of State may refund any fee paid pursuant to this Part for which no license is issued, or refund that portion of the payment that is in excess of the amount prescribed by this Part.

§ 4002.12. Jockeys—minimum age.

No jockey license shall be granted to anyone less than 16 years of age.

§ 4002.13. Ownership affidavit required.

An owner to be eligible for a license may be required to submit an affidavit as to his or her ownership or lease of all horses in his or her possession in such form as the commission may require.

§ 4002.14. Certain disqualifications.

(a) No person shall be eligible for an owner's or trainer's license if, during the term of such license, he or she would practice as farrier or veterinarian with horses racing under the jurisdiction of the commission; provided, however, that a duly licensed owner may personally shoe a horse owned by him or her upon applying for and receiving a certificate of fitness therefor from the commission.

(b) Disqualification of a licensee from having a license applies equally to the licensee’s spouse, unless the spouse of the disqualified person shows to the satisfaction of the commission that ownership and racing of his or her horses are independent of or not under the control or influence of the disqualified spouse.

§ 4002.15. Amateur jockey to be licensed.

An amateur wishing to ride in races on even terms with jockeys must obtain a jockey license from the commission.

§ 4002.16. Emergency permit.

In an emergency, the steward of the commission may permit owners, trainers, assistant trainers and jockeys to start, train or ride pending action on their applications.

§ 4002.17. Riding without license.

Persons never having ridden in a race may be allowed to ride twice before applying for a license, if approved by the steward of the commission; but licenses shall not be granted to persons who have never ridden in a race.

§ 4002.18. Ineligibles not to be employed.

All persons holding or applying for occupational licenses are forbidden to employ, in any capacity in or in connection with their licensed occupations, any person determined or adjudged by the commission to be ineligible for an occupational license.

§ 4002.19. Financial responsibility.

Any participant who shall accumulate unpaid obligations, default in obligations, issue drafts or checks that are dishonored or payment refused, or otherwise display financial irresponsibility reflecting on his or her experience, character or general fitness, shall be subject to refusal, suspension or revocation of license.

§ 4002.20. Badge identification system.

All licenses and participants shall comply with the requirements of section 4003.50(b) of this Title and shall be subject to the provisions of section 4003.50(h) of this Title for failure to so comply.

§ 4002.21. License requirements for assistant trainer.

(a) In addition to the qualifications set forth in section 4002.8 of this Part, an initial license as an assistant trainer may only be issued to an applicant who:

(1) is at least 18 years of age;

(2) has a minimum of three years experience in the care of horses on the race track or horse farm, at least two full years of which is as a gainfully employed licensed groom or licensed exercise person;

(3) is vouched for, in writing, by the licensed trainer by whom such assistant trainer will be employed;

(4) passes a written or oral test conducted by the commission, which may include questions on horse anatomy, disease, medication, applicable rules, regulations and training conditions of racing, stable business management, training procedures and equipment; and

(5) passes a practical examination administered by the commission, which may include questions on anatomy, lameness/disease and care of a horse and demonstrations of bandaging, saddling and other standard practices.

(b) The commission may waive such testing requirements if the applicant has been licensed as an assistant trainer in another jurisdiction for at least one year and otherwise satisfies the commission as to experience and competence.

§ 4002.22. License qualifications for trainer.

In addition to the qualifications set forth in section 4002.8 of this Part, an initial trainer's license may only be issued to an applicant who:

(a) has been employed at least 12 months as a licensed assistant trainer in this State; or

(b) has been licensed as a trainer in another jurisdiction for one year, and presents a certificate from the stewards at a track in such other jurisdiction that they believe such applicant to be a competent and qualified trainer.

§ 4002.23. License qualifications for private trainer.

In addition to the qualifications set forth in section 4002.8 of this Part, an initial private trainer's license may be issued to an applicant that will allow the applicant to act as trainer only for horses in which the applicant holds an ownership or lease interest exceeding 50 percent if the applicant:

(a) has been licensed as an owner in this or another jurisdiction for at least one year;

(b) can show three years of concentrated experience in the care and training of thoroughbred race horses; and

(c) passes the written and practical tests given for assistant trainer.

§ 4002.24. License requirements for jockey's agent.

In addition to the qualifications set forth in section 4002.8 of this Part,

(a) a license as a jockey's agent may be initially issued only to an applicant who:

(1) is at least 18 years of age;

(2) passes a written or oral test conducted by the commission, which may include questions on entry and eligibility requirements for horses to race and the rules and regulations relating to jockeys, jockey's agents and racing in general;

(3) has submitted to the commission a written contract or other evidence of appointment by a jockey for whom he or she is to act as agent; and

(4) has been licensed and has acted as an exercise person, apprentice jockey, jockey, assistant trainer, or trainer in this or another jurisdiction for at least one year.

(b) An applicant may also be initially licensed as a jockey's agent if the applicant has been licensed as a jockey's agent in another jurisdiction for at least one year and otherwise satisfies the commission as to experience and competence.

§ 4002.25. License requirements for farrier.

In addition to meeting the qualifications as set forth in section 4002.8 of this Part:

(a) an initial farrier's license may be issued to an applicant who:

(1) is at least 18 years of age;

(2) has served at least three years verified apprenticeship with a licensed farrier or, if possessing a valid certificate from a recognized farrier's school, two years of such apprenticeship (or equivalent experience acceptable to the commission);

(3) passes a written or oral examination, administered by the commission, consisting of questions on horse anatomy, particularly hoof and leg structure, lameness/disease of the hoof and leg, the types and uses of different shoes, and the procedures of shoeing; and

(4) passes a practical test to the commission's satisfaction consisting of shoeing a horse, including a fire test while observed by a designee of the commission, the State veterinarian and other persons duly designated by the commission.

(b) an initial farrier's license may also be issued to a farrier, licensed as such by another state, who has practiced at a race track in such other state for at least two years as certified by the stewards at such track, and who presents a statement by two licensed public trainers in this State that they will employ his or her services at the track;

(c) notwithstanding subdivision (a) of this section, a licensed owner or licensed trainer may be certified by the commission to shoe only his or her own horses or only those horses trained by him or her if:

(1) he or she has been licensed as owner or trainer for at least four years; and

(2) he or she passes the written or oral examination for farriers prescribed in subdivision (a) of this section.

§ 4002.26. License requirements for apprentice jockey.

In addition to the qualifications set forth in section 4002.8 of this Part, an initial apprentice jockey's license may only be issued to an applicant who:

(a) is at least 16 years of age;

(b) if, under 18 years of age, has the written consent of a parent or guardian;

(c) is vouched for, in writing, by a licensed trainer who has utilized the applicant's services as an exercise person;

(d) has minimum 20/20 vision acuity, corrected, in one eye, as certified by a licensed physician, optometrist, ophthalmologist or optician;

(e) passes a physical examination satisfactory to the commission;

(f) has at least two years' experience in the backstretch or farm in horse handling, the past one year of which has been as an exercise person;

(g) has obtained a gate card from the starter at the meeting;

(h) passes a written or oral examination conducted by the commission which may include questions on the anatomy, characteristics and locomotion of the horse, lameness, bleeding and other equine problems, riding and track equipment, and rules and regulations relating to jockeys and racing in general;

(i) thereafter demonstrates riding ability satisfactory to the commission while temporarily licensed. However, should such applicant foul, be careless or unsafe, or be found guilty of any other riding infraction, while so temporarily licensed, the temporary license may be cancelled and not reissued for six months.

§ 4002.27. License requirements for jockey.

In addition to the qualifications set forth in section 4002.8 of this Part, a full jockey's license (initial and renewal) may be issued only to an applicant who has a minimum 20/20 vision acuity, corrected, in one eye as certified by a licensed physician, optometrist, ophthalmologist or optician; can demonstrate good physical condition for a jockey; and who has either ridden out the apprenticeship requirements prescribed in Part 4032 of this Subchapter, or has satisfied the stewards that he or she is so qualified.

PART 4003

Racing Associations

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LICENSES

§ 4003.1. Right of entry to tracks.

Members of the commission, the commission's staff and the commission's designated representatives shall have the right of immediate, unrestricted and complete entry to any and all parts of all race tracks at any time.

§ 4003.2. Enfranchised associations.

All provisions in this Subchapter affecting licensed racing associations shall be applicable also to franchised racing associations, racing corporations, and franchised racing corporations except as may be otherwise provided by law.

§ 4003.3. Restrictions on licensing.

No license shall be granted to any racing association to conduct a race meeting within 100 miles of the track in the State of New York of another racing association to be engaged at the same time in conducting a race meeting, except in the case of an association which has conducted race meetings continuously for at least 10 years preceding the first day of January, 1943.

§ 4003.4. Licensing new association.

In granting a license to any new racing association to conduct race meetings, the commission will consider especially the following matters:

(a) opportunity for the sport to properly develop;

(b) avoidance of competition with established tracks;

(c) extent of community support for the promotion and continuance of the tracks; and

(d) the character and reputation of the persons identified with the undertaking.

§ 4003.5. Requirements for approval of certificate of incorporation.

An application for the approval of the filing of a certificate of incorporation for a racing corporation pursuant to provisions of the Racing, Pari-Mutuel Wagering and Breeding Law shall be made by a petition signed and verified by all the incorporators, which petition shall state the following:

(a) the names, business occupations and post-office addresses of those persons who are to be directors of the corporation, unless those named in the certificate of incorporation are to be such directors, in which case only their business occupations are to be stated in the petition;

(b) the estimated cost of the racing plant to be constructed and a general description of such plant;

(c) a description of the site of the proposed racing plant, including acreage, or such description of the intended location as may be acceptable to the commission;

(d) a statement of the plan of financing of the enterprise and if arrangements have been made for the flotation of securities, the name and address of the person or firm with whom such arrangements have been made and the terms thereof; and

(e) such other information and requirements as the commission may deem proper.

§ 4003.6. Requirements for approval of amendments, mergers.

An application for the approval of the filing of a certificate of amendment of a certificate of incorporation or of the filing of a certificate of merger of a racing corporation pursuant to provisions of the Racing, Pari-Mutuel Wagering and Breeding Law shall be in such form, contain such information and be executed in such manner as from time to time may be prescribed by statute or by the commission.

§ 4003.7. Financial reports to be filed.

Each racing association shall furnish to the commission, within 60 days after the close of the fiscal year of such association, three copies of such association's balance sheet and of such association's operating statement for such fiscal year, with comparison to prior year, the same to be duly sworn to before a notary public by the treasurer or the assistant treasurer, or certified by a duly licensed certified public accountant, and to be in such form as may be prescribed by the commission.

§ 4003.8. Application requirements.

(a) Each racing association in applying for a license to conduct running races and race meetings or steeplechases and steeplechase meetings, or to conduct pari-mutuel betting on such races, shall file with the commission, with such application, a statement giving the names and addresses of all such association's stockholders and the number of shares registered in the name of each and shall likewise file revised statements giving such information as changes occur; and if more than five percent of said shares shall be registered in the name of a corporation or in the name or names of one or more persons as trustees or otherwise for a corporation, the racing association shall, at the same time and in the same manner, furnish a similar statement with respect to the stockholders of such corporation.

(b) Each said statement shall be duly sworn to before a notary public by the secretary or assistant secretary of the applicant racing association, that the information contained in said statement is in all respects true as shown by the books and records of such association.

§ 4003.9. Map, plan of plant to be furnished.

Each racing association shall furnish to the commission upon demand a map or plan of such association's race track and plant, drawn to such reasonable scale as may be required, showing all structures, piping, fire hydrants and other fixed equipment thereon, with dimensions and nature of construction duly noted, and a plan of the racing strip, showing the elevation as filled, drained and gapped, and giving the composition of the track base and cushion; and as and when any material changes are made, a similar map or plan showing such changes and drawn to the same scale shall be forthwith filed with the commission.

§ 4003.10. Revocation of license.

If any racing association that has been licensed by the commission shall fail to comply with the provisions of sections 4003.7 through 4003.9 of this Part within 30 days after written demand therefor, or shall knowingly make any false statement in complying therewith, the commission may revoke such association's license as provided by law.

§ 4003.11. Increased retention for capital improvements.

(a) For the purposes of this section, capital improvement, as defined in section 237 of the Racing, Pari-Mutuel Wagering and Breeding Law, is any addition to, replacement or remodeling of the physical plant, structures and equipment owned or leased by a licensed track that is used or is to be used by such track in connection with the conduct of horse race meetings, and shall include improvements to land but not land itself.

(b) A thoroughbred track, other than a nonprofit thoroughbred track, may elect upon 30 days' written notice to the commission (with a copy thereof to the State Tax Commission) to withhold, in addition to any other amounts required by this section, one percent of the total deposits in pools resulting from regular and multiple bets; provided, however, that any thoroughbred track withholding pursuant to this subdivision shall use such one percent exclusively for capital improvements, as defined in subdivision (a) of this section, subject to the following provisions:

(1) All amounts withheld by the track on and after such 30-day written notice to the commission, as well as all monies paid over to the track by off-track betting corporations from additional withholding mandated upon such corporations pursuant to section 527 of such law, shall be deposited in a segregated interest-bearing account designated "Retention for Capital Construction" account. A track may withdraw monies from such account for the purposes of investment in segregated certificates of deposit or government securities, provided that the entire proceeds of such investments, including interest or dividends, are redeposited in such account within two years of such withdrawal.

(2) Within 30 days of the enactment of this rule (or if a track shall hereafter make such election, then with its notice of election to the commission), and annually thereafter,

with its license application, each such electing track shall furnish the board with a complete description of all capital improvements that it plans to make, together with the estimated cost thereof, the estimated inception and completion date, and how such capital improvement will be acquired or accomplished. Such capital improvements as are to be paid for from funds from the "Retention for Capital Construction" account shall be so designated, together with estimated dates and amounts of withdrawals, and a statement as to how such improvement will further the objectives of the law to increase attendance or betting handle.

(3) A permit from the commission shall be required for all capital improvements to be financed from such "Retention for Capital Construction" account and, if such capital improvement shall involve construction or alteration of plant and structures, plans and specifications satisfactory to a consulting engineer or architect designated by the board shall be furnished as a prerequisite to such purpose.

(4) No monies may be withdrawn from such account except for investments permitted pursuant to subdivision (c) of this section, or in payment for capital improvements for which a permit has been issued by the commission.

(5) Within 30 days of the end of the calendar year, such track shall submit a report to the commission, showing the balance of the account at the beginning of the year, the total added and the total withdrawn during the year, and the balance at the end of the year listing each bank account and investment. The report shall also describe the progress of planned capital construction, together with an itemized list of the withdrawals from the "Retention for Capital Construction" account, the payees of such withdrawals, and copies of all billings and vouchers supporting such withdrawals.

(6) The commission on its own initiative may require a track to make such capital improvements as it may deem necessary.

(7) The commission, at any time, may cause a track to be audited concerning its compliance with this section.

(c) A track making such election may terminate such election upon 30 days' notice to the commission.

§ 4003.12. Certification of annual expenditures for enhancements.

(a) Pursuant to subdivision one of section 236 of the Racing, Pari-Mutuel Wagering and Breeding Law, the commission shall certify to the Commissioner of Taxation and Finance no later than 80 days after the close of each calendar year the name of each racing association or corporation, other than a nonprofit racing association, that has failed during the immediately preceding calendar year to expend an amount equal to at least one-half of one percent of such association or corporation's on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined in section 237 of such law (and section 4003.11 of this Part), repairs to the physical plant,

structures and equipment used in racing or wagering operations and costs connected with up to five special events approved by the commission as defined in section 236.

(b) In this connection, each racing association, other than a nonprofit racing association shall by January 31st of the current year file with the commission schedules of expenditures made during the preceding calendar year segregated by expenditures for capital improvements, eligible repairs and special events. Such schedules shall be in summary form identifying each asset or special event by appropriate name, the total expended for each asset or special event, and the date of completion for use for such asset or the date each special event was held. Copies of bills, invoices and other supporting documentation providing details of such expenditures shall be retained by the track for audit by the commission.

(c) To qualify as eligible repairs, expenditures must be for work or materials necessary to put inoperative assets back into good operating condition; in addition, the replacement of parts, the fixing of plant, overhaul of equipment, and similar work that ordinarily would not qualify as capital expenditures because the life of the asset is not thereby extended shall nevertheless qualify as eligible repairs. Maintenance expenditures, incurred for the purpose of keeping assets in operating condition are excluded.

(d) In determining whether the necessary amounts have been expended, the commission shall consider the preceding calendar year or the average of the two preceding calendar years, whichever is higher. It shall be presumed that only expenditures submitted in the form required in subdivision (b) of this section are expenditures qualified for consideration by the commission.

(e) If the commission determines that such racing association or corporation has failed to make the total of expenditures as established by statue, the commission shall notify the affected association or corporation of the commission's determination by February 20th of the current year and schedule a date within 15 days to hear the association or corporation in regard to the commission's determination.

(f) Copies of any certification made in accordance with subdivision (a) of this section shall be served upon the affected association or corporation by the date prescribed in such subdivision (a).

§ 4003.13. Horsemen's contract requirement.

In determining whether or not to grant a pari-mutuel track license to a racing association or corporation and/or assign racing dates to a licensed or franchised racing association or corporation, the commission may consider if there exists a written agreement between the racing association or corporation and the representative horsemen's association governing the terms and conditions of racing and the commission may require such an agreement to be in existence, unless it finds that the absence of the agreement is for good cause due to factors beyond the control of the racing association or corporation or the representative horsemen's association.

EQUIPMENT AND FACILITIES

§ 4003.16. Maintenance of uniform track.

Racing associations shall at all times maintain their race tracks in good condition and with a special consideration for the comfort and safety of the public, of the horses stabled, exercising or entered to race thereat, and of all those whose business requires their attendance thereat; and to this end shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

§ 4003.17. Receiving barn.

Every racing association shall provide in a convenient location at such association's race track, for use during such association's current meeting, a receiving barn with adequate stable room and facilities, including hot and cold water and ample stall bedding. Such barn shall be at all times maintained in a clean and sanitary condition by an adequate force of attendants employed by the association, and each stall shall be thoroughly disinfected after each occupancy.

§ 4003.18. Floodlights; patrol system.

Racing associations shall install at their tracks and maintain floodlights to provide adequate illumination of the stable areas at night and such patrol system as may be approved by the commission.

§ 4003.19. Photo finish cameras.

Racing associations shall install at the finish lines at their tracks and shall adequately maintain two photo finish cameras, to be approved by the commission, holding one such camera in reserve for emergencies, to automatically photograph the finish of races. The official photographer shall furnish promptly to the steward of the commission two prints of every photo finish, and the steward shall keep a permanent file of all such prints and the negatives or digital images thereof.

§ 4003.20. Video equipment or motion picture equipment.

Corporations or associations licensed or enfranchised to conduct pari-mutuel racing shall at all times during races furnish and maintain at their tracks the necessary cameras and equipment, as approved and directed by the commission, to produce motion pictures or videotape recordings of every race from start to finish thereof. The films of all such motion pictures shall be retained by the respective racing corporations or associations for a period of not less than 18 months, and shall at all times be available to the commission.

§ 4003.21. Electric or mechanical annunciators.

Racing associations shall install at their tracks and adequately maintain electric or mechanical annunciators for the purpose of displaying the numbers of the placed horses at the conclusion of each race.

§ 4003.22. Erection, removal of structures.

The erection of buildings, seating stands or other structures on the grounds of any racing association and the alteration or the removal of any such structures shall be made only with the written approval of the commission and the issuance of a permit, after the filing with the commission of a description of such improvements, detailed plans of them and a detailed statement of their cost.

§ 4003.23. Human, horse ambulances.

Racing associations shall furnish and maintain at least one human ambulance and at least one horse ambulance each day that their tracks may be open for racing or exercising horses, equipped, ready for immediate duty, and to be placed at an entrance to the racing strip so that no time may be lost in answering calls.

§ 4003.24. First aid and ambulance.

Each racing association shall have present an emergency medical technician in a designated place in the public area of the track for first aid and emergency needs during all times that the general public is admitted to the track. Each racing association shall also be equipped with an ambulance certified by the Department of Health and an attendant during all times that the general public is admitted to the track. Nothing in this section shall relieve any racing association of the duty to comply with any other statutory or regulatory requirements mandating emergency health care requirements at public functions.

§ 4003.25. Sanitary facilities for jockeys.

Each racing association shall make such sanitary arrangements as baths, toilets, etc. for the use of jockeys, as may be reasonably required by the commission, to be conveniently located on the grounds.

§ 4003.26. Removal of manure, refuse.

Each racing association shall provide proper and well located boxes or pits for separately receiving stable manure and other refuse, situated well distant from living quarters, and such boxes and pits shall be emptied and their contents entirely removed from the premises of the association within a reasonable time.

§ 4003.27. Sanitary facilities for patrons.

Each racing association shall on every racing day provide and maintain in a strictly sanitary condition such adequate toilets and facilities for furnishing drinking water for its patrons and persons having business at the track as may be reasonably required by the commission.

§ 4003.28. Stall rental forbidden.

Racing associations shall make no charge of stall rental during the conduct of a race meeting at their premises, except in the case of leases or other contracts relating to special facilities for stabling, and such leased or contracted facilities shall be made available to horsemen whenever they are not occupied by the tenant, upon reasonable notice to the tenant.

§ 4003.29. Starting gates.

Each racing association shall provide and maintain one unit of adequate starting gates on every race day of its meeting and every day during the racing season on which it permits the exercising of horses on its racing strip; and an additional reserve unit of such starting gates shall be provided and maintained on every race day. The association shall use every reasonable endeavor to have in attendance, whenever the gates are in use, one or more persons skilled and qualified to keep the gates in good working order and shall also provide for such periodical inspections of the gates as may be reasonably required by the commission.

§ 4003.30. Acknowledgment of stakes nominations.

Racing associations shall make prompt written acknowledgment of stakes nominations and subscriptions.

§ 4003.31. [Repealed]

§ 4003.32. Horse identification, examination.

Racing associations shall institute and diligently maintain a system of horse identification and physical examination.

§ 4003.33. Information in daily program.

Each racing association or corporation shall publish an official racing program that shall denote the use of furosemide for the programmed race and at least the six most recent purse races in the following manner:

(a) (L) horses running on furosemide;

(b) (L1) horses running the first time on furosemide.

MISCELLANEOUS

§ 4003.39. Betting by minors.

(a) No licensed association or corporation shall permit any person who is actually or apparently under 18 years of age to bet at the race meetings of such association or corporation.

(b) The commission shall penalize a track operator found to have violated subdivision (a) of this section as follows:

(1) for a first violation, a fine of $1,000;

(2) for a second violation within one year of a violation, a fine of $5,000;

(3) for a third violation within one year of a violation, a fine of $10,000; and

(4) for a fourth or subsequent violation within one year of a violation, a fine of $25,000 and, in addition, such further action as the commission may deem appropriate, which may include without limitation suspension or revocation of any license or privilege to operate or manage a track in this State.

§ 4003.40. Exclusions from paddock.

Racing associations shall exclude from the paddock, in the interest of public safety, all those persons who have no immediate business with the horses entered except the members of the commission, the commission's staff and special representatives, and those having special permission from the association.

§ 4003.41. Stands for race officials.

Stands for judges, timers and stewards shall be maintained in positions commanding an uninterrupted view of the entire racing strip and shall be subject to approval by the commission.

§ 4003.42. Devices to be approved.

All devices pertaining to racing that are used on race tracks must be approved in writing by the commission before installation and shall not be removed except with the written consent of the commission.

§ 4003.43. Approval of post time.

Post time of the first race at each meeting must be approved in writing by the chair of the commission.

§ 4003.44. Daily reports to commission.

Each racing association conducting a race meeting shall supply daily to the commission a report of the purse distribution and such other data as may be required by the commission. The blank forms for this purpose will be supplied by the commission.

§ 4003.45. Bookmakers barred.

All persons found making book on the races at any track shall be barred by the track operator from the grounds of the race track for not less than the duration of the meeting, and a memorandum of the matter forthwith transmitted to the commission and to the district attorney of the county in which the offense has been committed.

§ 4003.46. Undesirable persons to be ejected.

No person who is known or reputed to be a bookmaker within the meaning of the statutes of the State of New York, or a fugitive from justice, or whose conduct at a race track in New York or elsewhere is or has been improper, obnoxious, unbecoming or detrimental to the best interests of racing, shall enter or remain upon the premises of any licensed association conducting a race meeting under the jurisdiction of the commission; and all such persons shall upon discovery or recognition be forthwith ejected.

§ 4003.47. Information for commission, State Tax Department.

Racing associations shall promptly give to the commission and to the State Tax Department such information in writing as either may request from time to time and shall freely and fully cooperate with them in every way.

§ 4003.48. Prices of admission.

The commission shall fix, within the limitations prescribed by law, the prices of admission to race tracks and to special enclosures and reserved spaces therein.

§ 4003.49. Trespassers to be ejected.

Any person going upon the racing strip or any part thereof or into the winners' enclosure, at any time between 15 minutes before post time of the first race and 15 minutes after the finish of the last race on the day's program without the permission of the stewards, shall be ejected promptly from the premises of the association.

§ 4003.50. Badge identification system.

(a) Each racing association or racing corporation shall implement and maintain an identification system for all persons entering the stable area of the track. The stable area includes the backstretch and paddock areas.

(b) All persons present in the stable area shall wear in plain view the identification badge issued by the racing association or corporation except that commission employees shall wear commission identification credentials.

(c) No identification badge may be issued unless the recipient has a current commission license and is duly listed on a trainer's stable registration or badge list or is listed on a race track approved list maintained by the association. Such a list may include but need not be limited to track officials, track employees, vendors and concessionaires.

(d) All other persons must obtain a guest identification badge before entering the stable area. Guest identification badges shall clearly identify the recipient and may be issued only upon the request of and after identification by a licensed trainer or owner. A log of all persons to whom a guest identification badge has been issued and their sponsors shall be maintained by the racing association. Guests must be logged in and out.

(e) The racing association or corporation shall also maintain a list of the individuals to whom identification badges have been issued together with the date of issue and position of each recipient.

(f) The identification badge issued by the racing association or corporation must contain a color photograph of the individual to whom issued, his or her name, address, occupation or position, date of birth and the signature of the person to whom it will be issued. The badge shall be laminated both front and back and contain a clasp so that the identification badge may be worn in plain view.

(g) The identification badges issued by the racing association or corporation shall be color coded by category as follows: horsemen, green; grooms and other backstretch employees, yellow; track officials and employees, red; vendors and concessionaires, blue; guests, brown.

(h) Persons failing to wear photographic identification badges or failing to obtain a visitor's pass before entering the stable area are subject to ejection from the grounds, fine, license suspension, and/or license revocation.

§ 4003.51. Purse payments to horsemen's organizations.

(a) As a condition of racing:

(1) The franchised thoroughbred racing corporation shall withhold two percent of all purses and pay such sum to the New York Thoroughbred Horsemen's Association, Inc. or its successor pursuant to Racing, Pari-Mutuel Wagering and Breeding Law, section 228(2) on condition that the horsemen’s organization shall expend as much as is necessary, not to exceed one-half of one percent of all purses, to acquire and maintain equipment required to establish a laboratory program pursuant to section 902(1) to test for the presence of steroids in horses, and shall also annually include in such corporation’s expenditures for benevolence programs some funds, in an amount

determined by such corporation's board of directors, to support an organization providing services necessary to backstretch employees.

(2) The other thoroughbred racing corporation shall withhold one percent of all purses and pay such sum to the Finger Lakes Horsemen's Benevolent and Protective Association, Inc. or its successor pursuant to Racing, Pari-Mutuel Wagering and Breeding Law, section 228(2).

(3) The funds authorized to be paid by the commission are to be used by such organization exclusively for the benefit of those horsemen racing in New York State through the administrative purposes of such qualified organization, benevolent activities on behalf of backstretch employees, and for the promotion of equine research.

(b) Any other horsemen's organization may apply to the commission to be approved as the qualified organization to receive payment of the one percent of all purses. To qualify, such organization shall:

(1) be a legally constituted association or corporation;

(2) file in writing, with the commission and track, a challenge to the 51 percent representation of the qualified recipient organization. Such challenge must be made at least 10 days prior to the conclusion of a race meeting;

(3) submit to the commission proof both that:

(i) it represents more than 51 percent of all the owners and trainers utilizing the same facilities; and

(ii) the horsemen's organization previously approved as qualified by the commission does not represent 51 percent of all the owners and trainers utilizing the same facilities.

Documentation submitted by the applicant must conclusively prove both subparagraphs (i) and (ii) of this paragraph before the applicant may become the qualified recipient organization.

(c) The commission, upon receipt of such an application, may direct the payments to the previously qualified horsemen's organization to continue uninterrupted, or it may direct the payments to be withheld and placed in interest-bearing accounts for a period not to exceed 90 days, during which time the commission shall review and approve or disapprove the application. Funds held in such manner shall be paid to the organization approved by the commission. Only one application may be filed with the commission by the same horsemen's organization within any calendar year.

(d) Within 30 days after the end of the meeting, or receipt of the monies paid pursuant to this section, whichever is later, the organization receiving such funds shall file a sworn

statement with the commission and the track listing the amount of monies received and a breakdown of the uses to which such funds were employed. Copies of such statement shall be posted in the track's entry rooms.

(e) No later than 105 days after the close of the organization's fiscal year, any organization that has received monies pursuant to this rule during that prior year shall file with the commission and the track a statement verified by a certified public accountant that shows the financial condition of such organization and contains an itemized statement of the receipts and disbursements of such organization for such prior year.

(f) The commission may cause an audit of the books and records of any such organization to be conducted.

§ 4003.52. Disputes.

Disputes between a regional corporation and a track with respect to the purposes or objectives set forth in section 518 of the Racing, Pari-Mutuel Wagering and Breeding Law shall be submitted in writing to the commission for determination. The commission may make a determination based on the submissions or may hold a hearing on the matter. The commission's determination shall be final. Failure to comply with the commission's determination by any party shall subject the person or persons responsible therefor to disciplinary action.

§ 4003.53. Gap of attendants

Each racing association that conducts racing at more than one track shall provide a workout coordinator at each of such training facility's entrances or a sufficient number of workout coordinators, as determined by the commission, after a hearing pursuant to the State Administrative Procedure Act to assist in identifying each horse entering each training facility at such racing association for the purpose of engaging in a workout. No trainer shall permit a horse in his or her charge to be taken to any such facility for a workout except during hours designated by the association. A trainer desiring to engage a horse in a workout shall, prior to such workout, cause the following to be specified to a workout coordinator: the name of the horse, the distance the horse will workout and at what point on the facility the workout is intended to begin. Each workout coordinator shall report to the stewards the name of any trainer who fails to furnish such workout information.

§ 4003.54. Internet posting to assist compulsive gamblers.

Each racing association that maintains a website on the Internet shall post on such association's home page a message designed to assist compulsive gamblers. Such posting shall include but not be limited to a notice of the availability of one or more organizations approved by the Commissioner of Mental Health, pursuant to the provisions of the Mental Hygiene Law, which offer assistance in dealing with problem of compulsive gambling.

PART 4004

Transmission of Information

Section
4004.1 Information transmission regulated
4004.2 [Repealed]
4004.3 Transmission equipment to be reported
4004.4 Telephone restricted
4004.5 Radio, video contracts to be filed
4004.6 Transmission of racing information
4004.7. Combination of New York wagers with wagers made in other states or foreign countries

§ 4004.1. Information transmission regulated.

Except as may be permitted by a licensed or franchised track, no person, being upon the premises of a licensed or franchised track, shall transmit therefrom by telephone, telegraph, teletype, semaphore, signal device, radio, television or other method or means of electrical, mechanical, manual or visual communication the result of any race or any information whatsoever with respect to the odds or the wagering pools; or any information dealing with track conditions, jockey changes, changes of equipment, scratches or any other information whatsoever relating to a race.

§ 4004.2. [Repealed]

§ 4004.3. Transmission equipment to be reported.

Each licensed or franchised racing association shall, upon request from the commission, furnish the commission with a written description or blueprint, as requested by the commission, showing the location of all equipment used or permitted to be used for the transmission of information within, to or from the premises of such association, together with all telephone, teletype and telegraph or other electrical wires and radio and television equipment upon or entering the premises of such association.

§ 4004.4. Telephones restricted.

No telephone shall be installed in the stable area or elsewhere upon its grounds except by permission of the licensed or franchised track.

§ 4004.5. Radio, video contracts to be filed.

Each licensed or franchised track shall furnish to the commission a full and complete copy of each and every proposed agreement for radio broadcasts or video telecast of any part of the program or any other incident at such track during the racing season, at least 10 days prior to the execution of any such agreement by such racing association.

§ 4004.6. Transmission of racing information.

Except as otherwise provided in the rules or by statute, information concerning races conducted at all pari-mutuel thoroughbred tracks in New York shall not be transmitted from any such track unless approved by the commission. The term *racing information* shall be deemed to include live, delayed or simulated descriptions of a race whether by audio or video transmission, the odds resulting from any betting registered before a race and other types of information, including but not limited to entries, program numbers, jockey changes, post positions, scratches, race results and pay-off prices.

(a) The commission, in making its determination, shall consider the following criteria, information concerning which must be submitted by the racing association or corporation:

(1) the nature of racing information as defined herein to be transmitted;

(2) the location to and from which such racing information is to be transmitted;

(3) the means and method of transmission of racing information;

(4) the terms of any contracts or agreements relating to the transmission of racing information; copies of all relevant contracts shall be submitted; and

(5) any other relevant information that may be specifically requested by the commission.

(b) If an application involves the transmission of racing information to a location other than an off-track betting corporation facility via a cable or closed circuit radio or television transmission, which location is either within a nonparticipating county or within the market area of a regional track then the racing association or corporation whose racing information is to be transmitted shall notify the clerk of such county or the head of such track in order that such county or track may submit written comments on such application to the commission.

(c) The commission, in the commission's discretion, may order a hearing on any application seeking the commission's approval for the transmission of racing information pursuant to this section.

(d) The commission shall approve an application submitted pursuant to this section only if it finds that such application is consistent with the best interest of the racing industry in general.

(e) The commission may suspend or revoke the commission's prior approval of the transmission of racing information and may order the termination of any such transmission for good cause.

§ 4004.7. Combination of New York wagers with wagers made in other states or foreign countries.

Pursuant to section 907 of the Racing, Pari-Mutuel Wagering and Breeding Law, New York wagers may be combined with wagers made in other states or foreign countries if proposed pursuant to a written plan describing the method of operation under each of the criteria set forth under such law and evidence of compliance with each of the requirements of such law is furnished by the applicant. Such application shall be approved by the commission if it is satisfied that the statutory criteria have been met and that such operation is consistent with the public interest and the best interests of racing generally.

PART 4005

Association Employees

Section
4005.1 Commission approval required
4005.2 Minors not to be employed
4005.3 Eye test for officials
4005.4 Pari-mutuel employees forbidden to bet
4005.5 Veterinarians restricted

§ 4005.1. Commission approval required.

Before entering upon the discharge of their duties, the following officials employed by any association shall be approved in writing by the commission, *viz*: all stewards, racing secretaries, handicappers, starters, placing judges, clerks of the scales, paddock and patrol judges, timers, examining veterinarians and track veterinarians, and such other persons as the commission may designate from time to time because of their importance in the actual conduct of racing.

§ 4005.2. Minors not to be employed.

No person under the age of 16 years shall be employed in or about the track by any association, except as may be permitted by the applicable laws of the State of New York.

§ 4005.3. Eye tests for officials.

Eye tests shall be given by competent opticians to all stewards, and placing and patrol judges, as and when directed by the commission, the test to include particularly distance and colors, and the original reports thereof shall be kept on file at the office of the commission.

§ 4005.4. Pari-mutuel employees forbidden to bet.

No employee of the pari-mutuel department of any licensed association shall be permitted to bet during those periods of any day on which such person is actually working in such capacity.

§ 4005.5. Veterinarians restricted

No veterinarian employed by the commission or by an association shall be permitted, during the period of his or her employment, to treat or prescribe for any horse for compensation or otherwise, except in case of emergency or in the case of race day medication as authorized by section 4043.2 of this Subchapter.

PART 4006

Racing Employees

Section
4006.1 Information in daily program
4006.2 Physical examinations
4006.3 Workers' compensation
4006.4 Minors not to be employed
4006.5 Registration of stable employees
4006.6 Identification card required
4006.7 Safety helmet required
4006.8 Safety vests

§ 4006.1. Information in daily program.

The names of jockeys and the post positions of their horses, scratches, etc. shall be printed on the daily programs. When such information is not available at the time the programs are printed, the same and all other changes in the official program shall be posted in a conspicuous place both in front of the clubhouse and in front of the grandstand, where the same may be easily read by the public, and also shall be announced over the public address system.

§ 4006.2. Physical examinations.

All jockeys and exercise persons shall undergo examinations whenever directed by the stewards to determine their fitness to ride and the reports of such examinations, duly signed by the examining physicians, shall be filed promptly with the commission.

§ 4006.3. Workers' compensation.

All jockeys and all stable employees shall be insured for workers' compensation by either the owner or trainer according to which one is the employer, as defined by the Workers' Compensation Law, and usual certificate of insurance shall be filed with the commission before a license be issued to such owner or trainer, as the case may be. If the insurance underwriter should advise the commission that the insurance coverage is cancelled or suspended for nonpayment of premium or otherwise, the jockey shall not be permitted to ride nor the stable employees to act for the employer unless and until the insurance is fully reinstated.

§ 4006.4. Minors not to be employed.

No stable may have in its employment in any capacity any employee under 16 years of age, except as may be permitted by the applicable laws of the State of New York.

§ 4006.5. Registration of stable employees.

The personnel of every stable and changes thereof shall be registered by horsemen with the association on whose tracks their horses are racing or stabled and shall be available at all times to representatives of the commission.

§ 4006.6. Identification card required.

No stable employee shall be permitted to work without first filing application for a commission license and obtaining a track identification card; and no stable employee shall be paid off on discontinuance until he or she has surrendered his or her said identification card, which shall be immediately delivered to the track office.

§ 4006.7. Safety helmet required.

(a) Every person working in the gate crew or mounted on horseback on the grounds of a racetrack shall wear a properly fastened safety helmet. The *gate crew* means the starter and assistant starter and any person who handles a horse for the starter or assistant starter at the starting gate.

(b) Each safety helmet shall provide a minimum level of shock absorbing protection to the head as evidenced by a label indicating compliance with one or more of the following product standards or with a standard that in the judgment of the executive director of the commission or his or her designee is comparable or superior:

(1) American Society for Testing and Materials, ASTM F1163-04a or F1163-15, Standard Specification for Protective Headgear Used in Horse Sports and Horseback Riding;

(2) European Norm, EN 1384:1996, Helmets for Equestrian Activities;

(3) British Standards Institute Product Approval Specification, PAS 015:2011, Specification for Helmets for Equestrian Activities;

(4) Interim European Standard, VG1 01.040: 2014-12 (with or without BSI Kitemark), Equestrian helmets;

(5) Australian Standards/New Zealand Standards, AS/NZS 3838:2006, Helmets for horse riding and horse-related activities;

(6) Australian Racing Board Helmet Safety Standard, ARB HS 2012;

(7) Snell Memorial Foundation (Snell) Equestrian Helmet Standard E2001 or E2016; or

(8) L'Union Technique de l'Automobile du Motocycle et du Cycle (UTAC) or CRITT Sport Loisirs (CRITT) 04/2015 standards.

(c) A safety helmet shall not be altered from its original manufactured design nor shall the product marking be removed or defaced.

§ 4006.8. Safety vests.

(a) Every person mounted on horseback on the grounds of a racetrack shall wear a properly fastened safety vest.

(b) Each safety vest shall weigh no more than four pounds and provide a minimum level of shock absorbing protection to the upper body as evidenced by a label indicating compliance with one or more of the following product standards or with a standard that in the judgment of the executive director of the commission or his or her designee is comparable or superior:

(1) British Equestrian Trade Association (BETA) Standard for Body and Shoulder Protectors for Equestrian Use, BETA 2009 Level 1;

(2) European Norm, EN 13158:2009 Level 1, Protective Clothing for Equestrian Use; or

(3) American Society for Testing and Materials, ASTM F2681-08 or F1937-04, Standard Specification for Body Protectors Used in Horse Sports and Horseback Riding.

(c) A safety vest shall not be altered from its original manufactured design nor shall the product marking be removed or defaced.

PART 4007

Horses

Section
4007.1 Examination; report thereof
4007.2 Exclusion; withdrawal
4007.3 Records to be kept
4007.4 Shoeing
4007.5 Qualifications to start
4007.6 Veterinarians to be licensed
4007.7 Geldings
4007.8 Death of a horse

§ 4007.1. Examination; report thereof.

Every horse that is entered to race on any day shall be examined by an official veterinarian employed by the association conducting the meeting reasonably in advance of post time for the race in which the horse is entered to run. If such veterinarian reports to the stewards that any horse is, in the opinion of such veterinarian, not in fit condition to race, the stewards may exclude such horse from the race whether or not such horse has already been brought into the paddock.

§ 4007.2. Exclusion; withdrawal.

(a) When a horse, after entering the paddock, is excluded or withdrawn from the race for any reason satisfactory to the stewards, notice shall be posted on the notice board and immediate announcement made over the public address system.

(b) Money paid for mutuel tickets on any horse so excluded or withdrawn shall be subject to refund as provided in section 4009.20 of this Subchapter.

§ 4007.3. Records to be kept.

Charts or records of every horse stabled at tracks during meetings at such tracks shall be kept by or under the direction of the racing secretaries of the associations. Said charts shall show the breeding, name, registration, age and sex of the horse. Such charts and records shall be available to the commission.

§ 4007.4. Shoeing.

Every horse entering the paddock to race shall be inspected as to its shoeing, and a notice forthwith posted in a conspicuous place close to the paddock and in another conspicuous location in the grandstand, easily visible to the public, stating the type of shoes with which the horse is shod and whether with or without caulks and on which feet, or is shoeless as to any of its feet.

§ 4007.5. Qualifications to start.

No horse shall be qualified to start in any race unless entered by a licensed owner and in the charge of a licensed trainer.

§ 4007.6. Veterinarians to be licensed.

No owner or trainer or his or her representative shall employ a veterinarian who is not duly licensed as such by the Department of Education of the State of New York. Licensed associations shall use all reasonable efforts to prevent unlicensed veterinarians from practicing on their premises.

§ 4007.7. Geldings.

The gelding of a horse shall be reported to the racing secretary at any race meeting at which the horse might race.

(a) If a racehorse is gelded on the premises of a licensed racetrack, then the trainer shall report the alteration within 72 hours of such procedure.

(b) If a racehorse is gelded off-track, then the owner or trainer shall report the alteration at or before the time the horse is entered to race.

(c) A trainer who enters a gelding, or who causes a gelding to be entered on his or her behalf, is responsible for ensuring that the horse's status as a gelding is listed accurately on the horse's certificate of registration on file in the racing office.

(d) Such reports shall include the name of the veterinarian who performed the alteration and the date of the alteration. The alteration shall be recorded on the official registration certificate and horse identification record of the horse.

§ 4007.8. Death of a horse.

(a) Upon the death of a horse on any part of the grounds of a thoroughbred race track, the remains of the deceased horse shall not be removed without:

(1) the execution of a death certificate by a commission-licensed veterinarian, in a form as the commission may prescribe, and contain such information as the commission may require;

(2) the filing of said death certificate with the State steward or the State steward's designee; and

(3) the written consent of the State steward or the State steward's designee, authorizing the removal of the remains.

(b) Upon the death of a horse on the grounds of a thoroughbred track, the commission at the commission's discretion through the commission's agents, may take control of the bodily remains of the deceased horse; and/or order, direct and cause an appropriate necropsy to be conducted on the remains of said horse, in order to determine the cause of death. The necropsy shall be conducted by a qualified veterinarian at a facility designated by the commission.

(c) It shall be the responsibility of the race track at all times to prevent the unauthorized removal from the race track of the remains of a deceased horse.

PART 4008

Racing Results

Section
4008.1 Posting order of finish
4008.2 [Reserved]
4008.3 When foul is claimed
4008.4 Ruling after *official* declaration
4008.5 Photo finish pictures

§ 4008.1. Posting order of finish.

When a result is *official*, that word shall be flashed on the result board and shall signify that the placing of the horse is final insofar as the payoff is concerned. If any change be made in the order of finish of a race after the result is so declared *official*, it shall not affect the payoff. The posting on the result board of the order of winning, place and show horses or the prices to be paid shall not be deemed to signify that such result and prices are official until the *official* signal has been shown on the result board or announced by the public address system.

§ 4008.2. [Reserved]

§ 4008.3. When foul is claimed.

In the event of a foul being claimed, the word inquiry shall be flashed forthwith on the result board and announcement thereof made on the public address system.

§ 4008.4. Rulings after *official* declaration.

Rulings of the stewards with regard to the award of purse money, made after the result has been declared *official*, shall in no way affect the mutuel payoff.

§ 4008.5. Photo finish pictures.

(a) A photo finish picture shall be taken of all races at every licensed race course and the use of all negatives, pictures, equipment and methods shall be subject to the approval of the commission.

(b) The commission shall maintain and have on file a permanent photographic negative or digital image and two prints therefrom of each race of which a photo finish picture has been taken.

(c) All negatives and prints of the photo finish of a race shall be considered public records.

(d) All negatives and prints of the photo finishes of races shall be retained in the files of the commission for a period not exceeding three years; and at the end of such time the said negatives and prints shall be destroyed.

PART 4009

Pari-Mutuel Operation

Section
4009.1 Posting of rules
4009.2 Result boards, totalisators required
4009.3 Sales, exchange of tickets
4009.4 Presentation for payment
4009.5 Presentation deadline
4009.6 Minimum payoff
4009.7 Mutilated tickets
4009.8 Minors may not purchase
4009.9 When sellers' windows open
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4009.20 Refund—horse excused
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4009.22 Pools dependent on entries
4009.23 Refund only on presentation
4009.24 Announcing payoff error
4009.25 Adjustment of underpayments caused by error
4009.26 Shortages
4009.27 Payments to the New York Thoroughbred Breeding and Development Fund

§ 4009.1. Posting of rules.

Such rules for pari-mutuel betting as may be specified from time to time by the commission shall be reproduced in legible type and permanently displayed in locations within all betting areas of the premises of racing associations. The daily racing programs sold to the public by racing associations shall contain a statement indicating that such rules are posted in all betting areas.

§ 4009.2. Result boards, totalisators required.

All race tracks under the jurisdiction of the commission are required to install and maintain mechanically operated totalisators and result boards in plain view of patrons.

§ 4009.3. Sale, exchange of tickets

(a) No pari-mutuel tickets shall be sold except at regular ticket windows, properly designated by signs, except that tickets may be issued by automated ticket machines or bets may be sold by designated couriers according to procedures approved by the commission. No such tickets shall be exchanged.

(b) Any track conducting pari-mutuel wagering that cashes or accepts any public assistance check or electronic benefit transfer device issued by a public welfare official or department, or agent thereof, as and for public assistance, as proscribed by section 151 of the Social Services Law, shall be disciplined by the commission. Such discipline may include one or more of the following actions:

(1) revocation of a license;

(2) suspension of a license;

(3) a fine; or

(4) issuance of a public or private letter of reprimand to be placed in the file of the licensee.

§ 4009.4. Presentation for payment.

Payment on winning pari-mutuel tickets shall be made only upon presentation and surrender of such tickets. In the discretion of management or by direction of the commission, payments may be made by cash or by check to the holder of a winning pari-mutuel ticket, from whom identification may be required.

§ 4009.5. Presentation deadline.

(a) All winning pari-mutuel tickets must be presented for payment or refund before April 1st of the year following the year of their purchase, and failure to present any such ticket within the prescribed period of time shall constitute a waiver of the right to refund or to participate in the award or dividend.

(b) Each association or corporation shall cause the substance of this rule to be imprinted upon each pari-mutuel ticket, in words approved by the commission.

§ 4009.6. Minimum payoff.

Each association must in all cases of a pari-mutuel pool distribute not less than $2.10 on each winning two-dollar wager. No part of any minus pools resulting from such payments shall be charged against the State's participation in the total pools or the breaks.

§ 4009.7. Mutilated tickets.

Mutilated pari-mutuel tickets or those whose validity is questioned shall be submitted to the New York State Department of Taxation and Finance for inspection, and the ruling of said Department of Taxation and Finance thereon shall be final and conclusive.

§ 4009.8. Minors may not purchase.

No person known to be under the age of 18 years shall be permitted to purchase a pari-mutuel ticket.

§ 4009.9. When sellers' windows open.

Mutuel sellers' windows shall open at least 30 minutes before the first race and at least 20 minutes before each other race. Mutuel cashiers' windows shall open as soon as possible after the *official* notice has been posted.

§ 4009.10. Machines locked at off time.

The pari-mutuel machines will be locked by electrical control or by the State steward immediately upon the opening of the stall doors of the starting gate on the signal of the starter.

§ 4009.11. Sales not completed.

No association shall be responsible for ticket sales not completed before the machines are locked.

§ 4009.12. [Repealed]

§ 4009.13. Cashiers' windows.

Mutuel cashiers' windows shall remain open until 30 minutes after the last race.

§ 4009.14. Bookmaking prohibited.

Bookmaking or betting, other than through the pari-mutuel system conducted by a duly licensed association, is strictly prohibited. Bookmaking is a misdemeanor under the Penal Law and is punishable by a fine or imprisonment or both.

§ 4009.15. Record of unpaid tickets.

An itemized record of all unpaid pari-mutuel tickets shall be prepared and a complete record thereof, including total, forwarded to the commission and the State Tax Department within 30 days after the last day of each race meeting.

§ 4009.16. Record of calculations.

(a) The association, if operating a pari-mutuel system without the totalisator system, shall, in taking off total or mutuel ticket sales, prepare two additional carbon copies thereof at the time of making and furnish the same to the respective designated representatives of the commission and State Tax Commission before the calculations for mutuel prices to be paid shall have been made.

(b) At race meetings where the totalisator machine is operated, if any additional method of calculation is used or undertaken, full records thereof shall be furnished to the commission and the State Tax Commission.

§ 4009.17. Daily reports to commission.

Complete and detailed records of each race, containing each change of readings of the odds and the actual possible payoff on each horse, shall be filed with the commission at the end of each racing day.

§ 4009.18. Daily examination of records of employment.

A member of the staff designated by the chair, shall make examination daily of the records of employment of the pari-mutuel employees, and he or she shall make daily written report to the commission with respect to compliance or otherwise with section 249 of the Racing, Pari-Mutuel Wagering and Breeding Law having to do with the citizenship and place of residence of such employees.

§ 4009.19. The field.

When more betting interests are programmed to start in a race than can be accommodated by the track's tote board, those separate betting interests in excess of the maximum number that can be so accommodated shall be combined with one other such separate interest into a betting field. The composition of the field shall be selected by the racing secretary prior to program time.

§ 4009.20. Refund—horse excused.

(a) At a track without totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horse therein (merging such wagers for odds display and payoff purposes):

(1) If a horse is excused from racing for any reason whatsoever after the betting for such race has begun, the money bet on that horse shall be refunded. When the horse is part of an entry or the field, all betting upon such entry or field shall cease and all money wagered upon such entry or field shall be refunded. Notwithstanding the termination of such betting, the horse or horses in such coupled entry or field that have not been scratched shall start in the race as nonbetting interests for the purse and the finish of such horses in the race shall be disregarded for pari-mutuel purposes. The

circumstances shall be announced over the public address system at the time such action is taken and thereafter as may be necessary to inform the public adequately.

(2) At a track equipped with a totalisator system with the capability to cancel and refund tickets prior to the running of a race, the time that "betting has begun" on a horse in an entry or the field shall be the time that win odds are first displayed on the track's infield tote board on the race in which such horse is to compete (or when the probable payoff prices are posted on the first race of a multiple race pool of which such horse's race forms a part) and if a horse is scratched after such time the provisions of subdivision (a) of this section shall govern. If a horse is scratched before such time and if tickets have been sold upon an affected entry or field prior to such time the tickets shall not be refunded unless the holders thereof present them for cancellation prior to the start of the race (or the first race of a multiple pool). Tickets not presented for cancellation by such time shall be considered as wagers upon the remaining horses in such entry or field.

(b) At a track with totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horse therein (merging such wagers for odds display and payoff purposes):

(1) If a constituent horse in an entry or field is scratched or declared a nonstarter, all wagers upon such constituent horse will be refunded, but wagers selecting such entry or field and wagers on the remaining constituent horses in the entry or field shall continue and be merged for odds display and payoff purposes.

(2) If all constituent horses in an entry or field are scratched and declared non-starters, then all wagers on such entry or field and all wagers on such constituent horses will be refunded.

§ 4009.21. Refund—non-starter.

When a horse starts. Every horse shall be considered a starter when the stall gates open on the signal of the starter, unless the stewards declare a horse or horses non-starters because, in their opinion, the horses' chances were compromised leaving the starting gate. If so, all bets on the non-starters will be refunded unless the horse wins. For placing and program purposes, the non-starters will be considered to have run for purse only. If it be determined by the stewards that a horse is declared a non-starter, the money bet on the horse shall be refunded; if such horse is part of an entry or field, such circumstances shall be treated as a scratch for wagering as provided in section 4009.20 of this Part, notwithstanding the placing of any remaining part of the entry or field.

§ 4009.22. Pools dependent on entries.

In all races except sweepstakes with five or more separate entries that start, a racing association shall provide win, place and show pools. In all races with four separate entries that start, a racing association shall provide win and place pools and at such racing

association's option may conduct a show pool. In races of three separate entries, a racing association shall provide a win pool and, at such racing association's option may conduct a place pool. For two separate entries that start, a racing association shall provide only a win pool. Pari-mutuel tickets shall be sold accordingly; provided, however, that in sweepstakes with fewer than four separate entries that start, a racing association may, at such racing association's option, provide that there shall be no betting, and in such cases an additional race with betting shall be added to the program, if feasible.

§ 4009.23. Refund only on presentation.

No refunds of money paid for pari-mutuel tickets to be made as directed by this Subchapter shall be made except upon the presentation and surrender of the tickets.

§ 4009.24. Announcing payoff error.

If an error is made in posting payoff figures on the public board, prior to the cashing of any pari-mutuel tickets affected by such error, it shall be corrected promptly and a statement explaining the facts made over the public address system.

§ 4009.25. Adjustment of underpayments caused by error.

(a) In the event of an error in calculations of payoff prices that result in underpayments to the public, the aggregate of such underpayments shall be paid into the corresponding pool of the next race or races in such amounts as may be determined by the steward of the commission and a designated representative of the association conducting the meeting.

(b) If any such error should occur in computing any wagering pools, the underpayment shall be added to the corresponding pool of the following day.

(c) Immediately upon the discovery of such an error, the manager of the mutuel department shall furnish a detailed statement of the matter to the commission and the State Department of Taxation and Finance.

§ 4009.26. Shortages.

A track may deduct from the wages of a pari-mutuel employee monies owed as a result of such employee's going short on any particular racing day. The term *short* as used in this section shall mean any loss to the racing association arising from amounts missing from funds in the possession, custody or control or under the supervision of any pari-mutuel employee or employees in the course of the performance of his, her or their duties in the mutuel department of the racing association.

§ 4009.27. Payments to the New York State Thoroughbred Breeding and Development Fund.

Every corporation, association or nonprofit racing association shall pay to the New York State Thoroughbred Breeding and Development Fund the percentage of the pari-mutuel pool as required by law when the payment of State taxes are due to the State Tax Commission.

PART 4010

Pool Calculations

Section
4010.1 Pools—Calculation and distribution
4010.2–4010.5 [Reserved]
4010.6 Parlay betting

§ 4010.1. Pools—calculation and distribution.

The pari-mutuel pools shall be calculated and distributed as follows:

(a) Win, place, show or daily double wagers form separate wagering pools with payoffs calculated independently of each other.

(b) From each pool there shall be deducted the statutory percentage and the breaks, the remainder being the net pool for distribution.

(c) *Win pool*.

(1) The net pool divided by the amount wagered on the horse finishing first determines the payoff per dollar, including profit and wager.

(2) When two horses finish first in a dead heat, the money in the win pool is divided the same as in a place pool calculation.

(d) *Place pool.*

(1) The amounts wagered on horses finishing first and second are deducted from the net pool to determine the profit. This profit is divided in half, and the halves, in turn, divided by the two amounts mentioned above. This determines the profit per dollar, to which is added the wager.

(2) When two horses finish second in a dead heat, one half of the profit is allocated to the tickets representing wagers on the horse finishing first, and the remaining half is allocated equally to the wagers on horses finishing in the dead heat for second.

(3) When two horses in the field or coupled as an entry run first and second, the place pool shall be distributed the same as in a win pool.

(e) *Show pool*.

(1) The amounts wagered on the horses finishing first, second and third are deducted from the net pool to determine the profit. This profit is divided into three equal parts, and each part, in turn, divided by the three amounts mentioned above. This determines the profit per dollar, to which is added the wager.

(2) When two horses finish third in a dead heat, one-third of the profit is allocated to the tickets representing wagers on the horse finishing first, one-third to the wagers on the horse finishing second and the remaining third equally to the wagers on the horses finishing in the dead heat for third.

(3) When two horses in the field or coupled as an entry finish first or second, first and third or second and third, two thirds of the profit is allocated to the tickets representing wagers on the field of entry, and the remaining one-third to the wagers on the other next best placed horse.

(4) When three horses in the field or coupled as an entry run first, second and third, the place and show pools shall be distributed the same as a win pool.

(f) When only two horses finish, the show pool, if any, shall be distributed the same as in a place pool.

(g) When only one horse finishes, the place and show pools, if any, shall be distributed the same as in a win pool.

(h) In any race in which no horse finishes, all money wagered on the race shall be refunded upon presentation and surrender of pari-mutuel tickets sold thereon.

(i) Payment where no wagering on a horse in the win, place or show pools:

(1) In the event that there is no money wagered to win on a horse that has finished first, the pool will be refunded.

(2) In the event that there is no money wagered to place on a horse that has finished first or second, the net pool will be distributed to wagers on the horse upon which money was wagered to place and which did so finish; if none, the pool will be refunded.

(3) In the event that there is no money wagered to show on a horse that has finished first, second or third, the net pool will be distributed to wagers on the horses upon which money was wagered to show and that did so finish, as in a place pool; if only one, to wagers upon such horse as in a win pool; if none, the pool will be refunded. Should these circumstances be foreseeable when a pool is closed, an immediate announcement shall be made to hold all tickets because all combinations are not covered.

§ 4010.2–4010.5. [Reserved]

§ 4010.6. Parlay betting.

(a) When consistent with the public interest and the best interests of racing generally, with permission of the commission, the track operator may offer parlay betting as a service to the betting public.

(b) The parlay is not a pari-mutuel pool, but is a series of bets combining betting entries in win, place, show or proposition pools in each of two or more separate races in chronological order. The initial amount bet constitutes the bet on the first betting entry in the first parlay race (leg); if successful, the payoff from winning the first leg (to the lowest penny) is then bet on the betting entry designated in the second leg; if again successful, and if the parlay continues, the payoff from winning the second leg is then bet (to the lowest penny) in the third leg; etc.

(c) A parlay bet may combine any of the races on the program and must combine at least two and not over eight races. Bets are limited to win, place, show or proposition pool types for which a corresponding pool is conducted on the race selected. The races in a parlay must be chronological but need not be consecutive nor combine the same type pool. The parlay shall be designated on one pari-mutuel ticket which may also evidence other parlay bets combining the same races. A parlay bet ticket must contain all win, place or show bets without any proposition bets or all proposition bets without any win, place or show bets.

(d) A parlay bet may not combine bets in the same race or earlier races (so-called reverse bets) nor on races on other programs.

(e) While payoffs inserted as bets in subsequent races are broken to the lowest penny (unlike regular payoffs), payoffs to the parlay bettor shall be broken to the lowest dime. Resulting parlay breakage shall be reported separately and added to regular breakage at the end of the program for the purpose of taxation and distribution.

(f) Parlay payoffs will be so inserted as bets in subsequent pools by the track operator that the amount of such bets, including their effect on the betting odds, will be displayed as soon as possible after the initial change of the morning line display. (Bet totals in such pools shall be displayed in truncated fashion, to the lowest dollar.)

(g) If any taxing authority requires the withholding of any portion of a winning parlay payoff prior to the completion of all bets in the parlay, such parlay shall thereupon terminate at such point and be payable to the ticket holder without further completion, selections in future races being voided. Such consequence shall be publicly announced and prominently displayed by the track operator who shall inform the public by explanation and examples of the operation of this subdivision before the start of the racing program.

(h) Parlay wagers may be cancelled by the ticket holder, in accordance with track policy on cancellations, only prior to the start of the first parlay race in which a parlay selection starts. Thereafter, the parlay must either be completed or be terminated by operation of

these rules in order to be entitled to a payoff. The holder of the parlay ticket shall not have the option to cash in such bet prior to completion after a designated parlay entry actually starts in a race.

(i) If a race, pool or betting entry in a parlay is scratched (which includes an entry being declared a nonstarter for betting purposes, or a race or pool being declared "off") the parlay shall be constituted by the remaining legs; if there are no remaining legs, the parlay terminates.

(j) A bet on a coupled entry or field is considered a bet on the remaining part of such coupled entry or field in the event any part of such entry or field starts for pari-mutuel purposes in accordance with section 4009.20 of this Title. Parlay tickets incorporating an entry or field in which a scratch occurs are refundable only in accordance with subdivision (h) of this section.

(k) Copies of this section shall be made available to the public by the track operator.

PART 4011

The Daily Double

Section

THE DAILY DOUBLE
4011.1 [Reserved]
4011.2 Not a parlay
4011.3 Prerequisites
4011.4 [Repealed]
4011.5 Entries; fields
4011.6 Posting the payoff
4011.7 Calculation, distribution of pools
4011.8 Failure to select a winner and race cancellations
4011.9 Dead heats
4011.10 Effect—horse scratched, excused
THE QUINELLA
4011.15 Quinella
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4011.24 Pick-four pools
4011.25 Pick-five pools
4011.26 Pick six pools
4011.27 Pick-six jackpot pools

4011.28 Grand Slam
4011.29 Additional authorized wagers

THE DAILY DOUBLE

§ 4011.1. [Reserved]

§ 4011.2. Not a parlay.

The daily double is not a parlay and has no connection with or relation to the pool shown on the totalisator board.

§ 4011.3. Prerequisites.

In order to win a daily double, it is necessary for the purchaser of a daily double ticket to select the winners of each of the two races specified for the daily double. If either of his or her selections fails to win, his or her contract is voided, except as hereinafter provided.

§ 4011.4. [Repealed]

§ 4011.5. Entries; fields.

Entries and fields may be included in the first and second races of the daily double. In the event that part of an entry or field is scratched before the running of the first race of the daily double, the provisions of section 4009.20 of this Title shall govern.

§ 4011.6. Posting the payoff.

The payoff shall be posted after the result of the first race is declared “Official” and before the second race is run, except in the event of a dead heat in the first race, when the posting of the payoff may be deferred until the second race has been run.

§ 4011.7. Calculation, distribution of pools.

The daily double pool shall be calculated and distributed as follows: the net pool divided by the amount wagered on the winning combination determines the pay-off per dollar bet.

§ 4011.8. Failure to select a winner and race cancellations.

(a) If no daily double ticket is sold designating the winner of the first race, or the first race is cancelled or declared “no race,” the daily double shall be declared off and the gross pool refunded.

(b) If no daily double ticket is sold combining the winners of the first and second races, or the second race is cancelled or declared “no race,” the net pool shall be distributed to holders of tickets designating the winner of the first race, as in a win pool and the daily double shall terminate.

§ 4011.9. Dead heats.

(a) In the event of a dead heat either in the first race or second race of the daily double, two winning combinations result. The amounts wagered on both winning combinations are deducted from the net pool to determine the profit. This profit is divided in half, and the halves, in turn, divided by the two amounts mentioned above. This determines the profit per dollar, to which is added the amount of the wager.

(b) In the event of a dead heat in both races of the daily double, four winning combinations result. The amounts wagered on these four winning combinations are deducted from the net pool to determine the profit. This profit is divided into four equal parts, and each part, in turn, divided by the four amounts mentioned above. This determines the profit per dollar, to which is added the amount of the wager.

§ 4011.10. Effect—horse scratched, excused.

(a) Should any horse in the first or the second race of the daily double not coupled with a starter be scratched or excused by the stewards, before the running of the first race, all money wagered on combinations, including such horse shall be deducted from the daily double pool and shall be refunded upon presentation and surrender of pari-mutuel tickets sold thereon. Horses coupled with a starter as a betting entry or field shall be governed by the provisions of section 4009.20 of this Title.

(b) Should any horse in the second race of the daily double be scratched or excused by the stewards after the running of the first race of the daily double, a consolation pool will result. In such case, all tickets combining the scratched or excused horse with the actual winner of the first race shall become consolation tickets and shall be paid a price per dollar bet determined as follows: the net daily double pool shall be divided by the total purchase price of all daily double tickets designating the winner of the first race of the daily double and the result obtained shall constitute the consolation price per dollar bet. The amount set aside for these consolation payoffs will be deducted from the net daily double pool.

THE QUINELLA

§ 4011.15. Quinella.

(a) The quinella is a form of pari-mutuel wagering. Each bettor selects two horses to place first and second in the designated quinella race, the order of placing of the said two horses being immaterial. The quinella is not a parlay and this pool shall be held entirely separate from all other pools and is in no way a part of the daily double, exacta, triple, superfecta, straight, place or show pools.

(b) [Repealed]

(c) Races in which quinella pools are to be conducted shall be approved by the commission and shall be clearly designated in the racing program. Coupled entries and fields shall be allowed in quinella races.

(d) The design of quinella tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(e) *Scratch*. If a horse is scratched or declared a nonstarter no further tickets may be issued designating such horse and all tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool. When such horse is part of a coupled entry or field, the provisions of section 4009.20 of this Subchapter shall govern.

(f) *Winning combination*. The numbers of the first two horses as made official shall be the winning combination regardless of their respective order of finish, except that where more than one of such horses is part of a coupled entry or field with another of such horses, only the one best finisher of such horses shall be counted in the winning combination for payoff, and the horse or horses not in such coupled entry or field finishing the same, or, if applicable, next finishing, shall be the other part of the winning quinella combination. For example, if two horses in a coupled entry (or field):

(1) finish first and second, or in a dead heat for first, the winning combination will be the number of such entry or field and the number of the third finishing horse not part of such entry or field;

(2) finish first and in a dead heat for second, the winning combination will be the number of such entry or field and the number of the other horse dead-heated for second who is not part of such coupled entry or field;

(3) finish in a three-horse dead heat for win with another horse not part of such entry or field, the winning combination will be the number of such entry and the number of the horse not part of such entry.

(g) *Failure to select a winning combination*. If no ticket is sold on a winning combination in a quinella pool, the net pool shall be apportioned among those holding tickets designating the horse placing first with any other horse and those holding tickets designating the horse placing second with any other horse, in the same manner in which a place pool is calculated.

(h) *Dead heat*. In case of a dead heat between two horses for the first place, that combination shall be the winner of the quinella pool. In cases of a dead heat for first place involving more than two horses, the net pool shall be calculated and distributed to holders of tickets combining any two dead-heated horses as in a win pool dead heat.

(i) In case of a dead heat between two horses for second place, the pool shall be figured as a "place pool," the holders of tickets combining the winning horse and one of the two horses placing second participating in the payoff.

(j) In case of a dead heat for second place and no tickets are sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination.

(k) If no tickets combine the winning horse with either of the place horses in the dead heat, the pool shall be apportioned among those holding tickets designating the first place horse and any other horse, and those holding tickets designating a second place horse with any other horse, as in a place pool in which a dead heat for place occurs.

(l) If no ticket is sold that would require distribution of a quinella pool to a winner as defined by this section, the track shall make a complete and full refund of the quinella pool.

(m) In the event fewer than four betting interests start, the quinella shall be declared off and the gross pool refunded.

(n) This section shall be prominently displayed throughout the betting area of each track conducting the quinella, and printed copies of this section shall be distributed by the track to patrons upon request.

§ 4011.16. Commission approval.

Races in which quinella betting shall be conducted shall be approved by the commission.

THE EXACTA

§ 4011.20. Exacta.

(a) The object of the exacta is to select in order the first and second place finisher in the designated exacta race. The exacta pool shall be held entirely separate from all other pools and is in no way a part of the daily double, or win, place or show pools.

(b) Races in which exacta betting shall be conducted shall be approved by the commission.

(c) If a horse is scratched or excused from racing no further tickets shall be sold designating such horse and all tickets previously sold designating such horse shall be refunded and the money deducted from the gross pool. Coupled entries or fields shall be governed by section 4009.20 of this Title.

(d) *Dead heat*.

(1) In the event of a dead heat for win, the net pool shall be distributed to each combination of winners separately as in a win pool dead heat, e.g., in a dead heat of two horses there are two winning combinations, in a dead heat of three horses there are six winning combinations.

(2) In the event of a dead heat for second, the net pool shall be divided as in a win pool dead heat among holders of tickets combining the winner with each second place horse.

(e) *Winning combination*. The numbers of the first two horses as made official shall be the winning combination except that where more than one of such horses is part of a coupled entry or field with another of such horses only the best finisher of such horses shall be counted in the winning combination for payoff, and the horse or horses not in such coupled entry or field finishing the same, or, if applicable, next finishing, shall be the other part of the winning exacta combination. For example, if two horses in a coupled entry (or field):

(1) finish first and second, or in a dead heat for first, the winning combination will be the number of such entry or field and the number of the third finishing horse not part of such entry or field;

(2) finish first and in a dead heat for second, the winning combination will be the number of such entry or field and the number of the horse dead heated for second who is not part of such coupled entry or field; or

(3) finish in a three-horse dead heat for win with another horse not part of such entry or field, the winning combination will be the number of such entry and the number of the horse not part of such entry.

(f) In the event fewer than four betting interests start, the exacta shall be declared off and the gross pool refunded.

(g) *Failure to select a winning combination*. If no exacta ticket is sold combining the winner and second place horse in order, the net pool shall be distributed to holders of exacta tickets designating the winner to win. In the event one horse only finishes and is declared winner, the net pool shall be distributed to holders of exacta tickets designating the winner to win. Should these circumstances be foreseeable when a pool is closed, an immediate announcement shall be made to hold all tickets because all combinations are not covered.

THE TRIFECTA

§ 4011.21. Trifecta.

(a) The object of the trifecta is to select in order, the first-, second- and third-place horses in a designated trifecta race. The trifecta pool shall be held entirely separate from all other pools and has no relation to any other pool.

(b) Races in which trifecta betting shall be conducted shall be approved by the commission and be clearly designated in the program.

(c) If a horse is scratched or excused from racing or betting no further tickets shall be sold designating such horse and all tickets previously sold designating such horse shall be refunded and the money deducted from the pool.

(d) (1) If no ticket is sold designating, in order, the first three horses or only two horses finish, the net pool shall be distributed equally among holders of tickets designating the first two horses in order.

(2) If no ticket is sold designating, in order, the first two horses or only one horse finishes, the net pool shall be distributed equally among holders of tickets designating the horse to win.

(3) If no ticket is sold designating the winner to win, the trifecta shall be declared off and the gross pool refunded. An announcement of such possibility shall be made as soon as the pool closes.

(e) *Dead heat*. In the event of a dead heat, all tickets designating the correct order of finish, crediting each horse in a dead heat as finishing in any of the dead-heat positions, shall be winning tickets. Distribution shall be in accordance with established pari-mutuel practice relative to dead heats, *i.e.*, separate price calculations for different combinations.

(f) Coupled entries and fields are permitted in trifecta races. In such races no wagers may be accepted or issued (including “wheel” or “box” type bets) that couple the same coupled entry or the same field in the same combination.

(g) The numbers of the first three horses as made official shall constitute the winning combination except that where two or more such horses are part of the same coupled entry or field only the best finishing position attained by such coupled entry or field horses shall be considered for pay-off purposes and the next best finishing horses not part of such coupled entry or field shall be selected to determine the winning trifecta combination.

(h) No trifecta wagering shall be conducted on any race having fewer than five betting entries. If fewer than five betting entries start, the trifecta shall be declared off and the gross pool refunded. The commission's steward may, in the exercise of discretion to

protect the wagering public, require that there be at least six betting entries for the conduct of trifecta wagering.

THE SUPERFECTA

§ 4011.22. Superfecta.

(a) The object of the superfecta is to select in order, the first-, second-, third- and fourth-place horses in a designated superfecta race. The superfecta pool shall be held entirely separate from all other pools and has no relation to any other pool.

(b) Races in which superfecta betting shall be conducted shall be approved by the commission and be clearly designated in the program.

(c) If a horse is scratched or excused from racing or betting no further tickets shall be sold designating such horse and all tickets previously sold designating such horse shall be refunded and the money deducted from the pool.

(d) (1) If no ticket is sold designating, in order, the first four horses or only three horses finish, the net pool shall be distributed equally among holders of tickets designating the first three horses in order.

(2) If no ticket is sold designating, in order, the first three horses or only two horses finish, the net pool shall be distributed equally among holders of tickets designating the first two horses in order.

(3) If no ticket is sold designating, in order, the first two horses or only one horse finishes, the net pool shall be distributed equally among holders of tickets designating the horse to win.

(4) If no ticket is sold designating the winner to win, the superfecta shall be declared off and the gross pool refunded. An announcement of such possibility shall be made as soon as the pool closes.

(f) *Dead heat*. In the event of a dead heat, all tickets designating the correct order of finish, crediting each horse in a dead heat as finishing in any of the dead-heat positions, shall be winning tickets. Distribution shall be in accordance with established pari-mutuel practice relative to dead heats, *i.e.*, separate price calculations for different combinations.

(g) Coupled entries and fields are permitted in superfecta races. In such races no wagers may be accepted or issued (including “wheel” or “box” type bets) that couple the same coupled entry or the same field in the same combination.

(h) The numbers of the first four horses as made official shall constitute the winning combination, except that where two or more such horses are part of the same coupled

entry or field only the best finishing position attained by such coupled entry or field horses shall be considered for pay-off purposes and the next best finishing horses not part of such coupled entry or field shall be selected to determine the winning superfecta combination.

(i) No superfecta wagering shall be conducted on any race having fewer than five betting entries. If fewer than five betting entries start, the superfecta shall be declared off and the gross pool refunded. The commission's steward may, in the exercise of discretion to protect the wagering public, require that there be at least six betting entries for the conduct of superfecta wagering.

§ 4011.23. WIN-3.

(a) When consistent with the public interest and the best interests of racing generally, the commission may approve a request from a track operator to offer “WIN-3” betting as a service to the betting public. Other names for such bets may be approved by the commission.

(b) The “WIN-3” is a unique pari-mutuel pool, separate from all other pari-mutuel pools. The object of the WIN-3 is to select the winners only of three consecutive races (legs) designated by the track operator and advertised clearly in the betting program.

(c) *Winning payoff price*. From the gross pool is deducted the take-out and consolation payoff amounts, if any, and the resulting balance, divided by the amount wagered on the winning combination, less breaks, shall determine the payoff per dollar on winning bets.

(d) *Dead heat winners*. If there are two or more winning combinations because of a dead heat in one or more legs there shall be a separate payoff price per dollar calculated for each winning combination as follows: from the gross pool is deducted the take-out, consolation payoff amounts, if any, and amounts wagered on all winning combinations; the balance shall be divided by the number of different winning combinations upon which bets were sold, each resulting allocated part being assigned to each respective winning combination; an allocated part plus the amounts bet on each winning combination when divided by the amount bet on such winning combination (less breaks) shall be the resulting payoff per dollar per respective winning combination.

(e) *Failure to select a winning combination*.

(1) Patrons shall be advised by public address to hold all WIN-3 tickets and the circumstances leading to such announcement: after the first leg if no bet selects a winner of the first leg; after the second leg if no bet combines the winners of the first two legs; and after the third leg if no bet combines all three winners.

(2) Should there be no bets on any winning combination, then all bets combining two winners shall be considered winning bets and paid a price per dollar bet calculated as

with dead heat winning combinations. Consolation tickets combining such two winners shall be entitled to a winning payoff in addition to a consolation payoff.

(3) Should there be no bets combining winners of two legs, then all bets selecting a winner shall be considered winning bets and paid a price per dollar bet calculated as with winning dead heat combinations. Consolation tickets shall be entitled to a winning payoff in addition to a consolation payoff.

(4) Should there be no bets on any winner, the WIN-3 shall be declared off and the entire pool refunded.

(f) *Race cancellations*.

(1) If any leg is cancelled or declared non-betting before the start of the first leg, the pool shall be refunded.

(2) If either the second or third leg (or both) are cancelled or declared non-betting after the start of the first leg, payoffs will be determined on the basis of contested legs.

(g) *Scratches and consolations*.

(1) Refunds. In the event a betting entry is scratched (which hereinafter includes being declared a non-starter or a non-betting starter) from any leg of the WIN-3 prior to the start of the first leg, all bets containing such scratched betting entry shall be refunded to determine the gross pool and removed from further consideration in the pool. Coupled entries and fields are only considered “scratched” for purposes of this section in accordance with the provisions of section 4009.20 of this Title.

(2) Consolations.

(i) In the event a betting entry is scratched in the second leg after the start of the first leg a consolation payoff shall be computed for those bets combining the winners of the first and third legs with such scratched horse as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving entries scratched from the third leg (reduced by the rate of statutory take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting entries in the second leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with an entry scratched in the second leg. The break shall not be deducted from the pool.

(ii) In the event a betting entry is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and second legs with such scratched horse as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by

bets on combinations involving entries scratched from the second leg (reduced by the rate of statutory take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting entries in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with an entry scratched in the third leg. The breaks shall not be deducted from the pool.

(iii) In the event betting entries are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with entries scratched in both the second and third legs as follows: From the gross pool shall be deducted the take-out and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other entries (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with entries scratched from both the second and third legs. The breaks shall not be deducted from the pool.

(iv) Dead heat computations for consolation payoffs shall be consistent with the principles in subdivision (d) as applied to remainders for payoff as determined in this subdivision.

(h) This rule shall be prominently displayed throughout the betting area of the track and printed copies shall be made available by the track to patrons upon request.

§ 4011.24. Pick-four pools.

(a) A winning pick-four wager requires selection of the first-place finisher in each of four designated, consecutive contests, unless otherwise provided in this section. The association or corporation must obtain written approval from the commission concerning the scheduling of pick-four contests and the designation of the method used. Any changes to the approved pick-four format require prior approval from the commission.

(b) The pick-four wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta or other wagering pool.

(c) Resale of pick-four tickets from one individual to another is prohibited, shall be grounds for ejection and may be deemed illegal gambling.

(d) Races in which pick-four pools shall be conducted shall be clearly designated in the program and racing cards issued by the association or corporation.

(e) The design of the pick-four tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters*. Should a programmed starter be scratched or declared a nonstarter in any pick-four race before the start of the first pick-four race, any affected bettor may select another betting interest, if the wager can be canceled and a replacement wager issued before the start of the first pick-four race, or may obtain a cancellation of the wager prior to the start of the first pick-four race. If neither option is exercised, then wagers upon such scratched or declared nonstarter shall be deemed wagers upon the designated horse for such race. The *designated horse* means the betting entry or field upon which the most wagering money has been registered at the track in the win pool at the close of win-pool betting for such race. In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated. At any time after wagering begins on the pick-four pool, should an entire betting entry or field be scratched or declared a nonstarter in any pick-four race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the pick-four pool, shall be deemed wagers upon the designated horse. Wagers in the pick-four pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the designated horse in the race affected by the scratch. Should the balance of a betting entry or field race as a non-betting starter for purposes of other pari-mutuel pools, as provided in sections 4009.20 and 4009.21 of this Article, wagers upon such entry or field shall be deemed wagers upon the designated horse for such race.

(g) *Wagering tickets and winners.* If neither subdivision (h) nor subdivision (i) of this section applies, then the pick-four pool shall be apportioned in the following order:

(1) If no pick-four ticket is sold combining the winners of the four pick-four races, all pick-four tickets designating three winners shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

(2) If no pick-four ticket is sold combining the winners of three such races, all pick-four tickets designating two winners shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

(3) If no pick-four ticket is sold combining the winners of two such races, all pick-four tickets designating one winner shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

(4) If no pick-four ticket is sold designating any winner to win in the designated pick-four races, the pick-four shall be declared off and the gross pool refunded.

(h) *Race cancellations*.

(1) If one or two of the pick-four races are cancelled or declared no race or non-betting, then those who selected the winners in the greatest number of other pick-four races shall share the net pool.

(2) If more than two of the pick-four races are cancelled or declared no race or non-betting, then the entire pool shall be cancelled and all pick-four wagers shall be refunded.

(3) If any of the designated races of the pick-four sequence is cancelled or declared no race or non-betting before the first pick-four race is made official, then the pick-four pool shall be declared off and the gross pool refunded.

(i) *Surface transfers*. When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-four races, and such change has not been known to the public before the close of wagering for the pick-four pool, such changed race shall be deemed an all win race for pick-four wagering purposes. An *all win race* means the winning horse of that race is assigned to each pick-four ticket holder as such ticket holder's selection for that race. If there is a surface transfer in one or more of the pick-four races, then those who selected the winners in the greatest number of races without a surface transfer shall share the net pool. If there are no wagers selecting the winner of at least one of the races without a surface transfer, then the entire pool for such program shall be refunded. If any of the designated races is cancelled or declared "no race," then the pick-four pool will be determined by the winners of the remaining race or races.

(j) *Dead heats*. In the event of a dead heat for win in a pick-four race, all pick-four tickets designating any such horse to win shall be eligible for participation in the remaining pick-four races, and the net pool shall be equally distributed to the winners, that is, the net pool will be divided by the total amount represented by all winning tickets and the resulting price, per dollar, and after breakage, shall be the payoff price, which shall be uniform for any winning combination.

(k)–(o) [Reserved]

(p) In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track, and the basis upon which payments have been made shall be deemed conclusively correct and not subject to review.

(q) *Posting of winning combinations*. Every pick-four wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) *Non-transferability*. Pick-four tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s)–(w) [Reserved]

(x) Copies of this section shall be made available free of charge by the track to the public in the public betting area of the track.

§ 4011.25. Pick-five pools.

(a) A winning pick-five wager requires selection of the first-place finisher in each of five designated, consecutive contests, unless otherwise provided in this section. The association or corporation must obtain written approval from the commission concerning the scheduling of pick-five contests, the designation of the method used and the amount of any cap to be set on the carryover. Any changes to the approved pick-five format require prior approval from the commission.

(b) The pick-five wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-five pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta or other wagering pool.

(c) Resale of pick-five tickets from one individual to another is prohibited, shall be grounds for ejection, and may be deemed illegal gambling.

(d) Races in which pick-five pools shall be conducted shall be clearly designated in the program and racing cards issued by the association or corporation.

(e) The design of the pick-five tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters*. Should a programmed starter be scratched or declared a nonstarter in any pick-five race before the start of the first pick-five race, any affected bettor may select another betting interest, if the wager can be canceled and a replacement wager issued before the start of the first pick-five race, or may obtain a cancellation of the wager prior to the start of the first race of the pick-five sequence. If neither option is exercised, then wagers upon such scratched or declared nonstarter shall be deemed wagers upon the designated horse for such race. The *designated horse* means the betting entry or field upon which the most wagering money has been registered at the track in the win pool at the close of win-pool betting for such race. (In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated.) At any time after wagering begins on the pick-five pool, should an entire betting entry or field be scratched or declared a nonstarter in any pick-five race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the pick-five pool, shall be deemed wagers upon the

designated horse. Wagers in the pick-five pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the designated horse in the race affected by the scratch. Should the balance of a betting entry or field race as a non-betting starter for purposes of other pari-mutuel pools, as provided in sections 4009.20 and 4009.21 of this Article, wagers upon such entry or field shall be deemed wagers upon the designated horse for such race.

(g) *Wagering tickets and winners.* If neither subdivision (h) nor subdivision (i) of this section applies, then the pick-five pool shall be apportioned as follows: the net pick-five pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick-five contests, based on the official order of finish, unless otherwise provided in this section. If there are no such wagers, the net pick-five pool shall be added to the carryover.

(h) *Race cancellations*. Except for pick-five pools in which a designated distribution is to be made, the following shall apply:

(1) If one or two of the pick-five races are cancelled or declared no race or non-betting, then those who selected the winners of other pick-five races shall share the net pool. Any carryover from previous programs will be carried over to the next pick-five wager pool.

(2) If more than two of the pick-five races are cancelled or declared no race or non-betting, then the entire pool shall be cancelled and all pick-five wagers shall be refunded.

(3) If any of the designated races of the pick-five sequence is cancelled or declared no race or non-betting before the first pick-five race is made official, then the pick-five pool shall be declared off and the gross pool refunded.

(i) *Surface transfer*. When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-five races, and such change has not been known to the public before the close of wagering for the pick-five pool, then such changed race shall be deemed an all win race for pick-five wagering purposes. An *all win race* means the winning horse of that race is assigned to each pick-five bettor as such bettor's selection for that race. Except for pick-five pools in which a final distribution is to be made, a pick-five pool with surface transfer(s) shall be handled as follows:

(1) If there was a surface change to a non-turf course in only one of the pick-five races, then the bettors who selected the winners of the four pick-five races for which there were no surface changes shall share that day's net pool for such wager as well as any carryover.

(2) If there was a surface change to a non-turf course in more than one of the pick-five races, then the bettors who selected the winners of all the other pick-five races shall share that day's net pool for such wager but shall not share any carryover (any such previous carryover to be carried over to the next performance's pick-five wager pool).

(3) If there are one or more surface change races in the pick-five sequence, and there are no bettors who selected the winner(s) of all the other pick-five races, then the net pool for such program shall be carried over to the next performance's pick-five wager pool.

(4) If there are one or more surface change races in the pick-five sequence and there are no bettors who selected the winner of any of the other pick-five races, then the entire pool for such program shall be refunded.

(j) *Dead heats.* If there is a dead heat for first in any of the pick-five contests involving:

(1) contestants representing the same betting interest, then the pick-five pool shall be distributed as if no dead heat occurred; or

(2) contestants representing two or more betting interests, then the pick-five pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(k) *Carryovers.*

(1) The pick-five carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick-five carryover equals or exceeds the designated cap, then the pick-five carryover will be frozen until such carryover is won or distributed under the other provisions of this rule. After the pick-five carryover is frozen, 100 percent of the net pool that ordinarily would be added to the pick-five carryover shall be distributed to those whose selection finished first in the greatest number of pick-five contests for that performance.

(2) A written request for permission to distribute the pick-five carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and performance for the distribution.

(3) If for any reason the pick-five carryover must be held over to a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick-five carryover plus accrued interest shall then be added to the net pick-five pool of the following meet on a date and performance so designated by the commission.

(4) With the written approval of the commission, the association may contribute to the pick-five carryover a sum of money up to the amount of any designated cap.

(l) *Other designated distributions.* The pick-five carryover may be designated for distribution on a specified date and performance, other than as a final distribution, as set forth in subdivision (m) of this section, only under the following circumstances:

(i) upon written approval from the commission as provided in subdivision (i) of this section; or

(ii) upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick-(n) wagering to another, or when the pick-five pool is discontinued.

If the pick-five carryover is designated for distribution on a specified date and performance in which there are no wagers selecting the winner in each of the pick-five races, then the net pool, with any carryover, shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick-five contests.

(m) *Final distribution.* The track shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carry-overs together with the net pool of the pick-five pool conducted during such program to the holders of wagers selecting the winners of the most pick-five races contested during such program. If all pick-five races on the program designated for final distribution are cancelled and no further programs are conducted at the meeting, then no other pick-five pools shall be conducted during such week and the commission shall require that a pick-five pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission may also order a final distribution for an earlier time in the commission's discretion.

(n) The association or corporation may suspend previously approved pick-five wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick-five wagering is reinstated. An association or corporation may request approval of a pick-five wager or separate wagering pool for specific performances.

(o) [Reserved]

(p) In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track and the basis upon which

payments have been made shall be deemed conclusively correct and not subject to review.

(q) *Posting of winning combinations*. Every pick-five wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) *Non-transferability*. Pick-five tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s) *Betting information*. A racing association may display publicly information in regard to combinations wagered upon, amounts wagered on such combinations, numbers of tickets sold or number of tickets still capable of winning a pick-five pool. The operation of the totalisator equipment and reports generated thereby shall be subject to the strict supervision of the commission.

(t)–(w) [Reserved]

(x) Copies of this section shall be made available free of charge by the track to the public in the public betting area of the track.

§ 4011.26. Pick-six pools.

(a) A winning pick-six wager requires selection of the first-place finisher in each of six designated, consecutive contests, unless otherwise provided in this section. The association or corporation must obtain written approval from the commission concerning the scheduling of pick-six contests, the designation of the method used and the amount of any cap to be set on the carryover. Any changes to the approved pick-six format require prior approval from the commission.

(b) The pick-six wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta or other wagering pool.

(c) Resale of pick-six tickets from one individual to another is prohibited, shall be grounds for ejection, and may be deemed illegal gambling.

(d) Races in which pick-six pools shall be conducted shall be clearly designated in the program and racing cards issued by the association or corporation.

(e) The design of the pick-six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters*. Should a programmed starter be scratched or declared a nonstarter in any pick-six race before the start of the first pick-six race, affected bettors may select another betting interest, if a wager can be canceled and a replacement

wager issued before the start of the first pick-six race, or may obtain a cancellation of the wager issued before the start of the first race of the pick-six sequence. If neither option is exercised, then wagers upon such scratched or declared nonstarter shall be deemed wagers upon the designated horse for such race. The *designated horse* means the betting entry or field upon which the most wagering money has been registered at the track in the win pool at the close of win-pool betting for such race. (In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated.) At any time after wagering begins on the pick-six pool, should an entire betting entry or field be scratched or declared a nonstarter in any pick-six race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the pick-six pool, shall be deemed wagers upon the designated horse. Wagers in the pick-six pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field, except at tracks with totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horses therein (merging such wagers for odds display and payoff purposes), in which case, the wagers upon scratched constituent horses will be deemed wagers upon the designated horse in such race. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the designated horse in the race affected by the scratch. Should the balance of a betting entry or field race as a nonbetting starter for purposes of other pari-mutuel pools, as provided in sections 4009.20 and 4009.21 of this Article, wagers upon such entry or field shall be deemed wagers upon the designated horse for such race. Should a programmed starter be scratched or declared a nonstarter prior to the start of the first leg, the betting operator shall be authorized to refund any tickets designating betting entries affected thereby prior to such first leg.

(g) *Wagering tickets and winners*. If neither subdivision (h) nor subdivision (i) of this section applies:

(1) The pick-six pool shall be apportioned as follows: 75 percent of the resulting pick-six net pool for the day shall be distributed, less breaks, to the holders of wagers selecting the winners of all six designated races in the pool, or to the holders of the wagers selecting the winners of the designated races with no more than three all-win races, and no other races are cancelled in the pick-six sequence or races, and 25 percent of such net pool shall be distributed to the holders of the wagers selecting the most winners.

(2) Should there be no wager selecting winners of all six designated races, or to the holders of wagers selecting the winners of the designated races with no more than three “all win” events, then 25 percent of the net pool shall be distributed, less breaks, to the holders of wagers selecting the winners of the most pick-six races, and the 75 percent of the net pool reserved for holders of wagers selecting six winners, or to the holders of wagers selecting the winners of the designated races with no more than three all-win races, then 25 percent of the net pool shall be distributed, less breaks, to the holders of wagers selecting the winners of the most pick-six races, and the 75

percent of the net pool reserved for holders of wagers selecting six winners, or to the holders of wagers selecting the winners of the designated races with no more than three all win races shall be carried over and added to and distributed with the 75-percent net pool share of the next pick-six pool in which a wager correctly selects the winners of all six designated pick-six races, or five winners and no more than one all-win race.

(3) Added payments to winners. In addition to the 75-percent-net-pool share and any carry-overs distributable when a wager correctly selects winners of all six designated races, or five winners and no more than one all-win race of a pick-six pool, there shall be distributed by the track operator from its own funds, upon such occurrence, any amounts it has advertised that it will add to the total distribution, or any amounts necessary to yield an advertised guaranteed total distribution.

(h) *Race cancellations*. Except for pick-six pools in which an intermediate or final distribution is to be made, should one or more pick-six races be cancelled or declared no race or non-betting, no carry-overs from prior pick-six pools, advertised guaranteed amounts nor advertised added amounts will be distributed to winners in such day's pick-six pool; and

(1) if more than three such races are contested, 75 percent of that program's net pool shall be distributed, less breaks, to holders of wagers upon the winners of all the contested pick-six races and 25 percent of such program's net pool shall be distributed to the holders of wagers selecting the next most winners; should no wager select the winners of all the contested pick-six races, 25 percent of the net pool shall be distributed, less breaks, to the holders of wagers selecting the most winners of the contested pick-six races, and 75 percent of such program’s net pool shall be carried over as elsewhere provided in this section;

(2) if three or fewer such races are contested, then entire pool for such program shall be refunded; and

(3) if any of the designated races are canceled or declared no race or non-betting before the first pick-six race is made official, then the pick-six pool shall be declared off and the gross pool refunded.

(i) *Surface transfers*. When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-six races, and such change has not been known to the public before the close of wagering for the pick-six pool, then such changed race shall be deemed an all win race for pick-six wagering purposes. An *all win race* means the winning horse of that race is assigned to each pick-six bettor as such bettor’s selection for that race. Except for pick-six pools in which an intermediate or final distribution is to be made, a pick-six sequence with surface transfer(s) shall be handled as follows:

(1) If there is one surface transfer race in the pick-six sequence of designated races combined with the winners of the five other designated races, 75 percent of such program's net pool, less breaks, and any carryovers, advertised guaranteed amounts or advertised added amounts, shall be distributed to the holders of such wagers, and 25 percent of such program's net pool shall be distributed, less breaks, to the holders of wagers selecting the next most winners; should no wager include the winners of all five non-surface transfer races in the pick–six sequence, 25 percent of such net pool shall be distributed, less breaks, to the holders of wagers selecting the most winners of the non-surface transfer races in the pick-six sequence, and 75 percent of such program's net pool shall be carried over as elsewhere provided in this section for subsequent distribution.

(2) If there are two or three surface transfer races in the pick-six sequence, no carryovers from prior pick-six pools, advertised guaranteed amount or advertised added amounts will be distributed to winners in such day's pick-six pool, and 75 percent of such program's net pool shall be distributed, less breaks, to holders of wagers selecting the winners of all non-surface transfer races in the pick-six sequence, and 25 percent of such program's net pool shall be distributed, less breaks, to holders of wagers selecting the next most winners; should no wager include the winners of all the non-surface-transfer races in the pick-six sequence, 25 percent of such net pool shall be distributed, less breaks, to the holders of wagers selecting the most winners of the non-surface-transfer races in the pick-six sequence, and 75 percent of such program's net pool shall be carried over as elsewhere provided in this section for subsequent distribution.

(3) If there are more than three surface transfer races in the pick-six sequence, no carry-overs from prior pick-six pools, advertised guaranteed amounts or advertised added amounts will be distributed to winners in such day's pick-six pool, and 25-percent of that program's net pool shall be distributed, less breaks, to holders of wagers selecting the winners of the most non-surface-transfer races in the pick-six sequence, and 75 percent of such program's net pool shall be carried over as elsewhere provided in this section for subsequent distribution.

(4) If there are one or more surface transfer races in the pick-six sequence, and there are no wagers selecting the winner(s) of at least one of the non-surface transfer races, the entire pool for such program shall be refunded; in the event there is a final distribution or intermediate distribution scheduled, and no further programs are conducted at the meeting, the commission shall require that a pick-six pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission may also order a final distribution for an earlier time in the commission's discretion.

(j) *Dead heats*. Each horse in a dead heat for win shall be considered the winner, and no allocations among wagers shall be made as a result thereof, unlike the practice in a pari-

mutuel win pool. The payoff price per dollar shall be the same for each class of winning wager.

(k*) Carryovers*. Carryovers from prior pick-six pools, advertised guaranteed amounts or advertised added amounts will be distributed to winners in such day's pick-six pools, provided that there is no more than one all win race and no other races are cancelled in the pick-six sequence.

(l) *Intermediate distributions*. Prior to the last two weeks of a race meeting at a track, a date and program approved by the commission may be announced by the track operator at which (provided no one thereafter correctly selects the winners of all six designated races, or five winners and no more than one all-win race of a pick-six pool through such program) accumulated carry-overs in an amount announced by the track operator will be added to the 25 percent of the net pool distributable to wagers selecting the winners of the most races of the pick-six pool conducted on such program if no one correctly selects all six winners, or five winners and no more than one all-win. The balance of undistributed carry-overs above such announced amount, plus any carry-over from such program, shall in turn carry over for distribution with subsequent pick-six pools conducted by such track operator at such track. An intermediate distribution may also be directed at any time, upon three days' notice by the commission, of such portion or all of the accumulated carry-over money as may be directed by the commission.

(m) *Final distribution*. The track shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carry-overs together with 75 percent of the net pool of the pick six-pool conducted during such program to the holders of wagers selecting the winners of the most pick-six races contested during such program and 25 percent of such net pool shall be distributed to the holders of the remaining wagers selecting the next most winners, except that, if only one, two or three such races are conducted, then all accumulated carry-overs and the entire net pool shall be distributed to the holders of wagers selecting the most winners of such races. Thereafter, no pick-six pools will be conducted during such week. In the event that all pick-six races on the program designated for final distribution are cancelled, or the pick-six pool is refunded, and no further programs are conducted at the meeting, the commission shall require that a pick-six pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission may also order a final distribution for an earlier time in the commission's discretion.

(n) The association or corporation may suspend previously approved pick-six wagering with the prior approval of the commission. Any carryover shall be held until the-suspended pick-six wagering is reinstated. An association or corporation may request approval of a pick-six wager or separate wagering pool for specific performances.

(o) [Reserved]

(p) In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track and the basis upon which payments have been made shall be deemed conclusively correct and not subject to review.

(q) *Posting of winning combinations*. Every pick-six wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) *Non-transferability*. Pick-six tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s) *Betting information*. A racing association may display publicly information in regard to combinations wagered upon, amounts wagered on such combinations, numbers of tickets sold or number of tickets still capable of winning a pick-six pool. The operation of the totalisator equipment and reports generated thereby shall be subject to the strict supervision of the commission.

(t) *No reduction in guaranteed distributions*. Advertised added monies or minimum distributions shall not apply to intermediate or final distributions, unless a wager correctly selects winners of all six designated races, or five winners and no more than one all-win of the pick-six pool. A guaranteed minimum distribution or guaranteed added money amount, once advertised, may not be reduced and shall continue to be guaranteed by the track operator for every pick-six pool for the balance of the meeting.

(u) *Interfacing of off-track wagers*. Interfacing of off-track wagers shall be accomplished according to procedures approved by the commission. In the event there is a failure to interface all such wagers with on-track wagers in accordance with such procedures, the procedure for distribution of the pool and computation of payoff prices shall be approved by the commission.

(v) *Trust funds*. Carry-over monies shall be held in a separate account in trust by track operators for the benefit of participants in pick-six pools until distributed.

(w) *Seed money or insurance allocation*. Except where the established takeout is higher than the prevailing takeout established for non-carryover days, a percentage designated by the track operator and approved by the commission, not exceeding two percent of the total daily pick-six pool wagering, shall be held apart by the track operator from the takeout of each pick-six pool to reimburse such track operator for the cost of any insurance it may secure to guarantee minimum distributions to winners of such pools, or to reimburse a track operator for funds such track operator expends for added money or guaranteed minimum distributions to winners of such pools. Any accumulation of such allocations not necessary to reimburse a track for expenditures actually incurred for such purposes shall

be added to the amounts distributable in the pool designated for final distribution for the meeting.

(x) Copies of this section shall be made available free of charge by the track to the public in the public betting area of the track.

§ 4011.27. Pick-six jackpot pools.

(a) A winning pick-six jackpot wager requires selection of the first-place finisher in each of six designated, consecutive contests, unless otherwise provided in this section. The association or corporation must obtain written approval from the commission concerning the scheduling of pick-six jackpot contests, the designation of the method used, the bet minimum, the takeout rate, the definition that will be relied upon for determining the existence of a unique winning ticket, the major-minor pool split and the amount of any cap to be set on the carryover. Any changes to the approved pick-six jackpot format require prior approval from the commission.

(b) The pick-six jackpot wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-six jackpot pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta, pick-six or other wagering pool.

(c) Resale of pick-six jackpot tickets from one individual to another is prohibited, shall be grounds for ejection, and may be deemed illegal gambling.

(d) Races in which pick-six jackpot pools shall be conducted shall be clearly designated in the program and racing cards issued by the association or corporation.

(e) The design of the pick-six jackpot tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters.* Should a programmed starter be scratched or declared a nonstarter in any pick-six jackpot race before the start of the first pick-six jackpot race, affected bettors may select another betting interest, if a wager can be canceled and a replacement wager issued before the start of the first pick-six jackpot race, or may obtain a cancellation of the wager issued before the start of the first race of the pick-six jackpot sequence. If neither option is exercised, then wagers upon such scratched or declared nonstarter shall be deemed wagers upon the designated horse for such race. The *designated horse* means the betting entry or field upon which the most wagering money has been registered at the track in the win pool at the close of win-pool betting for such race. (In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated.) At any time after wagering begins on the pick-six jackpot pool, should an entire betting entry or field be scratched or declared a nonstarter in any pick-six jackpot race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the pick-six jackpot pool, shall be deemed wagers upon the designated horse. Wagers in the pick-

six jackpot pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field, except at tracks with totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horses therein (merging such wagers for odds display and payoff purposes), in which case, the wagers upon scratched constituent horses will be deemed wagers upon the designated horse in such race. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the designated horse in the race affected by the scratch. Should the balance of a betting entry or field race as a non-betting starter for purposes of other pari-mutuel pools, as provided in sections 4009.20 and 4009.21 of this Article, wagers upon such entry or field shall be deemed wagers upon the designated horse for such race. Should a programmed starter be scratched or declared a nonstarter prior to the start of the first leg, the betting operator shall be authorized to refund any tickets designating betting entries affected thereby prior to such first leg.

(g) *Wagering tickets and winners.* Except as otherwise provided in subdivision (h) or subdivision (i) of this section:

(1) The pick-six jackpot pool shall be apportioned as follows: The net pick-six jackpot pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the six designated races.

(2) If there is no unique ticket selecting the first-place finisher in all six designated races, the major share of the net pick-six jackpot pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick-six jackpot races, and the minor share shall be added to the carryover.

(3) Should there be no wager selecting the winner of at least one of the pick-six jackpot races, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(4) In obtaining authorization for operating the pick-six jackpot, the association or corporation must clearly identify which of the following two definitions shall apply for determining the existence of a unique winning ticket:

(i) There is one and only one winning ticket that correctly selected the first-place finisher in each of the pick-six jackpot races, to be verified by the unique serial number assigned by the totalisator company that issues the winning ticket; or

(ii) The total amount wagered on one and only one winning combination selecting the first-place finisher in each of the pick-six jackpot races, is equal to the minimum allowable wager.

(h) *Race cancellations.* This subdivision applies except for pick-six jackpot pools in which an intermediate or final distribution is to be made. The net pool shall be distributed as a

single price pool to those whose selection finished first in the greatest number of pick-six jackpot races, if one or two pick-six jackpot races are cancelled or declared no race, non-betting or no contest after the first pick-six jackpot race has been made official. The pick-six jackpot pool shall be declared off and the gross pool refunded:

(1) if any designated race is canceled or declared no race or non-betting before the first pick-six jackpot race is made official; or

(2) if three or more pick-six jackpot races are cancelled or declared no race, non-betting or no contest.

(i) *Surface transfers.* When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-six jackpot races, and such change has not been known to the public before the close of wagering for the pick-six jackpot pool, then such changed race shall be deemed a *no contest race* for pick-six jackpot wagering purposes. A *no contest race* means a race is not to be considered as a contested race for pick-six jackpot wagering purposes.

(j) *Dead heats.* Each horse in a dead heat for win shall be considered the winner, and no allocations among wagers shall be made as a result thereof, unlike the practice in a pari-mutuel win pool. The payoff price per dollar shall be the same for each class of winning wager.

(k) *Carryovers.* Carryovers from prior pick-six jackpot pools, advertised guaranteed amounts or advertised added amounts will be distributed to winners in such day's pick-six jackpot pools, provided that there are no cancelled or no-contest races in the pick-six jackpot sequence and no intermediate or final distribution is to be made.

(l) *Intermediate distributions.* Prior to the last two weeks of a race meeting at a track, a date and program approved by the commission may be announced by the track operator at which (provided no one thereafter has the only wager that correctly selects the winners of all six designated races) accumulated carryovers will be added to the net pool distributable to wagers selecting the winners of the most races of the pick six jackpot pool conducted on such program. Distributing the pick-six jackpot carryover requires a written request for permission submitted for Commission approval. The request must contain justification for the distribution, an explanation of the benefit to be derived and intended date of the distribution. If all pick-six jackpot races on the program designated for intermediate distribution are canceled, or the pick-six jackpot pool is refunded, a pick-six jackpot pool shall be conducted on the next available race date with entries not yet carded. If no further programs are conducted at the race meeting, a pick-six jackpot pool shall be conducted on the first program of the next meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. An intermediate distribution also may be directed at any time at the commission's discretion, upon three days' notice by the commission, so long as entries have not yet been carded.

(m) *Final distribution*. The track shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carryovers. The unique-wager provision of this section (set forth in paragraph (1) of subdivision (g) of this section) shall be suspended, and the entire pool shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick-six jackpot races. Thereafter, no pick-six jackpot pools are permitted to be conducted during such week. In the event that all pick-six jackpot races on the program designated for final distribution are cancelled, or the pick-six jackpot pool is refunded, and no further programs are conducted at the meeting, the commission shall require that a pick-six jackpot pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission also may order a final distribution for an earlier time in the commission's discretion.

(n) The association or corporation may suspend previously approved pick-six jackpot wagering with the prior approval of the commission. Any carryover shall be held until the-suspended pick-six jackpot wagering is reinstated. An association or corporation may request approval of a pick-six jackpot wager or separate wagering pool for specific performances.

(o) [*Reserved*].

(p) In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track and the basis upon which payments have been made shall be deemed conclusively correct and not subject to review.

(q) *Posting of winning combinations.* Every pick-six jackpot wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) *Non-transferability*. Pick-six jackpot tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s) *Betting information*. Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-six jackpot pool shall not be disclosed by the totalisator operator, or otherwise, until the final pick-six jackpot race remains as the only race to be contested for completion of the pick-six jackpot wager. The operation of the totalisator equipment and reports generated thereby,

as well as the communication of any information concerning such pool, shall be subject to the strict supervision of the commission.

(t) *No reduction in guaranteed distributions*. Advertised added monies or minimum distributions shall not apply to intermediate or final distributions, unless a wager correctly selects winners of all six designated races, or five winners and no more than one all-win of the pick-six pool. A guaranteed minimum distribution or guaranteed added money amount, once advertised, may not be reduced and shall continue to be guaranteed by the track operator for every pick-six pool for the balance of the meeting.

(u) *Interfacing of off-track wagers*. Interfacing of off-track wagers shall be accomplished according to procedures approved by the commission. In the event there is a failure to interface all such wagers with on-track wagers in accordance with such procedures, the procedure for distribution of the pool and computation of payoff prices shall be approved by the commission.

(v) *Trust funds*. Carry-over monies shall be held in a separate account in trust by track operators for the benefit of participants in pick-six pools until distributed.

(w) *Seed money or insurance allocation*. A percentage designated by the track operator and approved by the commission, not exceeding two percent of the total daily pick-six jackpot pool wagering, shall be held apart by the track operator from the takeout of each pick-six jackpot pool to reimburse such track operator for the cost of any insurance it may secure to guarantee minimum distributions to winners of such pools, or to reimburse a track operator for funds such track operator expends for added money or guaranteed minimum distributions to winners of such pools. Any accumulation of such allocations not necessary to reimburse a track for expenditures actually incurred for such purposes shall be added to the amounts distributable in the pool designated for final distribution for the meeting.

(x) Copies of this section shall be made available free of charge by the track to the public in the public betting area of the track.

§ 4011.28. Grand Slam.

(a) *Commission approval*. The racing association or corporation must obtain written approval from the commission for the initial scheduling or specific performances of Grand Slam races or any other name used to characterize this bet type, and identify the pari-mutuel pool and any required distribution percentages. Changes to the approved Grand Slam format, or suspension of previously approved Grand Slam wagering, require prior approval from the commission.

(b) *Grand Slam Pools*.

(1) The Grand Slam requires selection of the official first-, second- or third-place finisher in each of the first three races in a series of four designated Grand Slam races.

A completed winning Grand Slam wager requires the selection of the official first place finisher in the fourth and final event in this same series of races. The Grand Slam wager is classified as an exotic bet and is subject to the prevailing exotic takeout rate set forth in sections 236 and 238 of the Racing Pari-Mutuel Wagering and Breeding Law.

(2) The Grand Slam pool shall be apportioned under the following method:

Grand Slam Wager with No Carryover:

(i) The net Grand Slam pool shall be distributed from a single betting pool to participants who selected the first, second or third-place finisher in the first three races of a series of four Grand Slam races completing a winning wager with the selection of the first place finisher in the fourth and final Grand Slam event in this same series, based upon the official order of finish.

(ii) If there are no winning wagers taking into account all four segments of the Grand Slam wager, the pool shall be distributed as a single price pool to those who selected the first place finisher in the fourth and final Grand Slam event in this series of races along with the greatest number of first, second or third-place finishes each of which had an accompanying show pari-mutuel payout, in accordance with section 4009.22, in each of the first three races in the series of four designated Grand Slam races. All results are based upon the official order of finish for each race.

(3) If there is a dead heat for first in any of the Grand Slam segments involving:

(i) official program numbered horses representing the same betting interest, the Grand Slam pool shall be distributed as if no dead heat occurred;

(ii) official program numbered horses representing two or more betting interests, the Grand Slam pool shall be distributed from a single betting pool with a winning wager including each betting interest participating in the dead heat provided each entrant has a pari-mutuel show payout within its race.

(4) If there is a dead heat for second and/or third in any of the first three races in a series of four designated Grand Slam contests involving:

(i) horses representing the same betting interest, the Grand Slam pool shall be distributed as if no dead heat occurred;

(ii) horses representing two or more betting interests, the Grand Slam pool shall be distributed from a single betting pool with a winning wager including the betting interest that finished first or any betting interest involved in the dead heat for second or third providing the horse has a show pari-mutuel payout.

(5) Should a betting interest in any of the Grand Slam contests be scratched:

(i) the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the greatest amount of money in the place pool. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination;

(ii) should a scratch or scratches occur in any of the first three races in a series of four designated Grand Slam contests and subsequently show wagering is cancelled due to an insufficient number of remaining betting interests, this race for winning Grand Slam wagering purposes would include the win and place horse only.

(6) The Grand Slam pool shall be canceled and all Grand Slam wagers for the individual performance shall be refunded if at least two contests included as part of a Grand Slam wager are canceled or declared “no contest.”

(7) If at least one race included as part of a Grand Slam wager is canceled or declared “no contest,” but not more than the number specified in subsection 6 of this rule, the net pool shall be distributed from a single betting pool to those bettors whose selections finished first, second or third in the greatest number of Grand Slam contests in the first three races in a series of four designated Grand Slam contests. In determining a pari-mutuel distribution under this section, a finish of first in the final and fourth designated Grand Slam contest race for the performance in question shall have the same weight as a finish of first, second or third in the greatest number of Grand Slam contests in the first three races in a series of four designated Grand Slam contests.

(8) When the condition of the turf course warrants a change of racing surface in any of the legs of the Grand Slam races, and such change has not been made known to the betting public prior to the close of wagering for the Grand Slam pool, the stewards shall declare the changed leg(s) a “no contest” for Grand Slam wagering purposes and the pool shall be distributed in accord with paragraph (7) of this rule.

(9) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining prior to the third segment of the wager being made official is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

§ 4011.29. Additional authorized wagers.

In addition to the types of wagers authorized by this Part, an association or corporation may, with the prior permission of the commission, offer any type of pari-mutuel wagering as defined by chapter 9, Pari-Mutuel Wagering, Uniform Rules of Racing, as adopted and published in December 1996 by the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at One Broadway Center, Suite 600, Schenectady, NY 12305 and at the Department of State, 99 Washington Street, Albany, NY.

PART 4012

Possession of Drugs and Drug Testing

Section
4012.1 Possession of hypodermic equipment and controlled substances
4012.2 Drug detection facilities
4012.3 Drug detection programs
4012.4 Records of veterinarian
4012.5 Out-of-competition testing
4012.6–4012.12 [Repealed]

§ 4012.1. Possession of hypodermic equipment and controlled substances.

(a) No person other than a commission veterinarian, track veterinarian or a practicing veterinarian licensed by the commission shall have or possess in or upon the premises of a licensed or franchised race track, including premises that the person occupies or has a right to occupy, or shall have or possess in his or her personal property or effects upon such premises the following:

(1) any equipment that may be used for hypodermic injection or other infusion into a horse or any vial, bottle or cartridge designed and usable for such purposes; or

(2) any controlled substance, listed in schedule I through IV of United States Code, title 21 (Food and Drugs), section 812, or any drug that has not been approved for use in the horse by the Federal Food and Drug Administration. Not included in this prohibition are liniments, antiseptics, ointments, leg paints, washes and other products commonly used in the daily care of horses.

(b) Subdivision (a) of this section shall not apply to any person who may have in his or her possession a controlled substance or hypodermic syringe for which he or she has obtained prior written permission from the stewards to possess and use for his or her own personal health pursuant to prescription of a physician.

(c) All bottles and other containers kept in or about any tack room or elsewhere on the premises of a racing association shall bear a label stating plainly the contents thereof,

including the name of each active ingredient; provided, however, that this section shall not apply if each container bears either a veterinarian's label or a regular prescription label with a pharmacist's name and address, prescription number and the name of the prescribing veterinarian.

(d) Each track is required to use all reasonable efforts to prevent and detect violations of this section. Each track, the commission and the stewards or their designees shall have the right to enter into or upon the buildings, stables, rooms, motor vehicles or other places within the grounds of such track to examine the same and to inspect and examine the personal property and effects of any person within such places; and every person who has been granted a license by the commission, by accepting such license, does consent to such search, including a personal search, and to the seizure of any drugs or hypodermic syringes, hypodermic needles or other devices; and if the commission shall find that any person has refused to permit any such search or seizure, it may impose such punishment as may be appropriate.

(e) A report shall be made to the Bureau of Narcotics of the Department of the Treasury of the United States of all cases in which it is reported to the commission that narcotics or other controlled substances have been detected in a specimen from any horse; and if any veterinarian or physician has been involved therein, a similar report shall be made to the New York State Education Department.

§ 4012.2. Drug detection facilities.

(a) Each track operator shall provide such facilities, appurtenances and equipment for drug detection programs, or other related activities as the commission may specify.

(b) No person shall enter or be present at any time in any enclosure set aside by direction of the commission for the taking and examination of samples from horses except the staff immediately in charge of such work, the commission, the commission’s chair and members, the commission’s staff, the State steward, the custodians of the horse, or such other persons as may be authorized by this Part.

§ 4012.3. Drug detection programs.

Programs for the detection of the presence of drugs in horses programmed to race shall be conducted at each track unless otherwise ordered by the commission.

(a) *Pre-race testing*.

(1) Blood or other samples shall be taken from every horse programmed to race, prior to the race in which it is programmed, at a time and in a location specified by the commission or the commission’s representative.

(2) The trainer or the trainer’s representative shall accompany the horse at the prescribed time and to the prescribed location, and shall manage the horse as

directed. Willful failure to be present at, or a refusal to allow, the taking of any such sample, or any act or threat to impede or prevent or otherwise interfere therewith shall constitute a violation of this Part and shall subject the person or persons guilty thereof to punishment as may be appropriate.

(3) Blood samples will be taken by the State veterinarian or, under the state veterinarian's supervision, by a graduate veterinarian.

(4) A horse shall not race if it has not been tested in accordance with the provisions of this section.

(5) Whenever a laboratory test indicates the presence of a drug, restricted substance, or a foreign substance the identity of which cannot be established in a sample taken from a horse, the stewards shall scratch the horse and take such further action as they deem necessary.

(6) Unless specifically permitted in writing by the state steward, a horse, once the pre-race test sample is taken, shall not be transported from the grounds except to be transported to the racecourse where it is scheduled to race if such racecourse is not part of the grounds where the test sample is taken.

(b) *Post-race testing*.

(1) The winner and at least one other horse designated by the stewards shall be sent to the testing facility immediately after each race.

(2) Blood, urine, and such other samples as may be required shall be attempted to be taken from the designated horse at a time and in an enclosure specified by the commission or the commission's representative, until such horse is released by the State veterinarian.

(3) The trainer or the trainer's representative shall accompany the horse at the prescribed time and to the prescribed location, and shall manage the horse as directed. Willful failure to be present at, or a refusal to cooperate in the taking of any such sample, or any act or threat to impede or prevent or otherwise interfere therewith shall subject the guilty person or persons to such punishment as may be appropriate.

(4) Blood samples will be taken by the State veterinarian or, under State veterinarian's supervision, by a graduate veterinarian. Urine samples shall be gathered by a commission inspector.

(5) Where deemed necessary to obtaining a urine sample by the State veterinarian, a horse may be permitted to return to the horse's stable prior to release if accompanied by a commission inspector.

(c) (1) The stewards may require at any time that any horse be sent to the testing enclosure for the taking of such specimens of blood, urine or other materials as shall

be directed, as well as for an examination for “sponging” and such other examination as shall be directed.

(2) The State veterinarian may also, when so directed by the stewards, require the taking of any or all of the foregoing specimens from any horse stabled at a track during a meeting.

(d) The stewards, State veterinarian or their designees may take, for analysis, samples of any medicine or other materials that may be found in stables or elsewhere on race tracks or in the possession of any person connected with racing.

(e) *Requalification of a horse*. A horse that has tested positive for the presence of a drug, whether pre-race or post-race, shall qualify in a workout satisfactory to the stewards, and thereafter test negative for drugs before that horse starts and runs in any subsequent race.

§ 4012.4. Records of veterinarian.

(a) Every licensed practicing veterinarian shall keep a written record of his or her practice concerning horses participating at pari-mutuel thoroughbred race meets in this State, whether performed at a licensed or franchised track or elsewhere, which shall disclose:

(1) the name of the horse treated;

(2) the nature of the horse's ailment;

(3) the type of treatment prescribed and performed for the horse; and

(4) the date and time of such treatment.

(b) Every such veterinarian shall produce such written records when requested by an official of the commission. In addition, the veterinarian shall instruct the trainer of the necessity to submit the report required by subdivision (b) of section 4043.4 of this Subchapter relating to corticosteroid joint injections.

(c) Before a licensed veterinarian administers or prescribes any drug or restricted substance for a horse, such veterinarian shall ascertain by reasonable inquiry whether the horse has been entered to race at any track, and if the horse has been entered such veterinarian shall not administer or prescribe any drug or restricted substance within the time or manner restricted by these rules. If the horse has not been entered to race, but the administration is of a drug that is not permitted to be administered within 72 hours of a racing program, or longer, the veterinarian shall so inform the trainer of that fact and of the time applicable. If, however, an emergency exists involving the life or health of the horse, the veterinarian may proceed to treat or prescribe for the horse but shall report the matter as promptly as practicable to the State veterinarian or stewards at the pertinent track.

(d) The attending veterinarian shall complete and submit daily a form prescribed by the commission that contains the name of each horse entered to race on that day and treated by the attending veterinarian with furosemide. The form shall also contain the following information:

(1) name of the track;

(2) name of the trainer;

(3) description of the horse;

(4) tattoo number; and

(5) the dose, route and time of administration.

The form must be signed by the attending veterinarian and filed at a location designated by the commission.

§ 4012.5. Out-of-competition testing.

(a) *Sampling horses*.

(1) The commission may at a reasonable time on any date take a blood, urine, or other biologic sample, from a horse that is on a nomination list or under the care or control of a trainer or owner who is licensed by the commission, for the purpose of testing for the impermissible presence or administration of substances prohibited by section 4043.12 of this Article. The commission shall perform no other forensic tests on a sample.

(2) Samples shall be taken under the supervision and direction of a person who is employed or designated by the commission and is qualified to safeguard the health and safety of the horse. Blood samples may be taken only by a licensed veterinarian.

(3) Horses to be tested may be selected at random, for cause, or as determined by a commission executive official or steward.

(4) A selected horse that is not made available for sampling is ineligible to race for 180 days, unless the commission determines that circumstances unavoidably prevented the owner and trainer from making the horse available for sampling.

(5) If a selected horse is not involved in activities related to racing in New York, then the trainer or owner may represent this to the commission and the commission will not sample the horse. If the trainer makes this representation, then the commission will notify the managing owner who may make the horse available for sampling in order to preserve such horse's eligibility.

(b) *Cooperation with taking samples*.

(1) The owner, trainer, and/or their designees shall cooperate with the person who takes samples by immediately assisting in the location and identification of the horse, making such horse available at a stall or other safe location to collect the samples, and witnessing the taking of such horse's samples. The person who takes samples shall provide identification and disclose the purpose of the sampling. The person who collects samples on track may require that it be done at the test barn.

(i) Before arriving to sample an off-track horse the commission shall notify the owner or trainer, who may instead make the horse available within 24 hours at a licensed racetrack designated by the commission.

(ii) The commission may arrange for the sampling of a horse that is in another jurisdiction by such horse's racing commission or other designated person, provided that they follow the relevant provisions of this rule and the test results shall also be provided to the other jurisdiction for its regulatory use. The commission shall provide the owner or trainer with this as a reasonable alternative location to make the horse available within 24 hours.

(iii) An owner or trainer does not consent to a search of the premises by making a horse available for sampling at an off-track location.

(2) A licensed racetrack at which a horse may be located shall cooperate fully with a person who is authorized to take samples.

(3) No person shall knowingly interfere with or obstruct a sampling.

(c) A buyer who was not aware of the ineligibility of a horse under this rule may void the purchase, provided that such voiding of the purchase is done within 10 days after receiving notice of the horse's ineligibility.

§§ 4012.6–4012.12. [Repealed]

PART 4013

[Repealed]

PART 4014

Breeders' Awards

Section
4014.1 Breeders' awards

§ 4014.1. Breeders' awards.

Awards granted to breeders of State-bred horses.

(a) To encourage the breeding of thoroughbred horses in the State, licensed racing associations may grant breeders' awards, in such amount at they shall fix from time to time, to breeders of State-bred horses that win races (except stakes races) at tracks in the State of New York.

(b) To be eligible therefor, such State-bred horses must be registered with the New York State-Bred Registry administered by New York's breeding associations with the approval of the commission.

(c) To qualify for such registration, said horses must have been foaled in the State of New York and, in addition, unless the breeder is a resident of the State, said horses shall be either the produce of mares covered in New York State the previous season, or of mares sent into the State to foal and covered by New York stallions the season of the birth of said foals.

(d) The New York State-Bred Registry shall consist of the president of the Genesee Valley Breeders' Association (or an association member designated by him), the president of the Eastern New York Thoroughbred Breeders' Association (or an association member designated by him or her) and the director of the Thoroughbred Breeders' Service Bureau of the commission.

(e) The New York State-Bred Registry shall prepare rules and forms for registration of such State-bred horses, for the fees to be paid therefor and for the disposition thereof, such rules and forms to be subject to the approval of the commission.

PART 4020

General Provisions for Race Meetings

Section
4020.1 Interpretation
4020.2 Recognized meeting
4020.3 Definitions
4020.4 Calculation of time

§ 4020.1. Interpretation.

This Article is to be interpreted and enforced in a manner consistent with the laws of the State of New York in effect from time to time.

§ 4020.2. Recognized meetings.

A recognized meeting in the State of New York is a meeting held with the sanction of the commission upon a race course in the State of New York operated by a duly licensed association, for the time and at the place where such meeting is licensed to be held.

§ 4020.3. Definitions.

(a) The *age* of a horse is reckoned as beginning on the first of January in the year in which the horse is foaled.

(b) *Association veterinarian* means a veterinarian licensed by the commission and employed by a racing association or corporation.

(c) *Attending veterinarian* means a veterinarian licensed by the commission and hired by the owner or trainer.

(d) (1) *Authorized agent* means a person appointed by a document signed by the owner and lodged annually at the office of The Jockey Club, or if for a single meeting only, with the clerk of the course for transmission to The Jockey Club.

(2) An authorized agent may appoint a subagent only when authorized so to do by the document lodged as above.

(e) A horse is *bred* at the place of its birth.

(f) *Breeder* of a horse means the owner of its dam at the time of foaling.

(g) *Breeze* means exercising a horse in a vigorous manner.

(h) (1) *Claiming race* means a race in which every horse running in such race may be claimed in conformity to this Subchapter.

(2) *Optional claiming race* means a race restricted to horses entered to be claimed for a stated claiming price and to those that have started previously for that claiming price or less. In the case of horses entered to be claimed in such a race, the race will be considered, for the purposes of this Subchapter, a claiming race.

(i) (1) *Handicap* means a race in which the weights to be carried by the horses are adjusted by the handicapper for the purpose of equalizing their chances of winning.

(2) *Free handicap* means a handicap in which no liability is incurred for entrance money, stake or forfeit until acceptance of the weight, either directly or through omission to declare out.

(3) *Highweight handicap* means a handicap in which the top weight is not less than 140 pounds.

(j) A *horse* includes mare, gelding, colt and filly.

(k) *Maiden* means a horse that, at time of starting, has never won a race on the flat in any country.

(l) *Match* means a race between two horses, the property of two different owners, on terms agreed upon by them and to which no money or other prize is added. A match race is void if either owner dies.

(m) *Nominator* means the person in whose name a horse is entered for a race.

(n) *Overnight race* means a race for which the entries close 72 hours (exclusive of Sundays) or less before the time set for the first race of the day on which such race is to be run.

(o) *Post race* means a race in which the subscribers declare, at the usual time before a race for declaring to start, the horse or horses they are to run, without limitations of choice other than that prescribed by this Subchapter or the conditions of the race.

(p) *Produce race* means a race to be run by the produce of horses named or described at the time of entry.

(q) *Purse* means a race for money or other prize to which the owners of the horses engaged do not contribute.

(r) A *race* includes a stake, a purse, a sweepstakes, a private sweepstakes, a match or an overnight event, but does not include a steeplechase or hurdle race.

(s) (1) *Sweepstakes* means a race in which the entrance fee, subscription and other contribution of three or more owners is distributed according to the conditions of the race. Any such race is still a sweepstakes when money or other prize is added, but no overnight race, whatever the conditions of such race, shall be considered to be a sweepstakes.

(2) *Private sweepstakes* means a sweepstakes to which no money or other prize is added and that, prior to closing, has not been advertised, either by publication or circular or entry blank, or in any other way.

(t) *Untried horse* means a horse whose produce are maidens.

(u) *Walkover* means a race without at least two horses owned by entirely different interests.

(v) *Weight for age* means standard weight according to this Article. A weight for age race is one in which all horses carry weight according to the scale without penalties or allowances.

§ 4020.4. Calculation of time.

(a) When the last day for doing anything under this Article falls on a Sunday, it may be done on the following Monday, unless a race to which such act relates is appointed for that day, in which case it must be done on the previous Saturday.

(b) A *month* means a calendar month; a *day* means 24 hours.

PART 4021

Regulations for Race Meeting

Section
4021.1 Scope
4021.2 Overnight events limited
4021.3 Distance limited
4021.4 Number of starters
4021.5 Change of course
4021.6 Unrecognized meeting

§ 4021.1. Scope.

Subchapter A of this Subtitle, including this Article, supersedes the conditions of a race or the regulations of a meeting or of an association when they conflict.

§ 4021.2. Overnight events limited.

After May 31 in each year, only four overnight events for a distance less than a mile for horses three years old and upwards shall be given on any race day, except upon approval by the stewards.

§ 4021.3. Distance limited.

After June 30 in each year, there shall be no race shorter than five furlongs.

§ 4021.4. Number of starters.

The number of starters in overnight races shall be limited by the width of the track at the starting post, the maximum number to be determined by the stewards. The number of starters in such overnight races, except handicaps, shall be reduced by lot to the proper number, at the option of the association,

(a) by reducing the number of horses that may race, or

(b) by division of the race.

The division of overnight handicaps shall be made by the racing secretary in the racing secretary's sole discretion.

§ 4021.5. Change of course.

By permission of the stewards, races may be run over a race course other than the one over which they have been announced to be run.

§ 4021.6. Unrecognized meeting.

(a) If a horse runs at any unrecognized meeting, such horse is disqualified for all races to which this Article applies.

(b) Any person owning, training or riding horses that run at any unrecognized meeting is disqualified, as are also all horses owned by or in charge of any such person.

(c) Any person acting in any official capacity at any unrecognized meeting may be disqualified.

PART 4022

The Stewards

Section
4022.1 Stewards of The Jockey Club
4022.2 Definition
4022.3 Stewards at race meeting
4022.4 Representative of The Jockey Club
4022.5 Commissioner to act as steward
4022.6 Emergency substitute
4022.7 Complaints against officials
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4022.9 Access to all facilities
4022.10 Supervision of entries, declarations
4022.11 Control of official, others
4022.12 Power to exclude, suspend
4022.13 Imposition of civil penalty
4022.14 Appeal from penalty
4022.15 Action by the commission
4022.16 Determination of all questions
4022.17 Disqualification of horses
4022.18 Examination of horses
4022.19 Use of motion pictures
4022.20 Disputes relating to bets
4022.21 Discretionary powers
4022.22 Limitation on punitive powers
4022.23 When hearing held

§ 4022.1. Stewards of The Jockey Club.

The stewards of The Jockey Club have charge of the registry office and the registration or custody, as the case may be, of stable names, colors, designations of authorized agents and subagents, partnerships, leases, contingencies, jockey contracts and apprentice agreements.

§ 4022.2. Definition.

Whenever the word *steward* or *stewards* is used, it means steward or stewards of the meeting, or their duly appointed deputy or deputies.

§ 4022.3. Stewards at race meeting.

There shall be three stewards to supervise each race meeting. One of such stewards shall be the official steward of the commission, one shall be appointed by The Jockey Club or by the National Steeplechase and Hunt Association, as may be appropriate, and one shall be appointed by the corporation or association conducting such race meeting. Such stewards shall exercise such powers and perform such duties at each race meeting as may be prescribed by this Article.

§ 4022.4. Representative of The Jockey Club.

The Jockey Club may designate one of its members to visit each race meeting in an honorary capacity in association with the stewards.

§ 4022.5. Commissioner to act as steward.

During the absence or inability to act of an official steward of the commission or in the event of the failure or inability to appoint either of the other two stewards, the powers and duties of such steward shall be exercised and performed without compensation by a member of the commission designated by the commission for that purpose.

§ 4022.6. Emergency substitute.

In case of emergency, the stewards may, during a meeting, appoint a substitute to fill any of the offices during that meeting only.

§ 4022.7. Complaints against officials.

Every complaint against an official shall be made to the stewards in writing signed by the complainant.

§ 4022.8. Powers at meeting.

The stewards have power, as they think proper, to make and, if necessary, to vary all arrangements for the conduct of the meeting, as well as power to put off any race from day to day until a Sunday intervenes.

§ 4022.9. Access to all facilities.

The stewards have control over, and they and the stewards of The Jockey Club and members of the commission and their duly appointed representatives have access to all

stands, weighing rooms, enclosures and all other places within the grounds of the association.

§ 4022.10. Supervision of entries, declarations.

The stewards have supervision over all entries and declarations.

§ 4022.11. Control of officials, others.

The stewards have power to regulate and control the conduct of all officials and of all owners, trainers, jockeys, grooms and other persons attendant on horses.

§ 4022.12. Power to exclude, suspend.

If the steward of the commission shall find that any person has violated any of the sections of this Subchapter or has been involved in any action detrimental to the best interests of racing generally, such steward may exclude such person from the grounds, or any portion of such grounds, of the association conducting the meeting for a period not exceeding 60 days, or such steward may suspend the license of such person from participating in racing in this State, for a period not exceeding 60 days, or both such exclusion and suspension; and if such steward considers necessary any further action, such steward shall promptly refer the matter to the commission. Such steward, in the exercise of his or her power under this section, shall consult with the steward of the racing association and the steward of The Jockey Club, affording them a reasonable opportunity to make recommendations relative to the action determined by the commission’s steward. Nothing in this section shall be construed to limit any racing association or track licensee's power to exclude or deny any individual from its grounds or privileges thereon.

§ 4022.13. Imposition of civil penalty.

In place of or in addition to the actions recited in section 4022.12 of this Part, the steward of the commission is hereby authorized to impose a civil penalty in an amount not to exceed $25,000 for each violation of any of the sections of this Subchapter or for any action detrimental to the best interests of racing generally; and each day upon which such violation continues may be considered by the steward as a separate violation in assessing the amount of such civil penalty. Before imposing such civil penalty, the steward of the commission shall give the other two stewards of the meeting a reasonable opportunity to submit recommendations relative to such penalty.

§ 4022.14. Appeal from penalty.

Any person so penalized shall have the right to appeal to the commission by filing with the commission within 30 days after the imposition of such civil penalty, a written notice of such appeal; and the commission in determining the appeal may increase or decrease the amount of such civil penalty, or it may suspend or revoke or otherwise act with respect

to the license or the licensing of the appellant; and the determination of the commission on such appeal shall be final.

§ 4022.15. Action by the commission.

Whenever under this Subchapter a matter has been referred to the commission, the commission shall take such action as the commission shall deem proper and appropriate under the law.

§ 4022.16. Determination of all questions.

The stewards have power to determine all questions arising in reference to racing at the meeting, subject to appeal to the commission. Should no decision have been arrived at by the stewards within seven days of an objection being lodged, the clerk of the course shall then report the case to the commission, which may, at its discretion, decide the matter, and which, if it considers there has been negligence, may order any additional expense arising therefrom to be defrayed out of the funds of the meeting at which the case occurred.

§ 4022.17. Disqualification of horses.

No horse that is disqualified or ineligible, as provided in this Subchapter, or nominated by, or the property, wholly or in part, of a person who is unlicensed, disqualified or ineligible, as provided in this Subchapter, may be entered or started in a race.

§ 4022.18. Examination of horses.

The stewards have power at any time to order an examination, by such person or persons as they think fit, of any horse entered for a race or that has run in a race.

§ 4022.19. Use of motion pictures.

Motion pictures shall be taken of every race from start to finish and may be used to aid the stewards in determining any question within their jurisdiction.

§ 4022.20. Disputes relating to bets.

The stewards shall not entertain any disputes relating to bets.

§ 4022.21. Discretionary powers.

If any case occurs that is not, or that is alleged not to be provided for by this Article, such case shall be determined by the stewards in such manner as they think just and conformable to the usages of the turf; and the stewards may impose such punishment and take such other action in the matter as they may deem to be within the intent of this Article, including reference to the commission.

§ 4022.22. Limitation on punitive powers.

The punitive powers of the stewards provided for in any section of this Article are limited to the powers provided for in sections 4022.12 through 4022.15 of this Part.

§ 4022.23. When hearing held.

Whenever a matter has been referred to the commission by the stewards that involves an alleged violation by any person of any law or of any section of this Subchapter, or whenever the commission, on the commission's own initiative, shall determine to take cognizance of any such alleged violation or any other matter within the jurisdiction of the commission.

PART 4023

Officials of the Meeting

Section
4023.1 Approval by commission
4023.2 Duties of clerk of the course
4023.3 Duties of handicapper
4023.4 Duties of clerk of the scales
4023.5 Photographs of the finish
4023.6 Official time
4023.7 Result of each race to be reported
4023.8 Determination of order of finish
4023.9 Duties of placing judges

§ 4023.1. Approval by commission.

All officials connected with the actual conduct of racing shall be approved by the commission.

§ 4023.2. Duties of clerk of the course.

(a) The secretary of the association or his or her deputy shall be clerk of the course. He or she shall discharge all duties, expressed or implied, required by this Article and shall report to the stewards all violations of this Article or of the regulations of the meeting.

(b) He or she shall keep complete records of all races.

(c) He or she shall receive all stakes, entrance moneys and fees, including jockeys' fees.

(d) Within 14 days, exclusive of Sundays, from the close of the meeting, he or she shall pay, to the persons entitled to it, all the money collected by him or her; and at the expiration of the same period, he or she shall notify the association of all arrears then remaining unpaid, and all arrears shall be regarded as having been assumed by the association.

(e) Before acceptance, he or she shall submit to the association, all entries and transfers of engagements for all races except those opened and decided during the meeting.

§ 4023.3. Duties of handicapper.

The handicapper shall append to the weights for every handicap the day and hour from which winners will be liable to a penalty, and no alteration shall be made after publication except in case of omission, through error, of the name or weight of a horse duly entered, in which cases by permission of the stewards the omission may be rectified by the handicapper.

§ 4023.4. Duties of clerk of the scales.

(a) The clerk of the scales shall exhibit the number (as allotted on the official card) of each horse for which a jockey has been weighed out and shall forthwith furnish the starter with a list of such numbers.

(b) Any extra or special weight declared for any horse, or any declaration to win or any alteration of colors, shall be exhibited by the clerk of the scales upon the notice board.

(c) The clerk of the scales shall in all cases weigh in the riders of the horses and report to the stewards any jockey not presenting himself or herself to be weighed in.

§ 4023.5. Photographs of the finish.

A camera selected by the association conducting the meeting, if approved by the commission, shall be used to make a photograph or photographs of the horses at the finish to assist the placing judges in determining their positions as exclusively indicated by their noses.

§ 4023.6. Official time.

The official time of each race shall be determined by the official timer. The time recorded when the first horse crosses the finish line shall be the official time of the race.

§ 4023.7. Result of each race to be reported.

The placing judge or judges shall, at the close of each day's racing, sign and send a report of the result of each race to the stewards and the commission.

§ 4023.8. Determination of order of finish.

The placing judge or judges shall determine the order of finishing of as many horses as they may think proper.

§ 4023.9. Duties of placing judges.

The placing judge or judges must occupy the judge's box at the time the horses pass the winning post, and their sole duty shall be to place the horses. They must announce their decisions promptly, and such decisions shall be final, unless objection to the winner or any placed horse is made and sustained. Provided, that this section shall not prevent the placing judges from correcting any mistake, such correction being subject to confirmation by the stewards.

PART 4024

Registration of Horses

Section
4024.1 Registration required to enter or start
4024.2 Disqualification of certain horses

§ 4024.1. Registration required to enter or start.

(a) No horse may start in any race unless such horse is duly registered and named in the registry office of The Jockey Club, which is established for the identification of all horses whether foaled in the United States or in other countries and for the certification of their pedigrees. The entry of any such horse shall not be accepted unless such horse's certificate of foal registration, certificate of foreign registration or racing permit, whichever has been granted by The Jockey Club, is on file with the identification department of The Jockey Club.

(b) (1) Tattoo requirement. No horse shall be allowed to enter or start in any race unless it has been tattooed in a manner satisfactory to the commission; except that the stewards may, in their discretion, allow a horse registered with the registry of a foreign country to start in a stake or invitational race upon such terms as they deem appropriate.

(2) No horse shall be allowed to enter or start unless a Jockey Club certificate of foal registration, certificate of foreign registration or racing permit is on file in the office of the racing secretary or other designated office of the track, except that the stewards may, in their discretion, for good cause, waive this requirement if the horse is otherwise properly identified.

(c) In addition, no horse shall be allowed to start unless the ownership of such horse has been duly registered in the Owners Registry of The Jockey Club established for recording the true ownership, including the proper names of all persons holding a proprietary interest, of all thoroughbred horses that race. The use of such data in the records maintained by the Association of Racing Commissioners International, Inc., is hereby authorized.

(d) No horse shall be allowed to enter or start unless the certificate of foal registration, certificate of foreign registration, or racing permit, on file in the office of the racing secretary or other designated office of the track, has been endorsed by a state racing commission or board, or a designated track official, or a Jockey Club certificate of ownership has been attached thereto, certifying to the registration of the horse in the Owners Registry of The Jockey Club.

(e) The stewards may, in their discretion, for good cause and for not over one race at a time, waive the requirements of subdivisions (c) and (d) of this section if the ownership is otherwise properly disclosed to their satisfaction.

(f) Upon transfer of any interest in a horse by sale, lease, claim or otherwise, it shall be the responsibility of the transferee managing owner to register such change in the Owners Registry with The Jockey Club and to cause the stewards at each track to be informed before that horse starts at such track.

(g) The commission, by order, may phase over a period of years, the requirement of registration in the Owners Registry, as set forth in subdivisions (c) and (d) of this section, by nature of transaction and age of horse.

§ 4024.2. Disqualification of certain horses.

(a) No horse shall be allowed to enter or start if the horse was knowingly entered under a name other than its own by a person having lawful custody or control of the animal at the time it was so entered.

(b) No horse shall be allowed to enter or start if a person having lawful custody or control of the animal knowingly participated in or assisted in the entry of racing of some other horse under its name.

(c) For the purposes of subdivisions (a) and (b) of this section, the name of a horse means the name reflected in the registration certificate or racing permit issued with respect to the horse by The Jockey Club.

PART 4025

Entries, Subscriptions, Declarations and Acceptances for Races

Section
4025.1 Steward's ruling accepted
4025.2 Entries may be cancelled, revoked
4025.3 Horse must be entered
4025.4 Disqualification—ownership
4025.5 Disqualification—improper practice
4025.6 Procedure for making entries
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PRODUCE RACES
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§ 4025.1. Stewards' ruling accepted.

Every person subscribing to a sweepstake or entering a horse in a race to be run under this Article accepts the decision of the stewards or the decision of the commission, as the case may be, on any question relating to a race or to racing.

§ 4025.2. Entries may be cancelled, revoked.

The nominations or entries of any person, or the transfer of any nomination or entry, may be cancelled or revoked without notice by the racing association or in the discretion of the commission or of the stewards.

§ 4025.3. Horse must be entered.

A horse is not qualified to run in any race unless such horse is duly entered for that race.

§ 4025.4. Disqualification—ownership.

No horse is qualified to be entered or run that is wholly or partly the property of or leased to or from, or in any way under the care of superintendence of, a person who is required to be licensed but is unlicensed, disqualified or ineligible, as provided in this Subchapter.

§ 4025.5. Disqualification—improper practice.

Any horse that has been the subject of improper practice may be disqualified for such time and for such races as the stewards shall determine.

§ 4025.6. Procedure for making entries.

Entries and declarations shall be made in writing signed by the owner of the horse or of the engagement or by the authorized agent or some person deputed by him or her; and in order to secure privacy, all entries to overnight races must be made at a specially designated booth.

§ 4025.7. Entries made by telegraph.

Entries and declarations by telegraph are binding if promptly confirmed in writing.

§ 4025.8. Entrance money not returned.

Entrance money is not returned on the death of a horse nor on the horse's failure to start, whatever the cause of the failure may be.

§ 4025.9. Entries to be posted.

Entries to all races, excepting those which are opened and decided during the meeting, shall be posted on the bulletin boards at the track where meeting is being held.

§ 4025.10. Limitations on entries.

(a) A horse whose managing owner is a partnership cannot be entered or run in the name, whether real or stable, of an individual partner unless that individual's interest or property in the racing qualities of that horse is equal to at least 25 percent.

(b) All horses in common ownership as defined in subdivision (e) of section 4026.2 of this article (*i.e.*, having any common managing owner) or subdivision (c) of section 4026.3 of this article (*i.e.*, in which there is a 25 percent commonality among nonmanaging owners) must be coupled and run as an entry.

(c) Not more than two horses trained by the same person shall be drawn into any overnight race, or on the also-eligible list, to the exclusion of another horse.

(d) A maximum of two horses trained by the same trainer may race uncoupled in any race provided the entries do not have common ownership as set forth in subdivision (b) of this section.

(e) The commission steward may require any horses entered in a race to be coupled for betting purposes prior to the commencement of wagering on-track and off-track, if such steward finds it necessary in the public interest.

(f) All horses trained or ridden by a spouse, parent, issue or member of a jockey's household shall be coupled in the betting with any horse ridden by such jockey.

(g) Notwithstanding the provisions of subdivisions (b) and (d) of this section, no entry shall be coupled by reason of common ownership or training in any stakes race in which the gross purse is $50,000 or more, provided however that the provisions of subdivision (e) of this section shall continue to be applicable in any such races. In any race subject to the provisions of this subdivision, the racing secretary shall have the authority to establish a mutuel field and coupled entries in any race with more than 14 starters. When this subdivision permits two or more horses to race without being coupled and run as one entry, the racetrack operator shall take such actions as are necessary to inform the public adequately with regard to the common ownership and/or trainer that would otherwise require such horses to be coupled as a single betting interest pursuant to this section.

§ 4025.11. Restrictions on ownership by trainer.

No licensed trainer shall have any interest, either by ownership of the horse or by lease of such horse's racing qualities, in a horse of which he or she is not the trainer and that may be racing at the same race track where the trainer is licensed and currently racing.

§ 4025.12. Name in which horse is run.

The name in which any horse is run must be the real or the stable name of the individual owner or the name of the partnership owner (being its stable name or the name of the individual in whose name the horse is run) of the entire interest in the horse.

§ 4025.13. Closing time—overnight races.

The list of entries for overnight races shall be closed at the advertised time and no entry shall be admitted after that time, except that, in case of an emergency, the racing secretary may, with the consent of a steward, grant an extension of time.

§ 4025.14. Delayed entries.

The list of entries for all other races shall be closed at the advertised time and no entry shall be admitted after that time unless the nominator can prove to the stewards that the entry was mailed before the advertised time of closing; and starters must be named through the entry box by the usual time of closing on the day preceding the race unless otherwise designated by the stewards.

§ 4025.15. Information required for entry.

(a) Except as provided in section 4025.16 of this Part, entries shall be in the name of one person, or a stable name, and shall state the name, or the stable name, of the managing owner (or when a partnership is the managing owner, of the managing partner), the name or description of the horse, if unnamed, and, if the race be for horses of different ages, the age of the horse entered.

(b) All entries and declarations of horses eligible for administration of furosemide pursuant to section 4043.2(b) of this Title are required to denote the use of furosemide on the entry form.

§ 4025.16. Name of entry.

Entries may be made in the name of a corporation or a partnership, but no horse may race in such a name and in order to remain eligible, such entries must be transferred to an individual or a stable name on or before January 1 of the horse's two-year-old year.

§ 4025.17. Information for initial entry.

(a) In entering a horse for the first time, such horse shall be identified by stating the name of the horse (if it has any), the horse's color and sex and the name or description of the horse's sire and dam as recorded in the stud book. If the dam was covered by more than one stallion, the names or description of all must be stated.

(b) Except as provided in subdivision (d) of this section, this description must be repeated in every entry until a description of the horse with the horse's name has been published in the racing calendar or in the program or the list of entries of an association, or in such other publication as the commission may designate.

(c) In every entry after such publication, the horse's name and age will be sufficient.

(d) If a horse be entered with a name for the first time, in several races for the same meeting, closing at the same place on the same day, the description need not be added in more than one of the entries.

§ 4025.18. Change of name.

Upon any change of name of a horse that has run in any country, such horse's old name as well as such horse's new name must be given in every entry until the horse has run three times under such horse's new name over the course of an association.

§ 4025.19. Closing time—entries, declarations.

Except in overnight races, if the hour for closing of entries or for declarations is not stated, such hour shall be understood to be midnight of the day specified.

§ 4025.20. Where entries made.

In the absence of notice to the contrary, entries due on the eve of and during a meeting, are due at the office of the clerk of the course where the race is to be run.

§ 4025.21. Transfer of subscription.

A person who subscribes to a sweepstakes may, before the time fixed for naming, transfer his or her subscription.

§ 4025.22. Subscription defined.

An entry of a horse in a sweepstakes is a subscription to the sweepstakes. An entry or subscription may, before the time of closing, be altered or withdrawn.

§ 4025.23. Death of owner of subscription.

Subscriptions and all entries or rights of entry under them shall not become void on the death of the person in whose name they were made or taken. All rights, privileges and obligations shall attach to the continuing owners including the legal representatives of the decedent.

§ 4025.24. Striking out of engagement.

No horse shall be considered as struck out of any of such horse's engagements until the owner or the owner's authorized agent shall have given notice, in writing or by printable electronic means, promptly confirmed in writing, to the clerk of the course where the horse is engaged.

§ 4025.25. Striking out is irrevocable.

The striking of a horse out of an engagement is irrevocable.

§ 4025.26. Omission by vendor to strike out.

Omission by the vendor to strike a horse out of an engagement, not sold or transferred with the horse, does not entitle such horse's owner to start the horse or to the stakes if such horse wins.

§ 4025.27. [Reserved]

§ 4025.28. Proof of transfer with engagements.

Whenever the ownership of a horse is transferred in any manner, all racing engagements of the said horse shall automatically accompany the transfer.

§ 4025.29. Sale to unqualified person.

A sale to a person ruled off or to an unqualified or disqualified person will not entitle such person to be recognized as an owner.

§ 4025.30. Restrictions on acceptance of nominations.

No nominations shall be accepted for a sweepstakes or other race from any person whose license has been revoked and who has not been subsequently licensed by the commission; nor during the period of suspension from any person whose license has been suspended; nor from any person who is otherwise disqualified.

§ 4025.31. Nerved horses—restrictions.

(a) Any horse that has been nerved (neurectomy, cryosurgery, stunning) at or above the fetlock (*i.e.*, Median nerve, Ulnar nerve, Volar nerve or the Plantar nerve) shall not be permitted to race at tracks under the jurisdiction of the commission.

(b) Any horse that has been nerved below the fetlock (Volar [posterior] digital nerve only) may be permitted to start, provided that such nerving has been reported to the track veterinarian who shall cause such fact to be entered on the foal certificate and prominently displayed in the entry room prior to any subsequent start.

§ 4025.32. [Reserved]

§ 4025.33. Programming of jockeys.

(a) Each horse to be drawn into the main body of a race or as an also eligible shall have its jockey named by the time established by the racing secretary for drawing of post positions and prior to the publication of the overnights. No jockey may be named to ride more than one horse in a race except that a jockey may be named to ride a horse drawn into the main body of a race and a horse drawn as an also eligible in such race, or a jockey may be named to two or more parts of a coupled entry where only one starter from such entry will start.

(b) All jockeys shall be named by scratch time and no jockey shall be named or changed thereafter except by the stewards for good cause.

(c) It shall be the responsibility of the trainer to insure compliance with this rule. In this regard, upon request, the racing secretary's office when taking entries shall notify the trainer of the availability of specific jockeys. Should a jockey remain unnamed at the time prescribed herein such naming shall be made by the stewards or their designee. No jockey, once named, shall be changed except for good cause by the stewards.

(d) It shall be the responsibility of both jockey and trainer to fulfill their engagements.

(e) An apprentice allowance may only be claimed before entries have closed and only if the apprentice has been engaged.

PRODUCE RACES

§ 4025.40. Entry for produce race.

In making an entry for a produce race, the produce is entered by specifying the dam and the sire or sires.

§ 4025.41. When entry is void.

If the produce of a mare is dropped before January 1, or if there is no produce, or if the produce is dead when dropped, of if twins are dropped, the entry of such mare is void.

§ 4025.42. Allowance.

In produce races, allowances for the produce of untried horses must be claimed before the time of closing and are not lost by subsequent winnings.

PART 4026

Ownership Rules and Stable Names

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OWNERSHIP RULES

§ 4026.1. Definitions.

(a) *Managing owner* means a person who through ownership, lease or designation manages all racing activities for a race horse and is personally responsible for all liabilities arising therefrom.

(b) *Nonmanaging owner* means a person holding any property interest in a race horse and who is not a managing owner.

(c) *Property interest* means any direct or indirect legal or beneficial interest in the racing, breeding or other qualities of a race horse (including a right to share in such horse's earnings or fees) whether present or future, established by deed, lease, sale with contingencies, contract of sale, syndication agreement, right of possession, or otherwise. Both lessors and lessees hold a property interest in a horse. Included in such term shall be any interest, direct or indirect, in stock, shares, parts or otherwise of any legal entity holding a property interest in a race horse (including administering or holding office in such entity).

§ 4026.2. Managing ownership.

(a) *Managing owner*. No horse may race unless the entire management and control of its racing activities, and financial responsibility therefor, are held by a registered managing owner registered with The Jockey Club. A managing owner may be either an individual or a racing partnership, registered for such purpose with The Jockey Club. A racing partnership may consist of only general partners, not to exceed four, each of whom shall own not less than a 25-percent partnership interest, and one of whom shall be designated as the managing partner under whose name or stable name the partnership's horses race, who is entitled to be credited with winnings on behalf of the partnership and who is responsible for complying with the filing, registration and licensing requirements of these rules. The managing owner of a horse shall be established either by registered ownership, registered written lease (or written notice thereof), or registered written designation as such, by the owner. The managing owner shall be responsible for all racing affairs of the horse, including the proper registration of the horse and its ownership, and all changes thereto.

(b) *Name of managing owner*. The name of the programmed owner of a horse in a race shall be either the name of the managing owner, if an individual, or, if a racing partnership, the name of the managing partner followed by the words as *lessee* or *by designation*, if either term applies. Should an individual register a stable name, such individual's real name may not be listed as managing owner. Nothing in these rules shall relieve any person of any statutory obligations related to business filings and recordings with public officials, or rights or limitations incident thereto.

(c) *Managing owner by lease or designation*. A managing owner established by ownership shall register such ownership with The Jockey Club. A managing owner established by lease or designation shall register such lease or designation, executed by both the lessor or designating owner and the managing owner, with The Jockey Club.

(d) *Licensing of managing owners*. All individuals in the managing ownership of a horse must be licensed before such horse is entered or starts, unless for good cause the commission or State steward waives such requirement for a race. In no event, however, may a horse start if the license of any individual in such horse's present or former managing ownership has been denied, suspended or revoked until such time as the commission is satisfied that any withdrawal of such individual or transfer of such individual's entire interest is in good faith.

(e) *Coupled entries*. Should the same individual be present in the managing ownership of two or more horses in a race, all such horses shall be coupled as an entry.

(f) *Credentials*. Only managing owners of horses to race at the meeting shall be entitled to track credentials as owners, including paddock and backstretch privileges.

§ 4026.3. Nonmanaging ownership.

(a) *Owners-registration and disclosure*.

(1) The managing owner of a horse shall not enter or start such horse, nor shall such horse race, unless each individual holding any property interest in such horse at such time has been disclosed to The Jockey Club and registered therewith by the managing owner.

(2) In addition, should any property interest in a horse be held by a general or limited partnership, syndicate, association, corporation, trust, estate, or other form of representative or joint ownership or legal entity, such entity shall be registered with The Jockey Club; and there shall also be disclosed the identity of all officers, directors, managing agents, representatives, trustees or other individuals holding the power to manage such entities, in addition to all individuals holding any legal or beneficial interest in such entity. Any changes in such information shall be clearly indicated and submitted to The Jockey Club within 10 days after the end of each calendar quarter after registration or, if no changes have occurred, a statement to that effect shall instead be filed.

(3) For good cause shown, the commission may waive for a particular case, or for a category of cases, the obligation to file the identity of numerous owners of an insignificant interest and allow such interests to be filed as an identified class. At any time, however, upon demand of the commission, individual identity shall be disclosed.

(b) *Nonmanaging owners—licensing*. No horse shall be entered or started by such horse's managing owner that is owned by 35 or less owners, unless all of the owners are

licensed, or, if owned by more than 35 owners, unless each individual having a three percent or greater property interest is licensed as an owner by the commission. In addition, each such owner that is not an individual must be registered and licensed with the commission, and all such entity's officers, directors, trustees or other managing individuals must be licensed by the commission unless otherwise directed by the commission. The commission may also require any other individual involved in ownership to be licensed at any time it may deem desirable. The commission or the State steward, for good cause, may waive any of such requirements for a race. In no event, however, may a horse start, if the license of any such individual has been denied, suspended or revoked, until the commission is satisfied that any withdrawal of such individual or transfer of such individual's interest is in good faith.

(c) *Coupled entries*. Should the same individual or legal entity required to be disclosed and registered as a nonmanaging owner for a horse be present in the ownership (including the managing ownership) of another horse or horses in a race, to the extent that there is a 25 percent commonality in ownership between any two of such horses, all such horses shall be coupled as an entry. In addition, the stewards may require the coupling of horses having a lesser degree of common ownership where the stewards deem it desirable in the public interest.

§ 4026.4. Data to be declared.

All statements of partnerships, of sales with contingencies, of leases of designation of managing owner, or of arrangements, shall declare the name of the managing owner; or when a partnership is the managing owner, the name of the managing partner who shall be the only person to whom winnings are payable (which must be the name of the nominator), in whose name the horse will run and with whom rests the power of entry.

§ 4026.5. Filing procedures.

If any agreement of partnership, sale with contingencies, lease, designation of managing owner or other arrangement required to be filed with The Jockey Club would have the effect of deceiving or improperly misleading the public as to the identity of the persons holding an interest in a horse, or would otherwise be contrary to the best interest of racing, The Jockey Club shall notify the commission, which shall consider the matter and take such action with respect thereto as it deems appropriate.

§ 4026.6. Emergency authority.

In cases of emergency, authority to sign declarations of partnerships may be given to The Jockey Club by printable electronic means so long as such notice is given before the race. Such notice shall be promptly confirmed in writing within 48 hours.

§ 4026.7. Assignments restricted.

After a horse is drawn into a race, there shall be no transfer nor assignment of any ownership interest in such horse until after such race or until such horse is scratched from such race, if sooner. No member of a partnership that owns a horse, leases the racing qualities of a horse, or is designated a managing owner for a horse shall assign his or her share or any part of or interest in it without the written consent of the other partners being filed with The Jockey Club. No assignment of an interest in a partnership which, by ownership or lease, controls the racing qualities of a horse, shall be accepted if the effect of the assignment would be to create a partnership that would not qualify for filing under the terms of section 4026.2 of this Part.

§ 4026.8. [Renumbered]

§ 4026.9. [Renumbered]

STABLE NAMES

§ 4026.15. Use of stable name.

No individual shall race a horse under a stable name unless such stable name is currently registered by such individual with The Jockey Club. When, in the opinion of The Jockey Club, the use of a name required to be registered with it would deceive or improperly mislead the public, or would otherwise be contrary to the best interests of racing, it shall so notify the commission, which shall take such action as it deems appropriate.

§ 4026.16. Stable name—restriction on individual.

An individual cannot have registered more than one stable name at the same time and, so long as such individual has a stable name registered, he or she shall not use or permit the use of his or her real name to identify his or her ownership interest in the racing qualities of any horse.

§ 4026.17. Stable name—restriction on partnership.

A partnership that, by ownership, designation or lease, controls the racing qualities of a horse shall race such horse under the name, real or stable, of a member of the partnership whose proportionate interest in the horse meets the requirements of subdivision (a) of section 4025.10 of this Article and who has been designated as the managing partner. All horses, the racing qualities of which are controlled by a given partnership, shall be raced under the same name.

§ 4026.18. Changing stable name.

A stable name may be changed at any time by registering a new stable name.

§ 4026.19. Limitations on use of stable names.

An individual cannot register as a stable name one that has been already registered, is the name of a race horse, or is the real name of an owner of race horses other than such individual himself or herself.

§ 4026.20. Abandoning stable name.

Any individual who has registered a stable name may at any time abandon it by giving written notice at the office of The Jockey Club and also to the racing secretary's office; and notice of such abandonment shall be published in the racing calendar, after which all entries that have been made in such stable name shall be altered as may be appropriate.

§ 4026.21. Trainer not eligible for stable name.

No licensed trainer of race horses shall register a stable name; but a partnership of which such a trainer is a member may use the stable name of another member, provided that the use of such other member's stable name is authorized by this Article.

§ 4026.22. Incorrect descriptions in entry.

Provided the identity of the horse is satisfactorily established, incorrect or imperfect description in the entry of a horse or failure to register a partnership may be corrected at any time before the horse is announced as a starter and his number exhibited for the race concerned, or in a handicap before the weights are announced; but this section shall not be construed so as to allow any horse to start in any race for which he is not otherwise completely qualified under this Article.

PART 4027

Stakes, Subscriptions

Section
4027.1 Time for overnight entries
4027.2 Start—when considered
4027.3 [Reserved]
4027.4 Start subject to payment of certain fees

§ 4027.1. Time for overnight entries.

In the absence of conditions or notice to the contrary, entries for overnight races are to be made at the office of the racing secretary by 2 p.m. on the day before the race.

§ 4027.2. Start—when considered.

Every horse shall be considered as having started and be liable for whatever is due for so doing, when its jockey has been weighed and its number displayed, unless the stewards shall otherwise determine.

§ 4027.3. [Reserved]

§ 4027.4. Start subject to payment of certain fees.

No horse shall be allowed to start for any race and no jockey shall be weighed out for any horse until there have been paid or guaranteed to the clerk of the course:

(a) any stake or entrance money due by the owner in respect to that race; and

(b) the jockey's fees.

PART 4028

Qualifications of Starters

4028.1 Qualifications to start
4028.2 Change of jockey
4028.3 Horse to be saddled in paddock
4028.4 Duties of paddock judge
4028.5 Horse in paddock not to be touched
4028.6 Inspection of planting, bandaging
4028.7 Withdrawal of horse
4028.8 Time of race to be printed
4028.9 Post time

§ 4028.1. Qualifications to start.

A horse shall not be qualified to start in any race unless, not less than 30 minutes before the time set for the race the horse's presence on the grounds of the association has been reported to the paddock judge, the horse announced to the clerk of the scales as a starter and the name of the horse's jockey given to the latter official.

§ 4028.2. Change of jockey.

Any change of jockey must be sanctioned by the stewards and if no satisfactory reason is given for the change the commission steward may suspend or fine any person found culpable in the matter.

§ 4028.3. Horses to be saddled in paddock.

All horses must be saddled in the paddock.

§ 4028.4. Duties of paddock judge.

The paddock judge shall be in charge of the paddock and inspect all race horses and their equipment prior to each race and shall report forthwith to a steward any violation observed by him.

§ 4028.5. Horse in paddock not to be touched.

No one not actually connected with its stable shall touch a horse while in the paddock preparatory to starting in a race except for authorized inspection as in this Part provided.

§ 4028.6. Inspection of plating, bandaging.

A representative of the association conducting a meeting shall inspect the plating and bandaging of each horse as it enters the paddock before the race and record the plating on a board provided for the purpose in the paddock.

§ 4028.7. Withdrawal of horse.

The stewards may permit or direct the withdrawing of a horse after weighing out.

§ 4028.8. Time of race to be printed.

The time fixed for the first race shall be printed on the program.

§ 4028.9. Post time.

Post time is the time designated by the stewards at which horses are to arrive at the post for each race. Such time shall be shown on the dial provided for that purpose.

PART 4029

Scale of Weights

Section
4029.1 Scales of weights
4029.2 Races of intermediate distance
4029.3 Races for two-, three- and four-year-olds
4029.4 Weights for fillies, mares
4029.5 Welter weights
4029.6 Overnight races except handicaps
4029.7–4029.8 [Repealed]
4029.9 Minimum weight for overnight races; exception

§ 4029.1. Scale of weights.

The following weights are carried when they are not stated in the conditions of the race:

Distance	Age	January and February	March and April	May	June	July	August	September	October	November and December
Half mile	2 years	...	...	...	...	...	105	108	111	114
	3 years	117	119	121	123	125	126	127	128	129
	4 years	130	130	130	130	130	130	130	130	130
	5 years and over	130	130	130	130	130	130	130	130	130
Six furlongs	2 years	...	...	...	...	...	102	105	108	111
	3 years	114	117	119	121	123	125	126	127	128
	4 years	129	130	130	130	130	130	130	130	130
	5 years and over	130	130	130	130	130	130	130	130	130
One mile	2 years	...	...	...	...	...	...	96	99	102
	3 years	107	111	113	115	117	119	121	122	123
	4 years	127	128	127	126	126	126	126	126	126
	5 years and over	128	128	127	126	126	126	126	126	126
One mile and a quarter	2 years	...	...	...	...	...	...	...	...	
	3 years	101	107	111	113	116	118	120	121	122
	4 years	125	127	127	126	126	126	126	126	126
	5 years and over	127	127	127	126	126	126	126	126	126
One and a half miles	2 years	...	...	...	...	...	...	...	...	...
	3 years	98	104	108	111	114	117	119	121	122
	4 years	124	126	126	126	126	126	126	126	126
	5 years and over	126	126	126	126	126	126	126	126	126
Two miles	3 years	96	102	106	109	112	114	117	119	120
	4 years	124	126	126	126	126	125	125	124	124
	5 years and over	126	126	126	126	126	125	125	124	124

§ 4029.2. Races of intermediate distance.

In races of intermediate distances the weights for the shorter distance are carried.

§ 4029.3. Races for two-, three- and four-year-olds.

In races exclusively for three-year-olds or four-year-olds the weight is 126 pounds, and in races exclusively for two-year-olds, it is 122 pounds.

§ 4029.4. Weights for fillies, mares.

In all races except handicaps and races where the conditions expressly state to the contrary, the scale of weights is less by the following: for fillies two years old, three pounds; for mares three years old and upwards, five pounds before September 1 and three pounds thereafter.

§ 4029.5. Welter weights.

Welter weights are 28 pounds added to the weight for age.

§ 4029.6. Overnight races except handicaps.

In all overnight races except handicaps not more than eight pounds may be deducted from the scale of weights for age, except for allowances.

§§ 4029.7–4029.8. [Repealed]

§ 4029.9. Minimum weight for overnight races; exceptions.

In all overnight races for two-year-olds, for three-year-olds, or for four-year-olds and upward the minimum weight shall be 112 pounds, subject to sex and apprentice allowances. This rule shall not apply to handicaps, nor to races for three-year-olds and upward.

PART 4030

Calculating Winnings

Section
4030.1 Calculating the winnings
4030.2 Surplus to winner
4030.3 Winning defined
4030.4 In a walkover
4030.5 Disposition of money or prize
4030.6 Race not run or void
4030.7 When race declared void

§ 4030.1. Calculating the winnings.

(a) In calculating the value of a race to the winner, there shall be deducted only the amount of money payable to the owners of the other horses and to other persons out of the stakes and out of the added money.

(b) In calculating foreign winnings, the current rate of exchange at the time of such winnings shall be adopted.

(c) The value of prizes not in money will not be calculated in value of the race to the winner.

(d) In calculating the value of a series of races in which an extra sum of money or prize is won by winning two or more races, the extra sum or prize shall be estimated in the last race by which it was finally won.

§ 4030.2. Surplus to winner.

In all races, should there be any surplus from entries or subscriptions over the advertised value, it shall be paid the winner, unless stated by the conditions to go to other horses in the race.

§ 4030.3. Winnings defined.

(a) Winnings during the year shall include all prizes from the first of January preceding to the time appointed for the start and shall apply to all races in any country; and winning shall include dividing or walking over.

(b) Winning of a fixed sum is understood to be winning it in one race, unless specified to the contrary.

§ 4030.4. In a walkover.

(a) In case of a walkover, one half of the money offered to the winner is given.

(b) When a walkover is the result of arrangement by owners of horses engaged, no portion of the added money nor any other prize need be given.

§ 4030.5. Disposition of money or prize.

Any money or prize which, by the conditions of the race is to go to the horse placed second or in any lower place in the race, shall, if the winner has walked over or no horse has been so placed, be dealt with as follows:

(a) If part of the stake, it shall go to the winner.

(b) If a separate donation from the association or any other source, it shall not be given at all.

(c) If entrance money for the race, it shall go to the association.

§ 4030.6. Race not run or void.

If a race is not run or is void, all moneys paid by an owner in respect to that race shall be returned.

§ 4030.7. When race declared void.

A race may be declared void if no qualified horse covers the course according to rule.

PART 4031

Penalties and Allowances

Section
4031.1 Extra weight; running second
4031.2 Exemption from penalties
4032.3 Penalties, allowances—not cumulative
4034.4 No allowance for beaten horse

§ 4031.1. Extra weight; running second.

No horse shall carry extra weight nor be barred from any race for having run second or in any lower place in a race.

§ 4031.2. Exemption from penalties.

When winners of claiming races are exempted from penalties, the exemption does not apply to races in which any of the horses running are not to be claimed.

§ 4031.3. Penalties, allowances—not cumulative.

Penalties and allowances are not cumulative unless so declared by the conditions of the race.

§ 4031.4. No allowance for beaten horse.

No horse shall receive allowance of weight or be relieved from extra weight for having been beaten in one or more races; provided that this section shall not prohibit maiden allowance or allowances to horses that have not won within a specified time or that have not won races of a specified value.

PART 4032

Apprentice Jockeys and Weight Allowances

Section
4032.1 Apprentice weight allowances
4032.2 Apprentice jockeys; certificates; agreements
4032.3 Apprentice contracts
4032.4 Extension of weight allowance
4032.5–4032.9 [Repealed]

§ 4032.1. Apprentice weight allowances.

An apprentice jockey licensed in accordance with section 4002.26 of this Article may claim the following weight allowances in all overnight races except stakes and handicaps:

(a) ten-pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners;

(b) a seven-pound allowance until the apprentice has ridden an additional 35 winners;

(c) if an apprentice has ridden a total of 40 winners prior to the end of a period of one year from the date of riding his or her fifth winner, he or she shall have an allowance of five pounds until one year from the date of the fifth winning mount; and

(d) if after one year from the date of the fifth winning mount the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year from the date of the fifth winning mount, or until the 40th winner, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted under this rule.

§ 4032.2. Apprentice jockeys; certificates; agreements.

Upon being licensed, any person who has never previously been licensed as a jockey in any country, may:

(a) either be issued a certificate that may be in effect no longer than five years; or

(b) of his or her own free will, and if under the age of 18 years, with the written consent of his or her parents or guardian, bind himself or herself to an owner or trainer for a term of not less than three nor more than five years (subject to written extension if made for less than five years) by written contract approved by the commission and filed with the commission and The Jockey Club.

§ 4032.3. Apprentice contracts.

(a) All holders of apprentice contracts shall be subject to investigation as to character, ability, facilities and financial responsibility and shall, at the time of making the contract, own in good faith a minimum of three horses in training, or, if a trainer, shall operate in good faith a stable of at least three horses.

(b) Contracts for apprentice jockeys shall provide for fair remuneration, adequate medical attention and suitable board and lodging for the apprentice; and approved provision shall be made for savings out of his or her earnings.

(c) No apprentice shall be permitted to acquire his or her own contract.

(d) All apprentice contracts described in this Part shall be filed with The Jockey Club within 30 days after execution thereof or upon filing application for license with the commission.

(e) The failure of an owner or trainer to file any such contract or to obtain the approval of the commission thereto may subject such owner or trainer to the revocation or suspension of his or her license or to such other disciplinary action by the commission as in the commission's judgment may seem proper.

(f) An apprentice contract may contain an option, equally available to both employer and apprentice, to cancel the same after two years from its date on such terms as may be prescribed in such contract. Any notice of such cancellation signed by the party or parties so canceling any such agreement shall be filed promptly with the commission and The Jockey Club.

§ 4032.4. Extension of weight allowance.

The commission may extend the weight allowance of an apprentice jockey when, in the discretion of the commission an apprentice jockey is unable to continue riding due to:

(a) physical disablement or illness;

(b) military service;

(c) attendance in an institution of secondary or higher education;

(d) restrictions on racing; or

(e) other valid reasons.

In order to qualify for an extension, an apprentice jockey shall have been rendered unable to ride for a period of not less than seven consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance. Under exceptional circumstances, total days lost collectively will be given consideration. The commission currently licensing the apprentice jockey shall have the authority to grant an extension to an eligible applicant, but only after the apprentice has produced documentation verifying time lost as defined by this regulation. An apprentice may petition one of the jurisdictions in which he or she is licensed and riding for an extension of the time for claiming apprentice weight allowances, and the apprentice shall be bound by the decision of the jurisdiction so petitioned.

§§ 4032.5–4032.9. [Repealed]

PART 4033

Weighing Out

Section
4033.1 Time for weighing out
4033.2 Equipment weighed with jockey
4033.3 Equipment not weighed
4033.4 Declaration of overweight
4033.5 Time for declaration of overweight
4033.6 Five pounds overweight limit
4033.7 Owner responsible for weight
4033.8 Equipment regulated

§ 4033.1. Time for weighing out.

Every jockey must be weighed for a specified horse not less than 30 minutes before the time fixed for the race, and the number of the horse shall be exhibited officially as soon as possible.

§ 4033.2. Equipment weighed with jockey.

If a horse run in muzzle, martingale, breastplate or clothing, it must be put on the scale and included in the jockey's weight.

§ 4033.3. Equipment not weighed.

No whip or substitute for a whip, blinkers or number cloth shall be allowed on the scales nor shall any bridle, safety vest or safety helmet approved by the stewards be weighed. A safety vest shall meet the requirements of section 4006.8 of this Article.

§ 4033.4. Declaration of overweight.

If a jockey intends to carry overweight, such jockey must declare the amount thereof at the time of weighing out, or if in doubt as to his or her proper weight, such jockey may declare the weight he or she intends to carry.

§ 4033.5. Time for declaration of overweight.

If a jockey intends to carry overweight exceeding by more than two pounds the weight that his or her horse is to carry, the owner or trainer consenting, such jockey must declare the amount of overweight to the clerk of the scales at least 45 minutes before the time appointed for the race, and the clerk shall cause the overweight to be stated on the notice board immediately. For failure on the part of a jockey to comply with this section, such jockey may be punished as provided by sections 4022.12 through 4022.15 of this Article.

§ 4033.6. Five pounds overweight limit.

No horse shall carry more than five pounds overweight except in races confined exclusively to amateurs or to riders who are officers of the United States Army or Navy or of the National Guard.

§ 4033.7. Owner responsible for weight.

The owner is responsible for the weight carried by such owner’s horse.

§ 4033.8. Equipment regulated.

Only equipment specifically approved by the stewards shall be worn or carried by a jockey or a horse in a race.

PART 4034

Starting

Section
4034.1 Duties of starter
4034.2 Failure of horse to start

4034.3 Persons excluded from course
4034.4 Time signals
4034.5 Parade to the post
4034.6 Horses led to the post
4034.7 Determination of starting position
4034.8 Starting vicious horse
4034.9 Accident at the post
4034.10 Starting gate
4034.11 Starting in front of the post
4034.12 Horses to be schooled before starting
4034.13 Position at starting post
4034.14 Matters to be referred to stewards
4034.15 Statements by starter conclusive

§ 4034.1. Duties of starter.

(a) The starter shall give all orders necessary for securing a fair start.

(b) The starter shall report to the stewards by whom and by what cause any delay was occasioned and any cases of misconduct by assistant starters or by jockeys when under the starter's orders.

§ 4034.2. Failure of horse to start.

If a horse whose number has been exhibited or whose starting is obligatory does not start and run in the race, the stewards may suspend any person or persons responsible for such an occurrence.

§ 4034.3. Persons excluded from course.

After the horses are ordered to the starting post and until the stewards direct the gates to be reopened, all persons except the racing officials shall be excluded from the course to be run over.

§ 4034.4. Time signals.

A bell shall be rung to indicate the time to saddle and a bugle sounded to indicate the time to go to the post.

§ 4034.5. Parade to the post.

All horses shall parade and, under penalty of disqualification, shall carry their weight from the paddock to the starting post, such parade to pass the finish line.

§ 4034.6. Horses led to the post.

When, by permission of the paddock judge and upon payment to the association of $10, a horse is led to the post, such horse is excused from parading with the other horses, but nevertheless such horse must, on its way to the post, pass the stewards' stand.

§ 4034.7. Determination of starting position.

The position of horses when starting shall be determined by lot, i.e., a numbered ball shall be drawn from a bottle by the clerk of the scales.

§ 4034.8. Starting vicious horse.

The starter may place vicious and unruly horses on the outside and behind the line.

§ 4034.9. Accident at the post.

A horse in the hands of the starter shall receive no further care from anyone at the starting post except the assistant starters, provided that if any accident happens to a jockey or the jockey's horse or equipment, the starter may permit any jockey or jockeys to dismount and the horses to be cared for during the delay. Otherwise, no jockey shall dismount.

§ 4034.10. Starting gate.

(a) Except in cases provided for in subdivision (b) of this section, all races shall be started in a starting gate selected by the association conducting the meeting if approved by the commission.

(b) By permission of the stewards, a race may be started without a gate.

§ 4034.11. Starting in front of the post.

A start in front of the post is void, and the horses must be started again.

§ 4034.12. Horses to be schooled before starting.

All horses shall be schooled properly before starting and, upon the report of the starter, the stewards may suspend any trainer who, after being notified, shall start an unruly horse.

§ 4034.13. Position at starting post.

The horses shall be started as far as possible in a line, but may be started at such reasonable distance behind the starting post as the starter thinks necessary.

§ 4034.14. Matters to be referred to stewards.

For disobedience of the starter's orders at the starting post or for attempting any unfair advantage, the starter may refer the matter to the stewards for action, but any penalty shall not take effect until after the last race of the day.

§ 4034.15. Statements by starter conclusive.

The concurrent statements of the starter and the starter's assistant as to incidents of the start are conclusive.

PART 4035

Rules of the Race

Section
4035.1 [Repealed]
4035.2 Foul riding penalized
4035.3 Results of intentional foul
4035.4 Instructions to jockey
4035.5 Stewards may declare race void, order refund
4035.6 Horse must return to course
4035.7 [Reserved]
4035.8 Stewards may dispense with walkover
4035.9 Use of riding crops

§ 4035.1. [Repealed]

§ 4035.2. Foul riding penalized.

(a) When clear, a horse may be taken to any part of the course provided that crossing or weaving in front of contenders may constitute interference or intimidation for which the offender may be disciplined.

(b) A horse crossing another may be disqualified, if in the judgment of the stewards, it interferes with, impedes or intimidates another horse, or the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding. The stewards may also take into consideration mitigating factors, such as whether the impeded horse was partly at fault or the crossing was wholly caused by the fault of some other horse or jockey.

(c) If a horse or jockey jostles another horse, the aggressor may be disqualified, unless the impeded horse or jockey was partly in fault or the jostle was wholly caused by the fault of some other horse or jockey.

(d) A jockey shall not ride carelessly or willfully such that the jockey's mount, equipment, or any item or object under his or her control interferes with, impedes, intimidates, or injures another horse or jockey in the race, including that a jockey shall not carelessly or

willfully strike another horse or jockey or such other jockey's equipment with his or her whip. The stewards may disqualify the horse ridden by the jockey who committed the foul if the foul was willful or careless or may have altered the finish of the race. The stewards may also take into consideration mitigating factors such as whether the impeded horse was partly at fault or if the foul was caused by the fault of some other horse or jockey.

(e) (1) If two or more horses are coupled in the betting as an entry, and one or more of them shall be disqualified for violation of the rules of racing, the balance of the entry shall also be disqualified if in the judgment of the stewards such violation prevented any other horse or horses from finishing ahead of the other part of the entry. If said violation is without such effect upon the finish of the race, penalty therefor may be applied against the offender and the balance of the entry may go unpunished.

(2) If any horses trained by the same trainer race uncoupled in any race, and one or more of them shall be disqualified for violation of the rules of racing, any other horses entered by that same trainer shall also be disqualified if in the judgment of the stewards such violation prevented any other horse or horses from finishing ahead of the other part of the entry. If said violation is without such effect upon the finish of the race, penalty therefore may be applied against the offender only.

(f) Complaints under this section may be received only from the owner, trainer or jockey of the horse alleged to be aggrieved and must be made to the clerk of the scales or to the stewards before or immediately after the jockey of the horse alleged to be aggrieved has passed the scales. But nothing in this section shall prevent the stewards taking cognizance of foul riding.

(g) Any jockey against whom a foul is claimed shall be given the opportunity to appear before the stewards before any decision is made by them.

(h) A jockey whose horse has been disqualified or who unnecessarily causes his or her horse to shorten its stride with a view to complaint, or an owner, trainer or jockey who complains frivolously that his or her horse was crossed or jostled, may be punished.

(i) The extent of disqualification shall be determined by the stewards as in this article provided.

§ 4035.3. Results of intentional foul.

If the stewards at any time are satisfied that the riding of any race was intentionally foul or that any jockey was instructed or induced so to ride, all persons guilty of complicity shall be suspended and the case shall be reported to the commission for such additional action as it may consider necessary.

§ 4035.4. Instructions to jockeys.

All horses are expected to give their best efforts in races in which they run, and any instructions or advice to jockeys to ride or handle their mounts otherwise than for the purpose of winning are forbidden and will subject all persons giving or following such instructions or advice to disciplinary action by the stewards and the commission.

§ 4035.5. Stewards may declare race void, order refund.

The stewards shall have the authority to declare a race void and to order all wagers made thereon refunded if they shall determine that any occurrence before or during the running of such race calls for such action by them.

§ 4035.6. Horse must return to course.

If a horse leaves the course, the horse must turn back and run the course from the point at which the horse left it.

§ 4035.7. [Reserved]

§ 4035.8. Stewards may dispense with walkover.

In a sweepstakes, if only one horse remains to start, the stewards may dispense with a walkover.

§ 4035.9. Use of riding crops.

(a) All riding crops are subject to inspection and approval by the stewards and the clerk of scales.

(1) Riding crops shall have a shaft and a flap and will be allowed in flat racing including training only as follows:

(i) Maximum weight of eight ounces;

(ii) Maximum length including flap of 30 inches;

(iii) Minimum diameter of the shaft of three-eighths inch; and

(iv) Shaft contact area 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.

(2) The flap is the only allowable attachment to the shaft and must meet these specifications:

(i) Length beyond the end of the shaft a maximum of one inch;

(ii) Width a minimum of 0.8 inch and a maximum of 1.6 inches;

(iii) No reinforcements or additions beyond the end of the shaft;

(iv) No binding within seven inches of the end of the shaft; and

(v) Shock absorbing characteristics similar to those of the contact area of the shaft.

(b) In all races where a jockey will not ride with a whip, an announcement shall be made over the public address system of such fact.

(c) Although the use of a whip is not required, any jockey who uses a whip during a race is prohibited from whipping a horse:

(1) on the head, flanks or on any other part of its body other than the shoulders or hind quarters;

(2) during the post parade or after the race except when necessary to control the horse;

(3) excessively or brutally causing welts or breaks in the skin;

(4) when the horse is clearly out of the race or has obtained its maximum placing; or

(5) persistently even though the horse is showing no response under the whip.

(d) Correct uses of the whip are:

(1) showing horses the whip before hitting them;

(2) using the whip in rhythm with the horse's stride; and

(3) using the whip as an aid to maintain a horse running straight.

PART 4036

Weighing In

Section

4036.1 Time, manner of weighing in
4036.2 No one to touch horse, equipment before weighing in
4036.3 Jockey penalized for misconduct
4036.4 Jockey penalized for excess weight

§ 4036.1. Time, manner of weighing in.

Every jockey must immediately after pulling up ride his or her horse to the place of weighing, dismount only after obtaining permission from the official in charge and present himself or herself to be weighed by the clerk of the scales; provided that if a jockey is prevented from riding to the place of weighing by reason of accident or illness by which he or she or his or her horse is disabled, such jockey may walk or be carried to the scales.

§ 4036.2. No one to touch horse, equipment before weighing in.

Except by special permission of the official in charge, every jockey must upon pulling up unsaddle his or her own horse, and no attendant shall touch the horse, except by such horse's bridle. Upon the returning of a jockey to the winner's circle to dismount after a race has been run, no one may touch the equipment of the jockey until he or she has been weighed in, except upon the approval of the official in charge.

§ 4036.3. Jockey penalized for misconduct.

If a jockey

(a) does not present himself or herself to weigh in,

(b) is more than one pound short of his or her weight

(c) is guilty of any fraudulent practice with respect to weight or weighing,

(d) except as provided in section 4036.1 of this Part, dismounts before reaching the scales or dismounts without permission, or

(e) touches (except accidentally) before weighing in any person or thing other than his or her own equipment,

then such jockey's horse may be disqualified and such jockey may be punished as provided by sections 4022.12 through 4022.15 of this Article.

§ 4036.4. Jockey penalized for excess weight.

If a horse carries more than two pounds over such horse's proper or declared weight, such horse's jockey shall be punished unless the stewards are satisfied that such excess of weight has been caused by rain or mud.

PART 4037

Dead Heats

Section
4037.1 Dead heat not run off
4037.2 Dead heat for first place

4037.3 Objection made to winner
4037.4 Stewards to settle disputes
4037.5 Dead heat for a match

§ 4037.1. Dead heat not run off.

When a race results in a dead heat, the dead heat shall not be run off. In the event of a dead heat, owners shall divide the purse except where division would conflict with the conditions of the race.

§ 4037.2. Dead heat for first place.

When two horses run a dead heat for first place, all prizes to which first and second horses would have been entitled shall be divided equally between them. This rule applies in dividing prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run. Each horse shall be deemed a winner and liable to penalty for the amount the horse shall receive.

§ 4037.3. Objection made to winner.

When a dead heat is run for second place and an objection is made to the winner of the race and sustained, the horses that ran the dead heat shall be deemed to have run a dead heat for first place.

§ 4037.4. Stewards to settle disputes.

If the dividing owners cannot agree as to which of them is to have a cup or other prize that cannot be divided, the question shall be determined by lot by the stewards.

§ 4037.5. Dead heat for a match.

On a dead heat for a match, the match is off.

PART 4038

Claiming Races

Section

4038.1 Who may make claim
4038.2 Minimum price for claim
4038.3 Conditions for starting claimed horse
4038.4 Sale, transfer restricted
4038.5 Requirements for claim; determination by stewards
4038.6 Opening of sealed claim
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4038.11 Collusive claiming punished
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4038.14 Refusal to deliver
4038.15 Intimidation, collusion
4038.16 Steward's certificate to claim
4038.17 Horses claimed—testing
4038.18 Pregnant mare—disclosure prior to entry in a claiming race
4038.19 Certain voidable claims

§ 4038.1. Who may make claim.

(a) Claims may be made by an owner licensed for the current year, or duly authorized agent, if the owner is presently registered in good faith for racing at that meeting and has nominated a starter in the previous or current race meet of the licensed or franchised racing association, up to or including the race in which the claim is made. Such claim shall be in the name of the owner making the claim, or in the name of the entity of which the claimant is the managing owner.

(b) The holder of a certificate of eligibility to claim. A person who has not previously been licensed in any state as an owner, upon application for an owners' license in this State, may apply to the stewards for a certificate authorizing him or her to claim one horse during the next 30 racing days following the issuance of the certificate. The stewards may grant an extension if deemed appropriate. The certificate shall be valid for claiming only at the track of the racing association at which it was issued. Such certificate shall be issued by the stewards only after the stewards have been advised by the commission that after an initial background check, and from the face of the application, the applicant appears to be qualified to be licensed and only after the applicant has designated a licensed trainer who will assume care and responsibility for the horse to be claimed.

(c) No person shall claim any horse in which he or she has an ownership interest or cause any horse in which he or she has an ownership interest to be claimed directly or indirectly for his or her own account.

(d) Notwithstanding the provisions of subdivision (a) of this section, an owner who shipped in to race and had a horse claimed from him or her at the meeting, shall be eligible to claim one horse for that ownership entity for the remainder of the meeting or for the next 30 days, whichever is longer.

§ 4038.2. Minimum price for claim.

The minimum price for which a horse may be entered in a claiming race shall not be less than 50 percent of the value of the purse for the race, unless the commission approves a request from an association for a lower minimum price for all or a portion of a race meeting. The commission shall not approve such a request unless such association has

implemented increased measures to ensure close examination of the competitiveness, soundness and safety of each horse entered in such race.

§ 4038.3. Conditions for starting claimed horse.

If a horse is claimed it shall not start in a claiming race for a period of 30 days from date of claim for less than 25 percent more than the amount for which it was claimed.

§ 4038.4. Sale, transfer restricted.

If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a claiming race, for a period of 30 days from the date of the claim. A claimed horse shall not, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period. A claimed horse shall not race outside New York State for a period of 30 days from the date of the claim or the end of the meeting at which it was claimed, whichever period of time is longer, except that a horse may run in a sweepstakes elsewhere for which the horse was nominated by its former owner or trainer, or if permission is granted by the stewards.

§ 4038.5. Requirements for claim; determination by stewards.

(a) All claims shall be in writing, sealed in an envelope and deposited in a locked box provided for this purpose by the racing secretary or the racing secretary's designee, at least 10 minutes before post time. Claim slip forms must be completely filled out and must, in the judgment of the stewards, be sufficiently accurate to identify the claim, otherwise the claim will be void. No money shall accompany the claim. Each person desiring to make a claim, unless the person has such amount to the person's credit with the association, must first deposit with the association the whole amount of the claim, in a manner approved by the racing secretary or designee for which a receipt will be given. Unless funds of the claimant available in the claimant's account with the association are sufficient, in the judgment of the stewards, to pay the cost of any post-race testing requested on the claim form by the claimant, the commission shall not conduct such testing. If such funds are sufficient, an amount sufficient to pay for the post-race testing requested on the claim form shall be frozen in such claimant's account to secure anticipated costs of testing. All claims shall be passed upon by the stewards. If more than one person should enter a claim for the same horse, then the disposition of the horse shall be decided by lot by the stewards. Claimed horses shall be taken after the race to the test barn for a determination of soundness and for any test samples to be collected. The person determined by the stewards to have the right of claim shall become the owner of the horse when the race is started, whether the horse is sound or unsound or injured before or during the race or after the race, except that**:**

(1) the claim is voidable at the discretion of the new owner pursuant to the conditions stated in section 4038.19 of this Part unless the age or sex of such horse has been misrepresented, and subject to the provisions of subdivision (b) of this section; and

(2) a claim shall be void for any horse that dies during a race or is euthanized on the track following a race;

(3) a claim is voidable at the discretion of the new owner, for a period of one hour after the race is made official, for any horse that is vanned off the track after the race; and

(4) a claim is voidable at the discretion of the new owner if the horse is placed on the veterinarian's list following an examination by the State veterinarian or other veterinarian who has been designated by the commission to examine claimed horses in the test barn following the race for a determination of soundness for either of the following reasons:

(i) the horse is grade two lame or higher on the American Association of Equine Practitioners lameness grading scale, meaning the lameness of the horse is consistently apparent under certain circumstances (e.g., weight carrying, circling, inclines, hard surface) even if such lameness is difficult to observe when the horse is at a walk or trotting in a straight line; or

(ii) the claimed horse has bled visibly from a nostril (epistaxis) that is attributable, because the bleeding is not caused wholly by a wound or superficial injury, to an episode of exercise induced pulmonary hemorrhage.

When a horse is placed on the veterinarian's list pursuant to this paragraph, the claimant shall be deemed to have voided the claim and the horse shall be removed from the test barn area by the original owner, unless the claimant or a representative of the claimant is present at the test barn to be informed of the determination of the State or designated veterinarian and, upon being informed of the veterinarian's findings, decides immediately to accept the horse.

(b) In the event a horse is claimed, and the claimant has indicated on the claiming blank an election to have a test for equine infectious anemia performed and has paid the prescribed fee for such test, a blood sample shall be taken by the State veterinarian, and the sample identified as being from a claimed horse shall be forwarded within 24 hours to an approved laboratory to be tested for equine infectious anemia. Pending the receipt of a negative test for equine infectious anemia the monies paid for the claimed horse shall be held by the track. In the event of a positive test for equine infectious anemia the ownership of the claimed horse shall revert to the owner from whom the horse was claimed and the claiming monies shall be returned to the person or persons who claimed the horse. The cost of the test is to be borne by the claimant.

(c) The previous trainer of a claimed horse shall, within 48 hours after the race is made official, provide to the new owner an accurate record of all corticosteroid joint injections that were administered to the horse within 30 days before the race.

§ 4038.6. Opening of sealed claim.

No official or other person shall open the sealed claim box and envelope or give any information on claims filed except to check on the claimant's license and eligibility of the claim. Otherwise, the claim box and envelope shall remain unopened until after the results of the race are made official.

§ 4038.7. Limitations on claims.

(a) No person shall claim more than one horse in a race.

(b) No authorized agent, although representing more than one owner, shall submit more than one claim in any one race.

(c) When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race.

§ 4038.8. Person for whom horse runs.

Each horse shall run for the account of the person in whose name it starts.

§ 4038.9. Claim irrevocable when filed.

When a claim has been filed with the racing secretary, it is irrevocable and is at the risk of the claimant.

§ 4038.10. In case of dead heat.

In case of a dead heat, each of the dividing horses is the winner for the purpose of this Part.

§ 4038.11. Collusive claiming punished.

(a) Should the stewards be of the opinion that any person is claiming a horse collusively for the benefit of another interest or in order to evade the provision of any sections of this Article, they may require such person to make an affidavit that he or she is not so doing, and if upon proof it is ascertained that such person made a false affidavit, such person shall be referred to the commission for further action.

(b) Should the stewards within 24 hours after the running of a race determine that the lease or the entry of a horse was not made in good faith but was made for the purpose of obtaining the privilege of entering a claim, then in each case the stewards may disallow or cancel any such claim and order the return of a horse that may have been delivered and refer the case to the commission for further action.

§ 4038.12. Effect of walking over.

A horse's liability to be claimed is not affected by its walking over.

§ 4038.13. Delivery on written order.

No horse shall be delivered except on a written order from the racing secretary or the racing secretary's designee.

§ 4038.14. Refusal to deliver.

Any person refusing to deliver a claimed horse shall be suspended and such person's case referred to the commission. The horse is disqualified until the horse is delivered to the purchaser.

§ 4038.15. Intimidation, collusion.

Any person who shall attempt to prevent another person from claiming any horse in a claiming race, or any owners running in claiming races who may make any agreement for the claiming of each other's horses, may be punished by the stewards or the stewards may refer the matter to the commission for further action.

§ 4038.16. Stewards' certificate to claim.

An owner whose stable has been eliminated by claiming or by fire or other hazards shall have the right to claim during the remainder of the meeting at which such stable was eliminated, or for the next 30 racing days of that racing association, whichever period is longer. If the 30-day period should extend into the next succeeding meeting of that racing association, the owner must obtain a certificate from the stewards of the meeting at which such owner lost his or her last horse. The owner must present this certificate when filing a claim at the next meeting.

§ 4038.17. Horses claimed—testing.

(a) If the claimant of a horse has requested post-race testing, at the expense of the claimant, on the claim form, then the stewards shall designate such horse for post-race testing pursuant to subdivision (b) of section 4012.3 of this Article. The original trainer shall remain responsible for the claimed horse until any on-track post-race sample collection has been completed.

(b) The original trainer shall remain responsible for a claimed horse that is required to be examined pursuant to paragraph (4) of subdivision (a) of section 4038.5 of this Part until the horse has undergone such examination and been released to the new owner.

§ 4038.18. Pregnant mare—disclosure prior to entry in a claiming race.

It shall be the responsibility of the trainer to disclose the pregnancy of any mare to the racing secretary with the entry of that mare in any claiming race. The racing secretary shall cause such fact to be prominently displayed in the entry room prior to any subsequent start.

§ 4038.19. Certain voidable claims.

(a) *Race-day positive*. Should the analysis of a race-day blood or urine sample taken from a claimed horse result in a positive test, or if the race-day test results of a previous race have not been cleared by the date of the claim and result in a positive test, the claimant's trainer shall be promptly notified by the stewards and the claimant shall have the option to void said claim within five days of such notice by such trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or the claimant's trainer. In the event the claim is voided, the horse shall be returned to the owner of the horse who subjected the horse to claiming in the race from which the positive test resulted.

(b) *Erythropoietin and darbepoetin.* Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the antibody of erythropoietin or darbepoetin was present in the sample taken from that horse, the claimant's trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his or her trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or the claimant's trainer.

(c) *Reserpine and fluphenazine.* Notwithstanding any inconsistent provision of Part 4043, should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from that horse, the claimant's trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by the claimant trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or the claimant's trainer.

(d) *Upper neurectomy or unreported lower neurectomy.* Where an upper neurectomy as defined in subdivision (a) of section 4025.31 of this Article, or a lower neurectomy that has not been reported, as required in subdivision (b) of section 4025.31 of this Article, has been performed on a horse prior to the race in which it is claimed, the claimant shall have the option to void said claim upon written notice to the stewards from the claimant or the claimant's trainer given within 10 days following the date of the claim.

(e) *Undeclared pregnant mare*. Where a pregnant mare has been claimed which pregnancy has not been disclosed as required in section 4038.17 of this Part, the claimant shall have the option to void the claim upon written notice to the stewards from the claimant or the claimant's trainer within 10 days following the date of the claim.

(f) *Misrepresentation of age or sex.* Where a horse has been claimed and the age or sex of the animal has been misrepresented in the racing program, the claimant shall have the option to void the claim upon written notice to the stewards from the claimant or the claimant's trainer within 10 days following the date of the claim.

(g) *Excess TCO_2 levels*. In the event that a claimed horse tests in violation of section 4043.8, of this Article and it is not determined that such TCO_2 level is physiologically natural for that particular horse, the claimant or the claimant's trainer shall have the option to void the claim upon written notice to the stewards within five days of receiving notice of the violation.

PART 4039

Disputes, Objections, Appeals

Section
DISPUTES
4039.1 Penalties attach until dispute decided
APPEALS
4039.5 Appeal from stewards' decision
4039.6 Notice of appeal
OBJECTIONS
4039.10 Who may make objection
4039.11 Objections to be in writing
4039.12 Leave required to withdraw objection
4039.13 Liability for costs of inquiry
4039.14 Deposit may be forfeited
4039.15 Disqualification of horse before race
4039.16 Objection to decision of clerk of scales
4039.17 Objection to distance or course
4039.18 Objection to matters occurring in race
4039.19 Time for making other objection
4039.20 Stewards determine extent of disqualification
4039.21 Recovery of money distributed
4039.22 Money held pending determination

DISPUTES

§ 4039.1. Penalties attach until dispute decided.

When a race is in dispute both the horse that finished first and any horse claiming the race shall be liable to all the penalties attaching to the winner of that race until the matter is decided.

APPEALS

§ 4039.5. Appeal from stewards' decision.

Every objection shall be decided by the stewards, but their decision shall be subject to appeal in writing to the commission so far as relates to points involving the interpretation of this Article or to any question other than a question of fact.

§ 4039.6. Notice of appeal.

Notice of appeal must be given in writing to the commission within 48 hours of the decision being made.

OBJECTIONS

§ 4039.10. Who may make objection.

Every objection must be made by the owner, trainer or jockey of some horse engaged in the race or by the officials of the course to the clerk of the scales or to one of the stewards, or an objection may be made by any one of the stewards.

§ 4039.11. Objections to be in writing.

All objections except claims of interference during a race must be in writing signed by the objector.

§ 4039.12. Leave required to withdraw objection.

An objection cannot be withdrawn without leave of the stewards.

§ 4039.13. Liability for costs of inquiry.

All costs and expenses in relation to determining an objection or conducting an inquiry shall be paid by such person or persons and in such proportions as the stewards shall direct.

§ 4039.14. Deposit may be forfeited.

Before considering an objection, the stewards may require a deposit of $25, which shall be forfeited if the objection is decided to be frivolous or vexatious.

§ 4039.15. Disqualification of horse before race.

If an objection to a horse engaged in a race be made not less than 15 minutes before the time set for the race, the stewards may require the qualification to be proved before the race, and in default of such proof being given to their satisfaction, they must declare the horse disqualified.

§ 4039.16. Objection to decision of clerk of scales.

An objection to any decision of the clerk of the scales must be made at once.

§ 4039.17. Objection to distance of course.

An objection to the distance of a course officially designated must be made not less than 15 minutes before the race.

§ 4039.18. Objection to matters occurring in race.

An objection to a horse on the ground of the horse not having run the proper course or of the race having been run on a wrong course or of any other matter occurring in the race must be made before the numbers of the horses placed in the race are confirmed officially.

§ 4039.19. Time for making other objections.

(a) An objection on any of the following grounds may be received up to 48 hours, exclusive of Sunday, after the last race of the last day of the meeting:

(1) of misstatement, omission or error in the entry under which a horse has run; or

(2) that the horse that ran was not the horse nor of the age that the horse was represented to be at the time of entry; or

(3) that the horse was not qualified under the conditions of the race or by reason of default; or

(4) that the horse has run in contravention of the sections relating to partnership or registration.

(b) In the case of any fraud or willful misstatement there shall be no limit to the time of objection provided the stewards are satisfied that there has been no unnecessary delay on the part of the objector.

(c) In any other case, an objection must be made within 48 hours of the race being run, exclusive of Sunday.

§ 4039.20. Stewards determine extent of disqualification.

The stewards are vested with the power to determine the extent of disqualification in case of fouls. The stewards may place the offending horse behind such horses as, in the stewards' judgment, the offending horse interfered with, or the stewards may place the offending horse last, and the stewards may disqualify the offending horse from participation in any part of the purse.

§ 4039.21. Recovery of money distributed.

If, by reason of an objection to a horse, a race or place is awarded to another horse, the money for such race shall be distributed in accordance with the final placing, and the owner of a horse to which the race or place is finally awarded can recover the money from those who wrongfully received it.

§ 4039.22. Money held pending determination.

Pending the determination of an objection, any prize which the horse objected to may have won or may win in the race, or any money held by the association holding the meeting, as the price of a horse claimed (if affected by the determination of the objection), shall be withheld until the objection is determined.

PART 4040

Restrictions on Jockeys and Stable Employees

Section
JOCKEYS
4040.1 Prohibitions—betting, interest in horses
4040.2 Owning race horses forbidden
4040.3 Riding against starter of contract employer
4040.4 No riding or training if suspended
4040.5 Contracts to be filed; salary stops on suspension
4040.6 Penalty for refusal to ride
4040.7 Retainers on priority basis
4040.8 Stewards decide conflicting claims
4040.9 [Repealed]
STABLE EMPLOYEES
4040.15 Hiring stable employees

JOCKEYS

§ 4040.1. Prohibitions—betting, interest in horses.

(a) No jockey shall bet on any race except through the owner of and on the horse that such jockey rides, and any jockey who shall have any interest in any race or horse or to have been engaged in any betting transaction except as permitted by this section, or to have received presents from persons other than the owner, may be punished as provided by sections 4022.12 through 4022.15 of this Article.

(b) Any person knowingly acting in the capacity of part owner or trainer of any horse in which a jockey possesses an interest or making any bet with or in behalf of any jockey except as provided in subdivision (a) of this section, or otherwise aiding or abetting in any breach of this Article, may be punished as provided by sections 4022.12 through 4022.15 of this Article.

§ 4040.2. Owning race horses forbidden.

No jockey, nor such jockey's spouse, parent, issue nor member of such jockey's household, shall be the owner of any race horse. All horses trained or ridden by a spouse, parent, issue or member of a jockey's household shall be coupled in the betting with any horse ridden by such jockey.

§ 4040.3. Riding against starter of contract employer.

A jockey may not ride in any race against a starter of such jockey’s contract employer unless such jockey’s mount and such jockey’s contract employer's starter are both in the hands of the same trainer.

§ 4040.4. No riding or training if suspended.

A jockey or trainer under suspension in any state or foreign country shall not be permitted to train or ride in a race for anyone during the period of such suspension. Any person who shall employee a jockey or trainer in contravention of this section may be punished as provided by sections 4022.12 through 4022.15 of this Article.

§ 4040.5. Contracts to be filed; salary stops on suspension.

The terms of all contracts between jockeys and their employers shall be filed with and approved by The Jockey Club, and such contracts shall contain a provision that in case a jockey's license be revoked or suspended, the salary of the jockey shall in the former case cease, and in the latter case cease during the time of his suspension.

§ 4040.6. Penalty for refusal to ride.

If a jockey engaged for a race or for a specified time refuses to fulfill his or her engagement, such jockey may be punished as provided by sections 4022.12 through 4022.15 of this Article.

§ 4040.7. Retainers on priority basis.

Employers retaining the same jockey have precedence according to the priority of the retainers as specified in the contracts.

§ 4040.8. Stewards decide conflicting claims.

When a jockey is engaged for a race, such engagement is binding on both parties, and any conflict in such a matter, including claims for the services of a jockey, shall be decided by the stewards.

§ 4040.9. [Repealed]

STABLE EMPLOYEES

§ 4040.15. Hiring stable employees.

(a) No owner or trainer shall engage any person who does not have a written discharge from his or her last employer, but any person prevented by this section from obtaining or retaining employment shall have the right of appeal to the commission against the person withholding his or her written discharge.

(b) Any owner or trainer employing a person in violation of subdivision (a) of this section may be punished as provided by sections 4022.12 through 4022.15 of this Article.

PART 4041

Racing Colors and Numbers

Section
4041.1 Colors registered with The Jockey Club
4041.2 Permission require7d to run horse in deviate colors
4041.3 Number on saddle cloth
4041.4 Posting deviation in colors
4041.5 Horses not in owner's colors
4041.6 Wearing of advertising or promotional material

§ 4041.1. Colors registered with The Jockey Club.

Racing colors shall be registered by The Jockey Club annually or for the period of five years. Colors so registered shall not be taken by any other person. All disputes as to the right to particular colors shall be settled by The Jockey Club.

§ 4041.2. Permission required to run horse in deviate colors.

No person shall run a horse in colors other than those registered in his or her own or a stable name without special permission of the stewards.

§ 4041.3. Numbers on saddle cloth.

Jockeys must wear a number on the saddle cloths corresponding to the numbers of the horses as exhibited after weighing out.

§ 4041.4. Posting deviation in colors.

Any deviation from the recorded colors of the owner that may be granted by the stewards is to be immediately posted on the notice board.

§ 4041.5. Horses not in owner's colors.

Under special circumstances a horse may be permitted by the stewards to run in colors not those of the owner.

§ 4041.6. Wearing of advertising or promotional material.

(a) A jockey may not wear any clothing other than the usual helmet, silks, pants, boots and gloves nor display on such clothing any material other than

(1) a logo of the Jockeys' Guild that does not exceed 10 square inches;

(2) a logo of the Permanently Disabled Jockeys Fund that does not exceed 10 square inches; and

(3) authorized advertising or promotional material worn with permission of the stewards.

(b) Advertising or promotional material may be worn by a jockey provided such jockey has filed with the stewards and the race track in a form furnished by the commission at least 24 hours before the applicable race, a description of the advertising or promotional material to be worn with the name of the brands and sponsors and referring to a written authorization by the managing owner of the horse to be ridden which authorization is also filed.

(c) Notwithstanding the foregoing when a corporation, company or any other entity sponsors a race or raceday at the track, the track may prohibit such advertising or promotional material from being worn that represents a competitor of such sponsoring corporation, company or other entity. In this regard the track shall notify the stewards of such prohibition at least two hours before the first race of the day, and the jockey upon arrival in the jockeys' enclosure.

(d) A jockey may display the jockey's name on the pants and the rear of the helmet, only if the name:

(1) is the jockey's legal name;

(2) appears on any combination of the outside of the right thigh, the outside of the left thigh, the rear of the pants between the waistline and the base of the spine or the rear of the helmet;

(3) does not exceed 32 square inches on the outside of each thigh, 10 square inches on the rear of the pants and six square inches on the rear of the helmet; and

(4) appears in black lettering.

PART 4042

Corrupt Practices and Disqualifications of Persons

Section
4042.1 Prohibition of corrupt practices
4042.2–4042.3 [Repealed]
4042.4 Results of disqualification
4042.5 Use of drug
4042.6 Test for alcoholic consumption

§ 4042.1. Prohibition of corrupt practices.

Any person found by the stewards to have violated any of the following subdivisions of this section shall have such punishment imposed upon him or her, and the stewards shall take such other action in the manner as the stewards may deem proper under this Article, including reference to the commission:

(a) *Bribe, offer to bribe*. If any person gives, offers or promises, directly or indirectly, any bribe in any form to any person having official duties in relation to any race or race horse or to any trainer, jockey or agent or to any other person having charge of or access to any race horse.

(b) *Accept, offer to accept bribe*. If any person having official duties in relation to any race track, race or race horse, or if any trainer, jockey, agent or other person having charge of or access to any race horse, solicit, accept or offer to accept any bribe in any form.

(c) *Fail to report offer of bribe*. If any person licensed by the commission shall be approached with an offer or promise of a bribe or with a request or a suggestion for a bribe or for any improper, corrupt or fraudulent act or practice in relation to a race or racing, or that any race shall be conducted otherwise than fairly and in accordance with this Article, and if such licensed person shall not immediately report the matter to the stewards.

(d) *Enter disqualified horse*. If any person willfully enters or causes or permits to be entered or to start in any race a horse that such person knows or has reason to believe to be disqualified.

(e) *Use illegal appliances*. If any person shall have in his or her possession in or about any race track or shall use, appliances—electrical, mechanical or otherwise—other than the ordinary equipment, of such nature as could affect the speed or racing condition of a horse.

(f) *Fraudulent, corrupt act*. If any person be guilty of any improper, corrupt or fraudulent act or practice in relation to racing, or shall conspire with any other person to commit or shall assist in the commission of any such act or practice.

§§ 4042.2–4042.3. [Repealed]

§ 4042.4. Results of disqualification.

(a) *Persons denied admission to tracks*. Anyone who has been ruled off or who has been suspended, whether temporarily for investigation or otherwise, and anyone penalized as in this Part provided by the highest official regulatory racing body having jurisdiction where the offense occurred, shall be denied admission to all race tracks licensed by the commission until duly reinstated, unless otherwise determined by the commission.

(b) *Persons barred from racing*. A person whose license has been revoked or has been suspended, whether temporarily for investigation or otherwise, and so long as such person's exclusion or suspension continues shall not be qualified, whether acting as agent or otherwise, to subscribe for or to enter or to run any horse for any race either in his or her own name or in that of any other person.

(c) *Horses suspended*. All horses in the charge of a trainer whose license has been revoked or has been suspended, whether temporarily for investigation or otherwise, shall be automatically suspended from racing during the period of the trainer's exclusion or suspension. Permission may be given by the stewards for the transfer of such horses to another trainer during such period, and upon such approval such horses shall again be eligible to race.

(d) *Track record voided*. In the event that a horse establishes a track or other record in a race and it shall be determined by competent authority that the chemical analysis of any specimen taken from such horse shows the presence of a drug that is of such a character as could affect the racing condition of the horse in such race, then such record shall be null and void.

§ 4042.5. Use of drugs.

(a) No person while on the grounds of a licensed or franchised track, who is licensed as trainer, assistant trainer, jockey, apprentice jockey, exercise rider, assistant starter, outrider, groom, valet, pony-horse rider, or anyone who is riding a horse in a race, a warm-up for a race or riding on a horse anywhere on the grounds, or anyone who aids or participates in the preparation of a race or a horse for a race, or is licensed by the commission, shall have present within the body of such person any controlled substance listed in schedules I through V of section 3306 of the Public Health Law, unless advance permission to ride a horse or participate in any manner in a race, while using such substance, pursuant to prescription by a licensed physician, has been granted in writing by the commission.

(b) Every such person, which includes all licensees, shall, upon the request of a steward or paddock judge, deliver a specimen of urine or subject himself to the taking of a blood sample by a licensed physician, as directed by such official. Failure by such person to provide such sample as so directed shall be a violation of these rules and subject such

person to fine and license suspension. In addition, in no event shall any person ride or participate in any manner in the administration of or in any race, and/or the preparation of a horse for a race, on the day such sample is requested until such specimen has been taken as directed.

(c) In the event that analysis of a urine or blood sample, by the testing facility designated by the commission, discloses the presence of a prohibited controlled substance, such fact shall be reported to the commission, which shall schedule an immediate interview with such person, pending which such person shall not be permitted to ride or participate in any manner in any race. As a result of such interview, the commission may restore full riding and/or license privileges to such person after such person has delivered a current sample for analysis, continue such temporary suspension of riding and/or license privileges pending receipt of the result of analysis of any sample directed to be taken at such interview, or take such other action as the commission may deem appropriate, including fine, revocation, suspension or the conditioning of continued licensing upon the satisfactory enrollment in and completion of a drug treatment program or drug educational program designated by the commission.

(d) Disclosure of the results of analysis and other reports made in the course of enforcement of this section shall be treated as confidential insofar as is consistent with law.

§ 4042.6. Test for alcoholic consumption.

(a) Each track shall provide a device approved by the commission at a location to be designated by the State steward or designee capable of measuring the presence of alcohol by weight within the blood. The commission shall only approve the use of breath analysis instruments that have been approved by the National Highway Traffic Safety Administration. The use of such device shall be under the supervision of the commission steward or commission designee.

(b) Tests shall be administered to licensees and officials at such times as directed by the commission steward or commission designee, and shall only be administered by qualified individuals employed by the commission. All jockeys named to ride or who will ride in a race must be tested prior to racing on each race date.

(c) *Violations*. The following shall constitute violations:

(1) Refusal to take such test shall constitute a violation of this section.

(2) The presence of .05 percent or more alcohol in the blood by weight per volume as indicated by said device shall constitute alcoholic impairment and be a violation of this section. *Blood alcohol concentration (BAC)* means the weight amount of alcohol contained in a unit volume of blood, measured as grams ethanol/100ml blood and expressed as percent BAC.

(d) A jockey who is alcoholically impaired or who refuses to be tested shall not compete and may be fined or suspended. An official who is alcoholically impaired or refuses to be tested shall not be assigned his or her duties and a report thereof shall be made immediately to the commission. Any other licensee who is alcoholically impaired or refuses to be tested shall not be permitted to continue to perform in a licensed capacity on that day. In the event of a violation of this section, the commission may take such other action as is deemed appropriate, including fine, revocation, suspension or the conditioning of continued licensing upon the satisfactory enrollment in and completion of a State-certified treatment program.

PART 4043

Drugs Prohibited and Other Prohibitions

Section
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§ 4043.1. Definitions.

The terms and words used in this Part shall mean:

(a) *Administer* means to cause the introduction of a substance into the body of a horse.

(b) *Drug* means any substance or metabolite of such substance that does not exist naturally in the untreated horse and that can have a pharmacological effect on a horse.

(c) *Laboratory* means the official racing chemical detection laboratory designated by the commission.

(d) *Out-of-competition positive test* means a finding by the laboratory that any of the prohibited substances described in section 4043.12 of this Part was present in the sample.

(e) *Post-race positive test* means a finding by the laboratory that a drug or other substance the use of which is restricted by this Part was present in the sample and was administered at a time or in a manner prohibited by this Part.

(f) *Practicing veterinarian* means a veterinarian who treats any race horse.

(g) *Pre-race positive test* means a finding by the laboratory that a drug could be present in the sample.

(h) *Sample* means any bodily substance, including but not limited to blood or urine taken from a horse at the direction of the commission or the commission's officials for the purposes of analysis. A sample is a pre-race sample when such sample is taken before a race pursuant to the rules governing the pre-race testing program. A sample is a post-race sample when such sample is taken after a horse races pursuant to the rules governing the post-race testing program.

(i) *Start of a racing program* means the scheduled post-time of the first race of a program containing a race in which the horse is to compete.

§ 4043.2. Restricted use of drugs, medications and other substances.

Drugs and medications are permitted to be used only in accordance with the following provisions.

(a) The following substances are permitted to be used at any time up to race time:

(1) topical applications (such as antiseptics, ointments, salves, DMSO leg rubs, leg paints and liniments) which may contain antibiotics but do not contain benzocaine, steroids or other drugs; and

(2) antibiotics, vitamins, electrolytes, and other food supplements so long as they are administered orally and so long as they do not contain any other drug or by their nature, exhibit drug-like actions or properties.

(b) *Eligibility for the administration of furosemide*.

(1) The administration of furosemide is permissible to a horse that has qualified for such use by any of the following means:

(i) the horse has bled visibly during a race or a workout, as determined by the association veterinarian; or

(ii) the horse has bled during a race or workout, as determined by an attending veterinarian based upon such veterinarian's clinical assessment of the horse, which may or may not include an endoscopic examination after the race or workout; or

(iii) the horse has been qualified by the State veterinarian or a veterinarian employed by the racetrack for the administration of furosemide in another racing jurisdiction; or

(iv) the horse has raced on furosemide in such horse's last race in a jurisdiction with rules substantially similar to New York State.

(2) If it is determined that a horse has qualified pursuant to paragraph (1) of this subdivision, and the owner or trainer elects to make the horse eligible for the administration of furosemide, the horse shall be placed on a list, to be maintained by the association veterinarian, of horses that have bled and shall not be permitted to race for the following periods of time:

(i) 1st time—10 days after such episode of bleeding;

(ii) 2nd time—30 days after such episode of bleeding;

(iii) 3rd time—90 days after such episode of bleeding; and

(iv) 4th time—one year after such episode of bleeding. Such list shall be made available to the public for inspection.

(3) Eligibility to race on furosemide. For a horse to be eligible to race on furosemide, the trainer of that horse must file satisfactory documentation of eligibility pursuant to this rule with the association veterinarian on or before time of entry.

(4) Removal from the furosemide list. A horse that has been eligible for the administration of furosemide may be removed from the list, upon authorization from the stewards.

(5) Reinstatement to furosemide list. After removal from the furosemide list, a horse may be reinstated for the administration of furosemide if the horse again meets the requirements set forth in paragraph (1) of this subdivision and such horse shall not be permitted to race for the applicable time period set forth in subparagraphs (i) through (iv) of paragraph (2) of this subdivision.

(6) Administration of furosemide. For the purposes of this subdivision, furosemide shall be administered only in the following manner:

A single intravenous (IV) injection of no less than 150 milligrams (3cc) and no more than 500 milligrams (10cc) on the grounds of a licensed or franchised racing association or corporation during the time period from four to four and one-half hours before the scheduled post time of the race in which the horse is to compete.

(7) Ineligibility to start. Any horse that is eligible for the administration of furosemide must be present on the grounds of the racing association or corporation no less than four hours prior to scheduled post time of the race in which the horse is scheduled to

compete. A horse that is not present at least four hours prior to post time or that has not received the administration of furosemide pursuant to this subdivision shall be ineligible to start.

(c) The following substances may be administered by any means except by joint injection until 24 hours before the scheduled post time of the race in which the horse is to compete:

(1) antibiotics,

(2) sulfa-expectorants (*e.g.*, sulfa-methoxypyridazine)

(3) tetanus antitoxin,

(4) electrolytes, vitamins, and other food supplements and body nutrients not containing perocaine or other drugs,

(5) Omeprazole;

(6) Cimetidine;

(7) Ranatidine;

(8) Sucralfate.

They may not be administered by any means within 24 hours of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such 24 hours.

(d) [Reserved]

(e) The following substances are permitted to be administered by any means except by joint injection until 48 hours before the scheduled post time of the race in which the horse is to compete:

(1) aminophylline or theophylline;

(2) arsenic solution (*e.g.*, Fowlers Solution);

(3) aspirin or sodium thiosalicylate;

(4) chymotrypsin (*e.g.*, Kymar);

(5) diuretics (*e.g.*, furosemide [Lasix], except as otherwise provided pursuant to subdivision (b) of this section, thiazide derivatives [*e.g.*, Diuril];

(6) epinephrine (adrenaline);

(7) selenium/vitamin E (*e.g.*, E-Se);

(8) griseofulvin (*e.g.*, Fulvicin);

(9) hormones (*e.g.*, chorionic gonadatropin);

(10) hyaluronic acid derivatives

(11) immuno stimulants;

(12) iodine injection (*e.g.*, Hypodermin, Harvey's Injectible Blister);

(13) methenamine (*e.g.*, Urotropin);

(14) no more than one of the following nonsteroidal anti-inflammatory drugs (NSAIDs): diclofenac, flunixin (*e.g.*, Banamine), ketoprofen (*e.g.*, Orudis), meclofenamic acid (*e.g.*, Arquel), naproxen (*e.g.*, Naprosyn, Equiproxen), and phenylbutazone (*e.g.*, Butazolidin). One other such NSAID may be administered within one week of the race in which the horse is to compete, provided that such NSAID is administered at least 96 hours before such race;

(15) orgotein (*e.g.*, Palosein);

(16) hydroxychloroquine sulfate (*e.g.*, Rheaform);

(17) sarapin;

(18) sulfonamide drugs (*e.g.*, Sulfa); and

(19) biologics (*e.g.*, bacterins, antitoxins except tetanus antitoxin).

(20) an oral or intravenous administration of dimethyl sulfoxide (*i.e.*, DMSO).

None of these substances may be administered within 48 hours of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such 48 hours.

(f) The following substances may be administered by any means except by joint injection until 72 hours before the scheduled post time of the race in which the horse is to compete:

(1) antihistamines;

(2) dantrolene;

(3) ketamine hydrochloride;

(4) methocarbamol (*e.g.*, Robaxin);

(5) pentazocine (*e.g.*, Talwin);

(6) trichloromethiazide; and

(7) vermifuges (worm medicines), except phenothiazine.

None of these substances may be administered within 72 hours of the start of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such 72 hours.

(g) The following substances are permitted to be administered by any means except by joint injection until 96 hours before the scheduled post time of the race in which the horse is to compete:

(1) acepromazine;

(2) albuterol;

(3) atropine;

(4) butorphanol;

(5) detomidine;

(6) glycopyrrolate;

(7) guaifenesin;

(8) hydroxyzine;

(9) isoxsuprine;

(10) lidocaine;

(11) mepivicaine;

(12) pentoxifylline;

(13) phenytoin;

(14) pyrilamine;

(15) xylazine.

None of these substances may be administered within 96 hours of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by

a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such 96-hour period.

(h) No other drugs or medications (including procaine) may be administered by any means within one week of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such one-week period.

(i) In addition, a horse may not race for the following periods of time:

(1) for at least five days following a systemic administration of a prednisolone or dexamethasone;

(2) for at least 14 days following a joint injection;

(3) for at least 14 days following an administration of clenbuterol or firocoxib.

In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such time periods. The following corticosteroids may be administered only by means of a joint injection: betamethasone, isoflupredone, any formulation of methylprednisolone and any formulation of triamcinolone.

(j) The listing, reference to, or denomination herein of any drug or other substance does not constitute endorsement or recommendation by the commission for the use of such drug.

(k) A horse may not race after an administration of methylprednisolone acetate (*e.g.*, Depo Medrol) unless such horse

(1) subsequently tests below the threshold set forth in section 4043.3 of this Part for such drug in a test conducted by or for the commission at the sole expense of the trainer of the horse; and

(2) is released to race by the stewards.

§ 4043.3. Equine drug thresholds; per se.

(a) A horse shall have raced in violation of this section if any of the following substances is found, by the laboratory conducting tests for the commission, to be present in a race-day urine or blood sample taken from such horse at a concentration in excess of a threshold listed below. The test result of such laboratory shall include an assessment of the measurement uncertainty and imprecision of the quantitative threshold for the substance.

(1) Acepromazine: 10 ng/ml HEPS in urine;

(2) Albuterol: 1 ng/ml in urine;

(3) Betamethasone: 10 pg/ml in plasma;

(4) Butorphanol:

(i) 300 ng/ml of total butorphanol in urine; or

(ii) 2 ng/ml of free butorphanol in plasma;

(5) Clenbuterol:

(i) 140 pg/ml in urine; or

(ii) any clenbuterol in plasma;

(6) Cobalt: 50 ng/ml in plasma;

(7) Dantrolene: 100 pg/ml of 5-hydroxydantrolene in plasma;

(8) Detomidine:

(i) 1 ng/ml of any metabolite of detomidine in urine; or

(ii) any detomidine in plasma;

(9) Dexamethasone: 5 pg/ml in plasma;

(10) Diclofenac: 5 ng/ml in plasma;

(11) DMSO: 10 mcg/ml in plasma;

(12) Firocoxib: 20 ng/ml in plasma;

(13) Flunixin: 20 ng/ml in plasma;

(14) Furosemide: 100 ng/ml in plasma and a specific gravity of urine less than 1.010;

(15) Glycopyrrolate: 3 pg/ml in plasma;

(16) Isoflupredone: 100 pg/ml in plasma;

(17) Ketoprofen: 2 ng/ml in plasma;

(18) Lidocaine: 20 pg/ml of total 3-hydroxylidocaine in plasma;

(19) Mepivacaine:

(i) 10 ng/ml of total hydroxymepivacaine in urine; or

(ii) any hydroxymepivacaine in plasma;

(20) Methocarbamol: 1 ng/ml in plasma;

(21) Methylprednisolone: 100 pg/ml in plasma;

(22) Omeprazole: 1 ng/ml of omeprazole sulfide in urine;

(23) Phenylbutazone: 2 mcg/ml in plasma;

(24) Prednisolone: 1 ng/ml in plasma;

(25) Procaine penicillin: 25 ng/ml of procaine in plasma;

(26) Triamcinolone acetonide: 100 pg/ml in plasma; and

(27) Xylazine: 10 pg/ml of total xylazine and its metabolites in plasma.

(b) A laboratory finding that a horse has not exceeded a threshold set forth in this section shall not constitute a defense to a violation of any other section of this Subchapter.

(c) *Special provisions*.

(1) Cobalt. A person who is found responsible for a violation of this section for the substance cobalt, when the detected concentration of cobalt exceeds 300 ng/ml in plasma, shall incur the same penalty described in paragraph (2) of subdivision (b) of section 4043.12 of this Part.

(2) Corticosteroid joint injection. It shall not be a violation of this section for the drug betamethasone, isoflupredone or triamcinolone acetonide when:

(i) the laboratory positive resulted from an administration that was recorded in the contemporaneous veterinary records of the horse, reported to the commission in compliance with subdivision (b) of section 4043.4 of this Part before the horse raced, and administered to the horse in compliance with subdivision (i) of section 4043.2 of this Part at least seven days before the race; and

(ii) the commission had not previously issued a warning to the trainer that the commission laboratory reported finding such substance, in a urine or blood sample collected from any horse trained by such trainer, at a concentration in excess of the threshold set forth in subdivision (a) of this section.

§ 4043.4. Trainer's responsibility.

(a) A trainer shall be responsible at all times for the condition of all horses trained by him or her. No trainer shall start or permit a horse in his or her custody, care or control to be started if the trainer knows, or might have known or have cause to believe, that the horse has received any drug or other restricted substance that could result in a positive test. The trainer shall be held responsible for any positive test unless the trainer can show by substantial evidence that neither the trainer nor any employee nor agent was responsible for the administration of the drug or other restricted substance. Every trainer must guard each horse trained by him or her in such manner and for such period of time prior to racing the horse so as to prevent any person, whether or not employed by or connected with the owner or trainer, from administering any drug or other restricted substance to such horse contrary to this Part.

(b) Trainers shall maintain accurate records of all joint injections to horses trained by them. The record(s) of every joint injection shall be submitted, in a form and manner approved by the commission, by the trainer to the commission within 48 hours of the treatment. The trainer may delegate this responsibility to the treating veterinarian, who shall make the reports when so designated. The reports shall be accessible to the examining veterinarian for the purpose of assisting with pre-race veterinary examinations.

§ 4043.5. Disqualification.

A horse, in respect to which there has been any violation of the prohibitions contained in this Part or Part 4012 of this Subchapter, or from which a sample has resulted in a positive test, may be disqualified from the race and from any share of the purse in the race and such share shall be redistributed among the remaining horses in the race entitled to same. Nothing contained herein shall in any way affect the pari-mutuel distribution which shall be deemed final and unappealable upon the declaring of the race “official” by the judges at the conclusion of the race.

§ 4043.6. Erythropoietin and Darbepoetin.

(a) A finding by the laboratory that the antibody of erythropoietin or darbepoetin was present in the sample taken from a horse shall establish that the horse is unfit to race in any subsequent race, subject to the provisions of subdivision (b) of this section.

(b) Any horse that has been the subject of a finding by the laboratory that the antibody of erythropoietin or darbepoetin was present in the sample taken from that horse shall not be entered or allowed to race in any subsequent race until the horse has tested negative for the antibodies of erythropoietin or darbepoetin in a test conducted by the laboratory.

(c) Notwithstanding any inconsistent provision of this Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer’s responsibility based upon the

finding by the laboratory that the antibody of erythropoietin or darbepoetin was present in the sample taken from that horse.

§ 4043.7. Reserpine and Fluphenazine.

(a) Notwithstanding any inconsistent provision of this Part, a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from a horse shall result in the disqualification of the horse from the race and from any share of the purse in the race.

(b) The trainer of a horse that has been the subject of a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from that horse shall not be subject to application of trainer's responsibility based solely upon the finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample.

§ 4043.8. TCO_2 blood gas testing program.

(a) The commission may obtain pre-race blood samples from horses for subsequent testing for total carbon dioxide level (TCO_2). The commission may also obtain post-race blood samples from horses for subsequent testing for TCO_2, after a minimum one-hour standing at rest period for the horse after such horse's race. It shall be a violation of this section where the horse's TCO_2 level equals or exceeds 37 millimoles per liter or, for horses administered furosemide pursuant to paragraph (6) of subdivision (b) of section 4043.2 of this Part during the four hours before the blood sample was taken, 39 millimoles per liter.

(b) It shall be an affirmative defense that the horse's physiologically natural TCO_2 level was not exceeded. To demonstrate natural TCO_2, such horse's owner or trainer must make a written request to the stewards, within three calendar days of receiving notice of the horse's TCO_2 test result, that the horse be held in guarded quarantine for this purpose. The racetrack operator shall make available a three-day guarded quarantine for a time determined by the State steward, at the sole expense of the requesting party, where blood samples shall be periodically taken for subsequent testing by the commission. If the owner or trainer properly arranges with the commission in advance, then samples shall also be taken and sent for independent testing at another laboratory at the sole expense of the requesting party. During quarantine the horse shall not race, but it may be exercised and trained at prescribed times that do not interfere with monitoring, sampling, and testing the horse. After the quarantine, the State steward shall determine whether the horse's TCO_2 level was physiologically natural for it. The State steward may also require, at least 45 days later, that the horse re-establish such horse's natural TCO_2 level with another guarded quarantine to be made available at the sole expense of the racetrack operator.

(c) Any guarded quarantine provided by the racetrack operator shall ensure that, at a minimum:

(1) Such horse shall be under direct surveillance by at least one guard at all times;

(2) Access to the horse shall be restricted to licensed persons who are directly affiliated with such horse, track stewards, or employees of the New York State Gaming Commission, all of whom shall provide their respective track identification badge or commission-issued photo identification card prior to entry;

(3) A written or electronic log of all persons who have had access to the horse shall be maintained by the guard, indicating the name and license number or track identification badge number of the person, the date and time of the visit (including time in and out of the restricted area), the nature and purpose of the visit, a description of any and all equipment, paraphernalia, tack, medications, or feed brought to the horse, and all activity observed by the guard during the visit; and

(4) The racetrack operator shall maintain such written or electronic logs of guarded quarantine activity for a minimum period of 90 days after the conclusion of the applicable guarded quarantine period.

(d) The penalty for violations of this section shall be not less than:

(1) for a first violation, a 60-day license suspension and $1,000 fine;

(2) for a second violation, a 75-day license suspension and $2,500 fine; and

(3) for additional violations, a one-year suspension and $5,000 fine together with a referral to the commission for further action including a possible license revocation.

Where independent evidence shows that the horse was treated within 24 hours of such horse's race by means not permitted by section 4043.2 of this Part, however, every license suspension shall be for at least two years. Every suspension shall include denial of the privileges of the grounds.

(e) For a violation of this section, a horse shall be disqualified, any purse monies shall be forfeited and redistributed pursuant to section 4043.5 of this Part, and the horse shall be subject to pre-race detention and shall be ineligible to race until it tests in compliance with this rule and tests negative for drugs.

§ 4043.9. Pre-race detention.

(a) A horse that tests in violation of section 4043.8 of this Part shall be subject to pre-race detention, without regard to whether the horse is transferred to a new owner or trainer, for a period of six months and then until it tests in compliance with section 4043.8 of this Part and tests negative for drugs. If during the detention period a horse again tests in violation of section 4043.8 of this Part, then the detention period shall be extended as the stewards shall deem appropriate. The racetrack operator sponsoring the race shall make such pre-race detention available, at the sole expense of the trainer, for at least six hours before the start of the race program and as required by the stewards. Where a claimed

horse is found to be in violation of section 4043.8 of this Part, the costs of a pre-race detention shall be the responsibility of the party requesting detention. A buyer who was not aware of its pre-race detention requirement for testing positive may void the purchase of a horse, provided it is done within 10 days after receiving notice of the horse's pre-race detention requirement.

(b) Each owner who is using a trainer at the time the trainer commits a repeat violation of section 4043.8 of this Part shall be required for four months to subject in pre-race detention all horses that were under the care or control of this trainer and any replacements of them. The pre-race detention requirement shall not continue to apply to a horse that is sold during the detention period to a third party in a good-faith, arms-length transaction. The pre-race detention requirement shall not apply unless the trainer's earlier violation happened within the past 12 months and the State steward made a ruling on the earlier TCO_2 violation at least 10 days before the trainer's repeat violation. The racetrack operator sponsoring the race shall make such pre-race detention available, at the sole expense of the trainer, for at least six hours before the start of the race program and as required by the stewards.

(c) If during a detention period a trainer violates section 4043.8 of this Part, then the detention period shall be extended for such time as the stewards deem appropriate.

§ 4043.10. TCO_2 testing: punishment for failure to cooperate.

It shall be a violation of subdivision (f) of section 4042.1 of this Article for any person subject to the jurisdiction of the commission to fail to cooperate with blood gas testing.

§ 4043.11. Use and disposal of hypodermic syringes and needles.

To ensure drug testing accuracy, all hypodermic syringes and needles may be used only once by a track or practicing veterinarian. The collection, security and disposal of the used syringes and needles are the responsibility of a track or practicing veterinarian.

§ 4043.12. Prohibited substances and methods.

(a) The substances and methods listed in the ARCI prohibited list are prohibited, may not be used at any place or time and may not be possessed on the premises of any racing or training facility under the jurisdiction of the commission except as a restricted therapeutic use. *ARCI prohibited list* means the “Prohibited List” annexed to Model Rule ARCI-011-015 Version 7.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which is hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at One Broadway Center, Suite 600, Schenectady, NY 12305 and at the Department of State, 99 Washington Street, Albany, NY.

(b) *Restricted therapeutic use*. A limited number of medications and methods listed in the ARCI Prohibited List shall be exempted when the administration occurs in compliance with the ARCI required conditions for restricted therapeutic use. *ARCI required conditions for restricted therapeutic use* means the "Required Conditions for Restricted Therapeutic Use" annexed to such Model Rule, as described in subdivision (a) of this section and hereby incorporated by reference, whose columns shall mean:

(1) *Report When Sampled* means the administration of the substance must be reported to the commission when the horse is next sampled, if the horse is sampled within 24 hours after the administration;

(2) *Pre-File Treatment Plan* means that if the commission where the horse is located requires the filing of treatment plans, then a treatment plan for the substance must be filed by the time of administration in a manner approved by such commission;

(3) *Written Approval from Commission* means the commission has granted written approval of a written treatment plan before the administration of the substance, including as may be required by the column's footnotes;

(4) *Emergency Use (report)* means the substance had to be administered due to an acute emergency involving the life or health of the horse, provided the emergency use is reported to the commission as soon as practicable after the treatment occurs;

(5) *Prescribed by Veterinarian* means the substance has been prescribed by an attending veterinarian in a manner consistent with the standards and procedures described in section 4043.16 of this Article and recorded in a manner consistent with the requirements of section 4012.4 of this Article;

(6) *Report Treatment* means the treatment must be reported to the commission by the trainer at the time of administration to provide the commission with information for the veterinarian's list. The trainer may delegate this responsibility to the treating veterinarian, who shall make the report when so designated; and

(7) *Other Limitations* means additional requirements that apply, such as a substance may be used in only fillies or mares or a horse that is administered a substance shall be reported immediately to the commission and placed on the veterinarian's list for a specific minimum period of time.

(c) No person shall at any time administer any other doping agent to a horse except pursuant to a valid therapeutic, evidence-based treatment plan.

(1) *Other doping agent* means a substance that is not described in subdivision (a) of this section or the ARCI Prohibited List, has a pharmacologic potential to alter materially the performance of a horse, had no generally accepted medical use in the horse when treated, and is:

(i) capable at any time of causing an action or effect, or both, within one or more of the blood, cardiovascular, digestive, endocrine, immune, musculoskeletal, nervous, reproductive, respiratory, or urinary mammalian body systems; including without limitation endocrine secretions and their synthetic counterparts, masking agents, oxygen carriers and agents that directly or indirectly affect or manipulate gene expression; but

(ii) not a substance that is considered to have no effect on the physiology of a horse except to improve nutrition or treat or prevent infections or parasite infestations.

(2) The commission may publish advisory warnings that certain substances or administrations may constitute a violation of this section.

(3) *Therapeutic, evidence-based treatment plan* means a planned course of treatment written and prescribed by an attending veterinarian before the horse is treated that:

(i) describes the medical need of the horse for the treatment, the evidence-based scientific or clinical justification for using the doping agent and a determination that recognized therapeutic alternates do not exist; and

(ii) complies with section 4043.16 of this Part, meets the standards of veterinary practice in the jurisdiction and is developed in good faith to treat a medical need of the horse.

(4) Such plans shall not authorize the possession of a doping agent on the premises of a racing or training facility under the jurisdiction of the commission.

(5) If the other doping agent is a protein- or peptide-based agent or drug that may produce analgesia or enhance the performance of a horse beyond such horse's natural ability, then the administration of such substance to such horse and the possession of such substance on the premises of a licensed racetrack also shall be

(i) limited to a time, place and manner specifically permitted in writing by the commission before the administration of such substance;

(ii) for a recognized therapeutic use; and

(iii) subject to such appropriate limitations as the commission may place on the return of the horse to running races.

(d) *Consistency with other restrictions*.

(1) The prohibited doping agents, substances and methods described in this section are prohibited regardless of any other sections, including 4043.2 and 4043.3, of this Part.

(2) The use of a prohibited doping agent, substance or method under conditions permitted by this section must also comply with other applicable rules of the commission, including, without limitation, sections 4043.2, 4043.3, 4043.6, 4043.15 and 4043.16 of this Part.

(e) *Penalties*.

(1) A horse found to be in violation of this section shall be ineligible to participate in racing until it is certain that the horse is no longer affected by the prohibited substance or method and for not less than 180 days, after which the horse must qualify in a workout satisfactory to the stewards and test negative for prohibited or impermissible drugs or other substances. The minimum fixed period of ineligibility for a horse in violation of this section shall be reduced from 180 to 30 days if the trainer had never violated this rule or similar rules in other jurisdictions and had, for any violations of Part 4043 or similar rules in other jurisdictions, fewer than 180 days in lifetime suspensions or revocations and fewer than two suspensions or revocations of 15 days or more in the preceding 24 months.

(2) A person who is found responsible for a prohibited substance or method in violation of this section shall, in the absence of extraordinary mitigating circumstances, incur a minimum penalty of license revocation in addition to any other penalties authorized in this Article.

(f) A buyer who was not aware that a horse is or may be determined ineligible under this section may void the purchase, provided that the buyer does so within 10 days after receiving actual or constructive notice of the horse's ineligibility.

§ 4043.13. Other prohibitions.

No person shall, attempt to, or cause, solicit, request, or conspire with another or others to:

(a) use or possess any electrical device, "joint," "battery," electric prod, or any other electrical equipment or any mechanical or other appliance not generally accepted as regular racing equipment that can be used to stimulate, depress, goad, spur, retard or condition a horse during a race or during training. The use of ultrasonic, diathermy or other electro/medical equipment is permissible until 24 hours before the scheduled post time of the race in which the horse is to compete, and whirlpool until race time. However, the stewards may bar the possession or use of any specific equipment;

(b) freeze or ice or apply medicated packs to a horse's leg or legs within the paddock area;

(c) after a race, administer any substance except water to a horse designated for testing before the horse has been released by the State veterinarian; or

(d) administer a mixture of bicarbonate of soda and sugar in any of their forms in any manner to a horse within 24 hours of a racing program at which such horse is programmed to race. It shall be the trainer's responsibility to prevent such administration.

§ 4043.14. Restrictions on shock or pulse wave therapy.

The use of extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments shall not be permitted unless the following conditions are met:

(a) The use of extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments within the State:

(1) is limited to veterinarians licensed to practice by the commission; and

(2) may only be performed with machines that are:

(i) registered with and approved for use by the commission; and

(ii) used at a pre-disclosed location that is approved by the commission.

(b) Any extracorporeal shock wave therapy, radial pulse wave therapy or similar machine, whether in operating condition or not, must be registered with and approved by the commission before such machine is brought to or possessed on the grounds of a licensed race track.

(c) Trainers shall report all extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments that are administered to horses trained by them, in a form and manner approved by the commission, no later than the day after the treatment. The trainer may delegate this responsibility to the treating veterinarian, who shall make these reports when so designated. A horse that is so treated shall be added to a list of ineligible horses. Such list shall be kept in the race office and be made accessible to jockeys and their agents during normal business hours. The commission may share information from such list with other racing jurisdictions.

(d) A horse that receives any such treatment is not permitted to race or breeze for a minimum of 10 days following treatment.

(e) A horse that receives any such treatment without full compliance with this section and any similar rules in any other jurisdiction in which the horse was treated shall be placed on the stewards' list.

(f) Any person who violates this section may be subjected to a fine, exclusion from all New York racetracks, and the suspension or revocation of any occupational license held by such person.

§ 4043.15. Anabolic steroids.

(a) Anabolic steroids shall not be administered except as permitted by subdivision (d) of this section. A violation of this section may be established by a finding by the laboratory conducting tests for the commission that an anabolic steroid was present in a blood sample taken from such horse, except for the following substances at concentrations that are less than these thresholds:

(1) Boldenone: All horses may have less than 100 pg/ml (including free boldenone and boldenone liberated from its conjugates) in plasma;

(2) Nandrolone:

(i) Female horses and geldings may have less than 100 pg/ml in plasma; and

(ii) Intact male horses may have less than 500 pg/ml in plasma.

(3) Testosterone:

(i) Female horses and geldings may have less than 100 pg/ml in plasma; and

(ii) Intact male horses may have less than 2,000 pg/ml in plasma.

(4) In addition, no anabolic steroid shall be administered by injection into a joint at any time.

(b) Any other anabolic steroids are prohibited to be administered.

(c) Post-race plasma samples collected from intact males must be identified to the laboratory.

(d) Any horse to which an anabolic steroid that is listed in subdivision (a) of this section has been administered in order to assist in the recovery from an illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug. Once the concentration is below the designated plasma threshold the horse is eligible to be removed from the list.

(e) A violation of this section shall be considered a positive test within the meaning of this Part.

§ 4043.16. No drug administrations without appropriate veterinary approval.

The limitations set forth in this section apply to drug treatments of horses engaged in activities, including training, related to competing in pari-mutuel racing in New York. This includes, without limitation, any horses that are training outside the jurisdiction to participate in racing in New York and all horses that are training in the jurisdiction.

(a) No drug may be administered except in the context of a valid veterinarian-client-patient relationship between an attending veterinarian, the horse owner (who may be represented by the trainer or other agent) and the horse. The owner is not required by this subdivision to follow the veterinarian's instructions, but no drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. Such relationship requires the following:

(1) the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

(2) the veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(3) the veterinarian has performed an examination of the horse and is acquainted with the keeping and care of the horse;

(4) the veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(5) the relationship is maintained by veterinary visits as needed, and

(6) the veterinary judgments of the veterinarian are independent and are not dictated by the trainer or owner of the horse.

(b) No prescription drug may be administered except as prescribed by an attending veterinarian.

(c) The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses, except that the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the veterinarian and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the horse owner (who may be represented by the trainer or other agent).

PART 4044

[Repealed]

PART 4045

Minimum Penalty Enhancement

Section
4045.1 Definitions
4045.2 General
4045.3 Points
4045.4 Administrative action
4045.5 Start of suspension
4045.6 Adjudicatory hearing

§ 4045.1. Definitions.

The following terms, when used in this Part, have the following meanings:

(a) *ARCI Penalty Guidelines* means the uniform classification guidelines published in "Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule," Version 13.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which are hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission, One Broadway Center, Suite 600, Schenectady, NY and at the Department of State, 99 Washington Street, Albany, NY.

(b) *Equine drug rule* means any law, rule, regulation or order that restricts the administration to, or presence in, a racehorse of a drug or other substance in New York or another racing jurisdiction.

(c) *Final adjudication* means a ruling or order of a racing commission that is not currently subject to an administrative or judicial stay, and if such ruling or order is subjected subsequently to a stay, then the ruling or order existing after any such stay ends.

(d) *Precipitating equine drug rule violation* means an equine drug rule violation committed in New York that causes or may cause, depending on the final adjudication of a ruling or order of a racing commission, the penalties of this section to apply.

(e) *Racing commission* means the agency regulating horse racing in a jurisdiction that has horse racing and pari-mutuel wagering.

§ 4045.2. General.

The commission shall suspend the occupational licenses of a habitual or persistent violator of equine drug rules as an additional penalty when there is a precipitating equine drug rule violation. This suspension shall constitute the bare minimum overall penalty enhancement that arises from a previous violation or violations of equine drug rules, wherever committed, and the commission shall continue to apply its own much broader and stricter standards when determining the appropriate penalty for the precipitating and other equine drug rule violations.

§ 4045.3. Points.

(a) When a precipitating equine drug rule violation occurs, the commission shall examine the equine drug rule violation history of the violator and assign a point value to the equine drug rule violations as set forth in this section.

(b) The commission shall assign six points, which shall accumulate with points resulting from other violations committed within a three-year period, for a violation involving a drug or other substance that:

(1) is classified as Penalty Class A in the ARCI Penalty Guidelines; or

(2) is not classified in the ARCI Penalty Guidelines, but has a very high potential to affect race performance and no generally accepted veterinary use in racing horses,

subject to any adjustments that apply as set forth in this section.

(c) The commission shall assign four points, which shall accumulate with points resulting from other violations committed within a two-year period, for a violation involving a drug or other substance that:

(1) is classified as Penalty Class B in the ARCI Penalty Guidelines; or

(2) is not classified in the ARCI Penalty Guidelines, but has a high potential to affect race performance and

(i) has a high potential for abuse; or

(ii) has no generally accepted veterinary use in racing horses,

subject to any adjustments that apply as set forth in this section.

(d) The commission shall assign one point, which shall accumulate with points resulting from other violations committed within a one-year period, for a violation involving a drug or other substance that is classified as Penalty Class C in the ARCI Penalty Guidelines, subject to any adjustments that apply as set forth in this section.

(e) When more than one violation described in subdivision (d) of this section is committed within a 365-day period, the commission shall assign an additional penalty of one-half point for each previous violation (*e.g.*, a second such violation within a 365-day period incurs an additional one-half point, a third such violation incurs an additional one point) in addition to the points assessed pursuant to subdivision (d) of this section.

(f) The point values set forth in subdivisions (c) and (d) of this section are reduced by one-half for any drug or other substance that is listed in section 4043.3 of this Subchapter.

(g) No points shall be assigned for a violation involving a drug or other substance that has no effect on the physiology of a racing horse except to improve nutrition or to treat or prevent infections or parasite infestations.

(h) No points shall be assigned for any violations that occurred before January 1, 2014.

(i) If a violation involves more than one drug or substance, then the commission shall assign to such violation not less than the highest point value of any one of the drugs or substances and shall assign additional points for each drug or substance that could have the effect of substantially altering the nature or effect of such drugs or other substances

on the horse. No points shall be assessed for more than one non-steroidal anti-inflammatory drug (NSAID) when there has been only an NSAID stacking violation.

(j) If multiple violations involving one drug or substance are committed before a licensee is notified of a positive laboratory test, then the commission may assign lesser points for the violations, although not less than the points for a single violation, when the responsible parties are able to show that the multiple violations occurred as the result of an honest and unavoidable mistake. If such an assessment of lesser points had been made by the jurisdiction in which a predicate equine drug violation occurred, or such jurisdiction had assigned lesser (even zero) points due to environmental contamination, then the commission shall assign such lesser points for the violation.

(k) The commission shall assign point values as of the date of a violation.

(l) Points assigned for an equine drug rule violation are not removed from a licensee's record when they serve as a basis to suspend a license. Points continue to accumulate for the time periods that are set forth in subdivisions (c), (d) and (e) of this section.

§ 4045.4. Administrative action.

The commission shall take the following administrative action after a final adjudication of the commission establishes that a licensee has committed a precipitating equine drug rule violation in New York:

(a) The commission shall calculate the points applicable to such licensee to determine whether to take any further administrative action pursuant to this Part.

(1) A licensee may be mailed a letter advising such licensee of the status of the equine drug violation record of such licensee and any possible future action that may be taken in the event of such licensee's accumulation of additional points.

(2) Although point values shall be assigned as of the date of each violation, the commission shall not initiate a suspension pursuant to this Part until after the final adjudication of an equine drug rule violation for which points are assigned pursuant to this Part.

(3) When a precipitating equine drug rule violation results in the licensee having accumulated five or more points based on final adjudications of equine drug rule violations, the commission shall find that a licensee is a habitual or persistent equine drug rule violator.

(b) The Director of the Division of Horse Racing and Pari-Mutuel Wagering shall suspend the occupational licenses of a habitual or persistent equine drug rule violator, at a minimum, as follows:

(1) if the licensee has accumulated 5 to 5.5 points as a result of equine drug rule violations, a suspension of 15 days;

(2) if the licensee has accumulated 6 to 8.5 points as a result of equine drug rule violations, a suspension of 30 days;

(3) if the licensee has accumulated 9 to 10.5 points as a result of equine drug rule violations, a suspension of 90 days; and

(4) if the licensee has accumulated 11 or more points as a result of equine drug rule violations, a suspension of 180 days.

(c) Such license suspensions shall in no way affect any administration action taken under any other provision of this Subchapter, including the imposition of a penalty for the precipitating or other equine drug rule violation in New York.

(d) The Director of the Division of Horse Racing and Pari-Mutuel Wagering, on behalf of the commission, may proportionately reduce such suspension, however, when convinced by clear and convincing evidence that the commission had already enhanced, based on one or more of the predicate equine drug rule violations, the penalty imposed on the licensee for the precipitating equine drug rule violation. The Director may also impose a suspension before there has been a final adjudication of one or more of the predicate equine drug violations, when points assessed for matters that have been finally adjudicated suffice to impose a suspension pursuant to this Part; the balance of any suspension shall be imposed upon additional final adjudications.

(e) The State Steward may, when authorized by the Director of the Division of Horse Racing and Pari-Mutuel Wagering, add the habitual or persistent equine drug rule violator suspension when issuing a ruling upon a precipitating equine drug rule violation.

§ 4045.5. Start of suspension.

A habitual or persistent equine drug rule violator suspension shall not take effect until the commission has notified the licensee in writing of the suspension and

(a) the licensee waives in writing the right to an adjudicatory hearing;

(b) the licensee does not, within 10 days, make a written application for an adjudicatory hearing before the commission; or

(c) an administrative stay for the adjudicatory hearing has expired and no further stay has been granted to the licensee.

§ 4045.6. Adjudicatory hearing.

(a) A habitual or persistent equine drug rule violator may, within 10 days of service upon such violator of a notice of a suspension imposed by this Part, file a written application for an adjudicatory hearing before the commission. A request that is not filed within 10 days shall be null and void and the licensee shall have waived any right to an adjudicatory hearing.

(b) If a licensee requests an adjudicatory hearing for a suspension imposed pursuant to this Part, the commission shall issue an administrative stay of the habitual or persistent equine drug rule violator suspension. Such stay shall be for 45 days from the date of service on the licensee of the notice of the suspension. The licensee may request, on motion with reasonable notice to the secretary of the commission, filed in writing, an extension of such stay for good cause shown that the licensee has not been able to participate in an evidentiary hearing within such period of time. The director of the Division of Horse Racing and Pari-Mutuel Wagering shall decide such motion on behalf of the commission, and the decision of such director shall be final. Upon the completion of the evidentiary hearing, another administrative stay of the suspension shall be issued until such time as the commissioners have taken final agency action.

(c) The adjudicatory hearing shall be conducted pursuant to Part 4550 of this Chapter.

PART 4046

Jockey Injury Compensation Fund

Section
4046.1 Definitions
4046.2 Civil penalty for failure to submit plan for subsequent year
4046.3 Workers' compensation insurance carrier
4046.4 Premium assessment
4046.5 Plan of operation remains in effect
4046.6 Risk Management
4046.7 Notice

§ 4046.1. Definitions.

The following definitions apply to this Part:

(a) *Finger Lakes* means Finger Lakes Racing Association, Inc.

(b) *Injury incident* means an incident that results in the filing of a claim against the policy held by the JICF.

(c) *JICF* means The Jockey Injury Compensation Fund, Inc.

(d) *NYRA* means The New York Racing Association, Inc.

(e) *Submission deadline* means the deadline set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 221(8)(a) for JICF to submit an amendment to a plan of operation relating to the assessment of costs of insurance for the subsequent year.

(f) *Subsequent-year plan* means an amendment to a plan of operation relating to the assessment of costs of insurance for the subsequent year.

§ 4046.2. Civil penalty for failure to submit plan for subsequent year.

In the event that JICF has failed to submit, by the submission deadline, a subsequent-year plan, the commission may assess to JICF, as compensation for the administrative burden of performing the JICF's statutory work, a civil penalty equal to actual commission costs incurred, which amount shall not exceed the maximum set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 116.

§ 4046.3. Workers' compensation insurance carrier.

In the event that JICF has failed to submit, by the submission deadline, a subsequent-year plan, the commission shall order JICF to accept the offer of an insurance carrier to provide workers' compensation insurance, as required by section 221 of the Racing, Pari-Mutuel Wagering and Breeding Law and the Workers' Compensation Law, to JICF for the subsequent year, as selected by the commission in the commission's sole and absolute discretion, and JICF shall bind such coverage. Such policy shall remain in effect unless superseded by a plan submitted by the JICF and approved by the commission.

§ 4046.4. Premium assessment.

In the event that JICF has failed to submit, by the submission deadline, a subsequent-year plan, each thoroughbred owner and trainer shall pay as follows, unless such assessment is modified by the commission or superseded by a plan submitted by JICF and approved by the commission:

(a) *Assessments*.

(1) Owners. For purposes of this part, an owner is the person whose account would be debited or credited when a horse runs. In the case of multiple ownership, the owner for purposes of this part is the managing partner. Each thoroughbred owner licensed or required to be licensed pursuant to section 220 of the Racing, Pari-Mutuel Wagering and Breeding Law in such subsequent year shall pay to JICF, through the horsemen's bookkeeper at the applicable track, a percentage of purses earned, the maximum of which is set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 221(7).

(2) Trainers. Each thoroughbred trainer licensed or required to be licensed pursuant to section 220 of the Racing, Pari-Mutuel Wagering and Breeding Law in such subsequent year shall pay to JICF, through the horsemen's bookkeeper at the applicable track:

(i) an amount the commission determines per-stall, per-day for each stall allotted and accepted, which amount may vary for stalls used at Finger Lakes and NYRA. A per-stall charge is not rent for a stall; and

(ii) an amount the commission determines per injury incident for a worker performing services for such trainer or the owner of the horse being trained by such trainer.

(3) Owners/Trainers. A person licensed as both an owner and trainer shall pay both the owner charge as set forth in paragraph (1) of this subdivision and the trainer charge as set forth in paragraph (2) of this subdivision.

(4) Private Trainers. A private trainer, from whose payroll exercise riders are compensated, shall be responsible for the owner assessment set forth in paragraph (1) of this subdivision as well as the stall charge set forth in paragraph (2) of this subdivision.

(5) Shippers. Those horsemen stabling horses off the grounds of the track who have daily access to and use of the track facilities shall pay the stall assessments set forth in paragraph (2) of this subdivision as if the equivalent number of stalls at the track had been used.

(b) *Premium charges due*.

(1) Stall charges shall be due on the last day of each month.

(2) JICF shall provide horsemen with track addresses to which horsemen shall be required to send their payments required by this part.

§ 4046.5. Plan of operation remains in effect.

In the event that a subsequent-year plan is put into effect by this Part, all other elements other than assessment of the most recently approved JICF plan of operation, including those described in Racing, Pari-Mutuel Wagering and Breeding Law section 221(8)(c), remain in effect.

§ 4046.6. Risk Management.

JICF shall engage, on or before March 1, 2016, a risk management consultant acceptable to the commission, at the sole cost and expense of JICF. Such consultant shall review past and current claims and losses and make recommendations to JICF and the commission, on or before September 30, 2016, for JICF risk management practices and controls.

§ 4046.7. Notice.

JICF shall publish this Part in one or more trade publications likely to be obtained by owners and trainers, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 221(8)(a), at the sole cost and expense of JICF, as soon as practicable.

PART 4047

Backstretch Worker Housing

Section
4047.1 Definitions
4047.2 Applicability
4047.3 Annual inspection required
4047.4 Location and grounds
4047.5 Housing standards
4047.6 New construction requirements
4047.7 Sanitary facility requirements
4047.8 Provision for laundry facilities
4047.9 Garbage; refuse
4047.10 Pest control
4047.11 Responsibilities of occupants
4047.12 Water
4047.13 Variance and waiver

§ 4047.1. Definitions.

The following definitions are applicable throughout this Part:

(a) *Adequate* means sufficient to accomplish the purposes for which something is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled; an activity conducted; or act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Part.

(b) *Association* means an entity authorized to conduct racing on which pari-mutuel wagering occurs.

(c) *Backstretch workers* are individuals required to be licensed under Part 4002 of this article who are employed to care for horses at any entity that conducts pari-mutuel wagering at a racetrack.

(d) *Backstretch worker housing* means buildings or other structures pertaining thereto, any part of which may be used or occupied by persons employed as backstretch workers as or relating to housing. Such housing includes sleeping facilities provided in whole or in part by the employer of such persons; owner; lessee; or operator thereof, with or without stipulated agreement as to the duration of a backstretch worker's stay. Such housing includes bathing and toilet facilities for the use of the occupants. All the facilities do not need to be in the same structure but must be readily accessible to, and under the control of, the occupants.

(e) *Executive director* means the executive director of the commission or the executive director's designee.

(f) *Hot water* means water heated or tempered to provide a temperature of 110 to 120 degrees Fahrenheit at the point of use.

(g) *Potable water* means water provided or used for consumption or for washing, showering or cooking purposes.

(h) A *public health hazard* is any condition that reasonably could be expected to be responsible for illness, physical injury or death. Any of the following violations are public health hazards that require the executive director to order immediate correction or to institute immediate action as provided in the law and in this Part:

(1) The condition of the electric service, wiring or electrical system components is such a that an imminent fire or shock hazard exists.

(2) Installation or operation of stoves, including cook stoves or other heat producing equipment constituting a fire hazard or inadequate venting of fumes.

(3) Failure to provide required fire exits or blockage of a required exit by locking or other obstruction.

(4) Use of construction materials resulting in an imminent fire or structural safety hazard.

(5) A potable water system serving the backstretch worker housing that contains contaminants in excess of the levels prescribed in applicable sections of Part 5 of Chapter I of 10 NYCRR.

(6) Treatment of the backstretch worker housing water system, when required for disinfection or removal of contaminants, is not continuous.

(7) Presence of cross-connections or other faults in the plumbing system that result, or may result, in contamination of the potable water supply.

(8) Inadequately treated sewage discharging on the ground surface in an area accessible to backstretch worker housing occupants, or in a manner that may contaminate food service areas or result in pollution of a ground or surface water supply source.

(9) Storage of hazardous materials, including agricultural chemicals and pesticides or their containers, in a manner that is hazardous to the health or safety of the housing occupants, or contamination of housing by materials that are hazardous to the health and safety of the housing occupants.

(10) Other conditions that constitute a public health hazard.

(i) *Sewage* means the waste from a flush toilet, bath, sink, shower, laundry tray or tub, dishwashing or laundry machine, or the water-carried waste from any other fixture or equipment or machine.

(j) *Uniform code* means the New York State Uniform Fire Prevention and Building Code, 9 NYCRR, Subtitle S, Chapter 1.

§ 4047.2. Applicability.

Backstretch worker housing provided by an association hosting 200 or more beds shall be maintained in accordance with this Part. If an association maintains housing at multiple locations, the number of beds shall be aggregated to determine the applicability of this Part.

§ 4047.3. Annual inspection required.

(a) An association that provides backstretch worker housing shall, at least annually, submit to an inspection of such housing. The inspection shall be conducted by a designated representative of the commission or a local housing authority for the jurisdiction in which the racetrack is located and shall be consistent with this Part and requirements in the Property Maintenance Code of the Uniform Code.

(b) For backstretch worker housing that is occupied seasonally, no occupancy shall be allowed until after the required inspection has been made and the executive director has granted permission for such occupancy.

§ 4047.4. General obligations.

(a) Each association shall be responsible for maintaining all housing facilities in a structurally sound condition that prevents infestation by rodents, flies, cockroaches, mosquitoes, bats and other vermin.

(b) All backstretch worker housing facilities shall be well drained and be free of depressions where water may pool and stagnate. The site or sites shall be located where disposal of sewage can be provided in a safe, sanitary manner that neither creates nor is likely to create a public health nuisance or health hazard.

(c) The grounds of backstretch worker housing shall be maintained in a clean and sanitary condition and be free of noxious plants. Driveways and access roads shall be maintained to allow free and safe vehicular access to the property.

(d) No flammable or volatile liquids or materials shall be stored in or adjacent to rooms used for backstretch worker housing, except for those needed for current household use. Agriculture chemicals including pesticides shall not be stored in a housing area.

(e) Whenever the buildings of an association are contaminated, or suspected of being contaminated by hazardous materials, chemicals or pesticides, the occupancy or use of

the housing facilities may be restricted by the commission until required decontamination and/or corrective actions are completed.

(f) Each association shall have the affirmative responsibility to report to the commission in writing any injury, serious illness, death or fire occurring at or within backstretch worker housing. Such reporting shall be made immediately when practicable, but in no case later than 24 hours following the reportable issue.

§ 4047.5. Housing standards.

(a) *Buildings*. All buildings provided by associations for sleeping shall have each of the following:

(1) A floor that is constructed of smooth, readily cleanable, durable material such as sealed concrete, close-grained wood or composition material.

(2) A minimum ceiling height of at least seven feet.

(3) Adequate natural light and ventilation in all common use rooms and areas. Adequate artificial lighting and mechanical ventilation may be provided in lieu of natural light and ventilation in toilet rooms and shower rooms.

(4) At least one separate wall-type electric duplex outlet in addition to the required electric light fixture in each bathroom, washroom, laundry room and eating space. All electrical components, wiring and appliances shall be properly installed and maintained in accordance with applicable state or local building codes and the National Electric Code.

(5) At least two exits from each occupied floor. Where sleeping rooms are located above the ground floor, at least one outside exit from each floor above the ground floor is required. Any stairway extending beyond two occupied floors in a building shall have tight-fitting, self-closing doors that have a minimum three quarter-hours fire rating at each floor level. The doors shall swing in the direction of exit travel. For buildings with room access from within enclosed space, stairways shall be enclosed within smoke-tight walls.

(6) A type 2A rated fire extinguisher in a readily accessible location not more than 100 feet from each housing facilities. In addition, a minimum of a type 5BC rated extinguisher shall be provided within 30 feet of all rooms containing cooking facilities. Any extinguisher with an equivalent ABC rating may also be provided.

(7) Smoke detection devices that are designed adequately, installed and maintained in compliance with General Business Law Section 399-ccc.

(b) *Rooms*. All rooms provided by associations for sleeping shall have each of the following:

(1) Natural light by means of at least one exterior window that, if the window can be opened, has screening with a tight-fitting frame. Natural ventilation may be provided by exterior openings that can be opened in lieu of a mechanical ventilating system.

(2) Lockable exterior doors that have a tight fitting and are outfitted with door sweeps.

(3) Electrical switches, outlets and at least one electric light. Electric components in a room shall be installed to State or local building codes and maintained in a manner that does not endanger the health or safety of the occupants. The use of flexible (extension) cords shall not be used for permanent wiring.

(4) Battery-operated smoke detectors that are maintained in working order, or any other approved fire alarm system as otherwise permitted in writing by the executive director.

(5) Dimensions of not be less than seven feet in any direction and not less than 70 square feet of floor area if single occupancy and not less than 50 square feet of floor area for each occupant if greater than single occupancy. In housing where occupants are permitted to cook, live and sleep in the same room, a minimum of 100 square feet of floor area is required for each occupant.

(6) Heating capable of maintaining a minimum temperature of 68 degrees Fahrenheit in each room, if the rooms are used or occupied between September 1 and June 1. When regulation of the temperature is not controlled by the occupants, the heating facilities must be operated to maintain minimum temperature requirements in all occupied rooms during the specified time period. Fossil-fuel-powered heaters shall be prohibited.

(7) Beds or bunks, complete with required springs and mattresses. There shall be a clear space of at least 27 inches above the sleeping surface of a bed or bunk.

(8) Adequate space for the storage of clothes and personal possessions of each occupant. As a minimum, such space shall include 21 square feet of wall storage area that has a minimum depth of 12 inches and is equipped with clothes rods or hooks and shelving for each occupant. Other provisions that provide equivalent storage capacity for each person may be substituted as approved in writing by the executive director.

(c) *Dining*. When meals are not furnished or sold to the occupants, adequate cooking and dining facilities shall be provided. This requirement may be accomplished by providing either a common cooking area consisting of a separate well lighted and ventilated room that is equipped adequately for cooking and dining, or by providing facilities for cooking and dining within each individual housing facility. When the required cooking and dining facilities are provided within individual housing units, the facilities shall:

(1) be located either in a separate room, or a separate area of at least 10 square feet per person shall be set aside for such purpose;

(2) contain a properly installed cook stove with a minimum of two burners in each individual housing unit. Existing housing with common cooking areas shall have adequate cook stoves providing a ratio of two burners per five occupants or fraction thereof, unless otherwise authorized by the executive director;

(3) have an adequate amount of food and utensil storage shelves and counter space for food preparation with shelves and counters constructed of materials that are non-toxic, non-absorbent and easily cleanable;

(4) have adequate provisions for safe storage and mechanical refrigeration of food at a temperature of not more than 45 degrees Fahrenheit;

(5) have table and chairs or equivalent seating with adequate capacity for the intended use;

(6) have a dishwash sink that is supplied with cold running water, adequate in size for the intended use and adequately installed with hot water readily accessible for dishwashing needs; and

(7) have non-absorbent, easily cleaned wall and floor surfaces in food preparation, cooking and dishwashing areas.

§ 4047.6. New construction requirements.

(a) No backstretch worker housing, or any portion thereof, shall be constructed or enlarged for occupancy or use, and no property shall be converted for occupancy or used as backstretch worker housing, without the executive director being first notified in writing. The required notice of construction, enlargement or conversion shall be submitted on a form, approved by the executive director, at least 30 days prior to beginning such construction. The notice may be supplemented by such further information, plans or specifications as the executive director may require.

(b) All new construction and alterations, enlargements, conversions or relocation of mobile homes, shall conform with the Uniform Code. A certificate of occupancy, or equivalent documentation to certify the construction was completed in conformance with the Uniform Code requirements, shall be obtained prior to occupancy and be available for review on request by the executive director.

§ 4047.7. Sanitary facility requirements.

(a) Shower facilities, separate for each sex, shall be provided. There shall be:

(1) at least one shower head provided for every 15 residents, or fraction thereof;

(2) an adequate supply of tempered water or both hot and cold running water at every shower head;

(3) floors constructed and maintained with non-absorbent, non-skid materials and sloped to floor drains; and

(4) adequate, dry dressing space in common use facilities.

Separate facilities for each sex are not required when the facilities are located in individual housing units.

(b) Toilet facilities shall be provided for groups of each sex. These facilities shall be:

(1) located within 200 feet of each sleeping room;

(2) constructed of cleanable materials and maintained in good repair;

(3) in a quantity as follows:

(i) at least one toilet for every 15 residents or fraction thereof of the sex for whom the toilet facility is designated; and

(ii) at least one urinal for every 30 resident men or fraction thereof in a toilet facility designated for men, which urinals may be substituted for up to a maximum of one-third of the required toilets, or additional flush toilets may be provided in place of required urinals.

(c) Adequate ventilation shall be provided in each shower room and toilet room. Mechanical ventilation may be provided in lieu of natural ventilation, as approved by the executive director.

§ 4047.8. Provision for laundry facilities.

Mechanical clothes washers, laundry trays, tubs and sinks shall be provided in the ratio of at least one for every 50 residents or fraction thereof. Such facilities also shall have adequate provisions for drying clothes.

§ 4047.9. Garbage; refuse.

An adequate number of covered storage receptacles shall be provided and readily available for the storage of garbage and refuse. Such garbage and refuse shall be removed in a timeframe to ensure that no accumulation outside the covered storage receptacles is required. The storage receptacles shall be constructed of durable, cleanable materials and be maintained in a sanitary condition and in good repair. Garbage and refuse shall not be allowed to accumulate on the surface of the ground.

§ 4047.10. Pest control.

(a) Each association shall conduct a program of abatement to control the presence of rodents, flies, cockroaches, mosquitoes, bats and other vermin in and around backstretch worker housing and animal feed storage areas. The methods of control shall include, without limitation:

(1) the daily removal of all materials that contribute to the breeding and harboring of vermin, such as horse excrement, garbage, refuse or any other putrid or offensive animal or vegetable matter; and

(2) a program of spraying or baiting for insects or rodents.

(b) Each association shall file with the commission on an annual basis an integrated pest management protocol that incorporates pest management industry-standard best practices.

(c) Should an association undertake pest control by a third party, only certified commercial pesticide applicators or commercial pesticide technicians shall be used.

§ 4047.11. Responsibilities of occupants.

(a) All occupants of backstretch worker housing are responsible for maintaining their housing unit and common use areas in a reasonably clean and sanitary condition; for exercising safe practices and proper care when using the facilities and equipment provided; for the sanitary storage and disposal of garbage and refuse that they generate using the facilities provided; for not using any unapproved heating or cooking device; and for occupancy of the property in accordance with the capacity limit.

(b) Occupants who observe a public health hazard have an affirmative obligation to report promptly the concern to both management of the association and to the commission.

§ 4047.12. Water.

Every water supply serving backstretch worker housing shall comply with requirements of 10 NYCRR Part 5 and also shall meet the following requirements:

(a) *Contaminants*. The water supply shall not exceed the maximum contaminant levels set forth in sections 5-1.51 and 5-1.52 of Subpart 5-1 of Part 5 of 10 NYCRR.

(b) *Minimum standards*. Potable water shall be adequate in quantity and quality and shall be available readily to resident occupants of the housing. Only potable water shall be so delivered or piped.

(c) *Source protection*. All potable water sources and distribution systems shall be designed, located, constructed and maintained to provide protection against

contamination or pollution. All pumps, piping, fixtures and appurtenances shall be installed and maintained adequately to protect against contamination of any water source.

(d) *Connections prohibited*. There shall be no physical connection between the potable water supply and any non-potable water supply. Any fixture, installation or equipment that is subject to back-siphonage shall be installed and maintained adequately to protect against contamination of any water source.

(e) *Pressure*. A minimum pressure of 20 pounds per square inch, at peak demand, shall be maintained in all parts of the distribution system.

(f) *Reports on water treatment*. When a water treatment process is required to maintain adequate water quality, accurate and complete reports on the operation of the treatment system shall be maintained daily and submitted to the executive director at a frequency specified on a form supplied for this purpose.

(g) *Interruptions, changes in sources or treatments*. Any incident or condition that effects the quantity or quality of the onsite potable water supply shall be reported to the executive director within 24 hours of occurrence. There shall be no changes made to the source or method of treatment of a potable water supply, either temporary or permanent, without first receiving written approval from the executive director. An adequate supply of potable water must be provided and maintained during all times of operation.

§ 4047.13. Variance and waiver.

(a) *Variance*. In order to allow time to comply with a provision of this Part, an association may submit a written request to the executive director for a variance. Such variance request shall not be granted unless the association demonstrates that the health and safety of the housing occupants and the public will not be prejudiced by the variance and that there are practical difficulties or hardships in immediate compliance with the provisions. An operator shall meet all terms of an approved variance, including the effective date, the time period for which the variance is granted, the requirements being varied and any special conditions the executive director specifies. A variance shall end one year from its date of issuance, unless such variance is granted for a lesser period of time or otherwise extended.

(b) *Waiver*. In order to accept alternative arrangements that do not meet a provision of this Part, an association may submit a written request to the executive director for a waiver from a specific provision of this Part. Such request shall not be granted unless the association can demonstrate that circumstances exist that are beyond the control of the association, compliance with the provision would present a hardship and that the public and housing occupants' health and safety will not be endangered by granting such a waiver. An operator must meet all terms of any approved waiver. A waiver shall remain in effect indefinitely unless revoked by the executive director.

ARTICLE 2 *STEEPLECHASES, HURDLE RACES AND HUNT MEETINGS*

Part
4050 General Provisions
4051 Regulations for Hunt Meetings
4052 Specifications for Courses
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PART 4050

General Provisions

Section
4050.1 Interpretation
4050.2 Scope
4050.3 Definitions

§ 4050.1. Interpretation.

This Article is to be interpreted and enforced in a manner consistent with the laws of the State of New York in effect from time to time.

§ 4050.2. Scope.

This Subchapter, including Article 2 thereof, shall govern all steeplechases, hurdle races and hunt meetings, except insofar as any of such sections may be inconsistent with the sections set forth in this Article. In the event of any dispute as to the applicability of any such sections to steeplechases, hurdle races or hunt meetings, the stewards of the meeting are hereby given power to finally determine the same.

§ 4050.3. Definitions.

(a) Wherever the words *hunts committee* are used, it is understood to mean the hunts committee of the National Steeplechase and Hunt Association.

(b) The *registry office* is the office of the National Steeplechase and Hunt Association in the city of New York.

(c) *Registered* and *registration* mean registered and registration at such office.

(d) (1) A *maiden* is a horse that has never won other than a match or point to point steeplechase in any country. A maiden means a maiden at the time of the start.

(2) In steeplechases and hurdle races a horse is still a maiden though a winner on the flat, and in races on the flat, a horse is still a maiden though a winner of a steeplechase or hurdle race.

(e) A *race* includes a purse, sweepstakes, private sweepstakes or cup.

(f) A *cup* is any prize not given in money.

(g) A *point to point steeplechase* is a race across natural country and over natural fences, from one designated point to another; no flags or other insignia being used to designate the course or jumps, other than at the start, finish or turning point or where danger is indicated.

(h) A race at *catch weights* means one for which the riders need not weigh before or after the race.

(i) (1) An *authorized agent* is a person so appointed by a document signed by the owner and lodged annually at the office of the National Steeplechase and Hunt Association or, if for a single meeting only, with the clerk of the course for transmission to the National Steeplechase and Hunt Association.

(2) An authorized agent may appoint a subagent if authority to appoint such is provided for by the document lodged as above.

(3) All appointments shall be subject to the approval of the stewards of the National Steeplechase and Hunt Association.

(j) The term *rider* as used in this Article is equivalent to the word jockey in Article 1 of this Subchapter.

(k) Article 1 of this Subchapter, Rules of Racing, shall be deemed to include this Article.

(l) Whenever in any rules reference is made to *The Jockey Club* or to the *stewards of The Jockey Club*, in the application of such rule to steeplechases, hurdle races and hunt meetings the National Steeplechase and Hunt Association shall be deemed to be substituted for The Jockey Club and the stewards of the National Steeplechase and Hunt Association shall be deemed to be substituted for the stewards of The Jockey Club.

(m) The *stewards* for the conduct of steeplechases, hurdle races and hunt meetings shall be deemed to mean the steward appointed by the commission, the steward appointed by the National Steeplechase and Hunt Association and the steward appointed by the association or other organization holding the meeting.

PART 4051

Regulations for Hunt Meetings

Section
4051.1 All meeting must be sanctioned
4051.2 Inspection, bandaging dispensed with
4051.3 When hunts committee may permit start
4051.4 Closing time for entries

§ 4051.1. All meetings must be sanctioned.

All meetings given by hunt clubs and similar organizations must be sanctioned by the hunts committee. The list of officials for such meetings and the program for the same must be submitted for approval to the hunts committee.

§ 4051.2. Inspections, bandaging dispensed with.

At meetings under the jurisdiction of the hunts committee, the hunts committee may dispense with inspection of the plating and bandaging of each horse as each horse enters the paddock before the race and with the recording of the plating on a board provided for the purpose in the paddock.

§ 4051.3. When hunts committee may permit start.

At meetings under the jurisdiction of the hunts committee, the hunts committee may permit horses to start in cases in which such horses' certificates of registration are not on file at the identification office.

§ 4051.4. Closing time for entries.

(a) The list of entries shall be closed at the advertised time, and no entry shall be admitted after that time, unless (in other than an overnight race) the nominator can prove within a reasonable time to the satisfaction of the stewards or the stewards of the National Steeplechase and Hunt Association that the entry was mailed or telegraphed before the advertised time of closing.

(b) In case of an emergency the racing secretary may grant an extension of time for closing entries, with the consent of a steward.

PART 4052

Specifications for Courses

Section
4052.1 Length of steeplechase course
4052.2 Fences in steeplechase course
4052.3 Hurdles in hurdle course
4052.4 Stewards may modify specifications
4052.5 Character, dimensions of fences, hurdles

§ 4052.1. Length of steeplechase course.

No steeplechase course built entirely within the confines of a race course used for races on the flat shall be approved by the commission unless the circumference of said race course, measured along the inside rail thereof, is at least one mile. Nothing in this section, however, shall affect steeplechase courses approved by the stewards of the National Steeplechase and Hunt Association prior to the enactment thereof or courses under the jurisdiction of the hunts committee.

§ 4052.2. Fences in steeplechase course.

In all steeplechase courses there shall be at least six fences in every mile.

§ 4052.3. Hurdles in hurdle course.

In all hurdle courses there shall be at least four flights of hurdles in the first mile, with an additional flight of hurdles for every quarter of a mile or part thereof beyond that distance.

§ 4052.4. Stewards may modify specifications.

The stewards of the meeting may, however, modify sections 4052.2 through 4052.5 of this Article when, in their opinion, the necessities of the course require it.

§ 4052.5. Character, dimensions of fences, hurdles.

The fences in steeplechase courses and the hurdles in the hurdle courses shall be of such character and dimensions as may be certified by the stewards of the National Steeplechase and Hunt Association to the commission for approval. At meetings sanctioned by the hunts committee the jumps may be of such character and dimensions as may be approved by the hunts committee and certified to the commission for approval.

PART 4053

Officials of Meetings

Section
4053.1 Daily report of racing results

§ 4053.1. Daily report of racing results.

The judge or judges shall, at the close of each day's racing, sign and send a report of the result of each race to the office of the National Steeplechase and Hunt Association and the commission.

PART 4054

Weights, Conditions and Distances

Section
4054.1 Weight omission from conditions of race
4054.2 Scale of weights for age
4054.3 Races for three-year olds
4054.4 Races for hunters
4054.5 Age minimum in steeplechase
4054.6 Age minimum in hurdle race
4054.7 Minimum weight to be carried
4054.8 Minimum distances
4054.9 Heats forbidden
4054.10 Allowance for mares
4054.11 Allowances in overnight steeplechase, hurdle race
4054.12 Allowances in overnight flat race
4054.13 Scale of weights for flat races
4054.14 When no date fixed for race

§ 4054.1. Weight omission from conditions of race.

When the weights are omitted from the conditions of any race, the horses shall carry weight for age, subject to the penalties and allowances provided by the conditions of the race.

§ 4054.2. Scale of weights for age.

The following weights shall be carried when they are not stated in the conditions of the race:

(a) *Scale of weights for age: steeplechases*.

Distance	*Age*	*January February March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November December*
Two miles	3	...	...	...	...	...	135	136	137	137
	4	144	146	148	149	150	151	152	153	154
	5	157	157	157	157	158	158	159	160	160
	Older	162	162	162	162	162	162	162	162	162
Two and one-half miles	4	141	142	143	144	146	148	149	150	151
	5	156	156	156	157	157	158	158	159	159
	Older	161	161	161	161	161	161	161	161	161
Three miles	4	138	138	139	140	142	144	146	148	149
	5	155	155	155	156	156	157	157	158	158
	Older	160	160	160	160	160	160	160	160	160

(b) *(Scale of weight for age:) hurdle races*.

Distance	*Age*	*January February March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November December*
One and one-half miles	3	132	133	134	135	136	137	138	140	142
	4	140	142	144	146	148	150	152	154	155
	5	150	151	152	153	154	155	156	158	160
	Older	155	155	156	156	157	157	158	159	160
One and five-eighths miles	3	131	132	133	134	135	136	137	138	140
	4	140	142	144	146	148	150	152	153	154
	5	150	151	152	153	154	155	156	158	160
	Older	155	155	156	156	157	157	158	159	160
One and three-quarters miles	3	130	131	132	133	134	135	136	137	138
	4	140	142	144	146	148	150	152	153	154
	5	151	152	153	154	155	156	157	159	160
	Older	156	156	157	157	158	158	159	160	160
One and seven-eighths miles	3	...	...	...	...	132	133	134	135	136
	4	140	141	143	145	147	149	151	152	153
	5	152	153	154	155	156	157	158	159	160
	Older	156	156	157	157	158	158	159	160	160
Two miles	3	...	...	...	...	130	131	132	133	134
	4	140	141	142	144	146	148	150	151	152
	5	152	153	154	155	156	157	158	159	160
	Older	156	156	157	157	158	158	159	160	160

Three-year-olds shall not be permitted to start at a distance in excess of one mile and three-quarters until after June 30th.

§ 4054.3. Races for three-year-olds.

In races exclusively for three-year-olds, the weight shall be 145 pounds.

§ 4054.4. Races for hunters.

In races exclusively for hunters, the minimum weight shall be 145 pounds.

§ 4054.5. Age minimum in steeplechase.

No horse shall run in a steeplechase until August 1 of the year in which the horse is three years old, after which date the horse shall be qualified to start in any race at a distance not exceeding two miles.

§ 4054.6. Age minimum in hurdle race.

No horse shall start in a hurdle race until three years old.

§ 4054.7. Minimum weight to be carried.

No horse shall be permitted to start in any steeplechase or hurdle race under this Article carrying less than 130 pounds.

§ 4054.8. Minimum distances.

There shall be no steeplechase at a distance of less than two miles. There shall be no hurdle race at a distance of less than one and one-half miles.

§ 4054.9. Heats forbidden.

There shall be no steeplechase or hurdle race run in heats.

§ 4054.10. Allowance for mares.

Except in handicaps and in races where the conditions expressly state to the contrary, mares shall be allowed five pounds before September 1 and three pounds afterwards. There shall be no sex allowance for geldings.

§ 4054.11. Allowances in overnight steeplechase, hurdle race.

In all overnight steeplechases and hurdle races, except handicaps, jockeys or amateur riders who have never ridden a winner are allowed 10 pounds; non-winners of five races allowed seven pounds, of ten races allowed five pounds, if such allowance be claimed at the hour of closing of entries. In stakes (handicaps excepted) closing more than three days prior to the day they are to be run, these allowances may be claimed up to 24 hours before the race. These allowances cannot be waived except by permission of the stewards and only for a reason in keeping with the best interests of racing.

§ 4054.12. Allowances in overnight flat race.

In all overnight flat races, except handicaps, run under this Article, jockeys or amateur riders who have never ridden a winner on the flat allowed seven pounds; non-winners of five races on the flat allowed three pounds, if such allowance be claimed at the hour of closing of entries. In stakes (handicaps excepted) closing more than three days prior to the day they are to be run, these allowances may be claimed up to 24 hours before the race. These allowances cannot be waived except by permission of the stewards and only for a reason in keeping with the best interests of racing.

§ 4054.13. Scale of weights for flat races.

For races on the flat the scale of weights prescribed in Article 1 shall govern, and in respect of such races welter weights shall be 28 pounds above weight for age.

§ 4054.14. When no date fixed for race.

When no date is fixed for a race, the race shall be run on the last day of the meeting unless otherwise agreed by all the parties engaged and sanctioned by the stewards.

PART 4055

Registration of Race Horses

Section
4055.1 Horse ineligible unless registered
4055.2 Application for registration
4055.3 Names subject to approvals
4055.4 Changing name of horse
4055.5 Owners Registry

§ 4055.1. Horse ineligible unless registered.

No horse may start in any race run under this Article unless duly registered and named in the registry office of The Jockey Club or registered for racing purposes only in the registry office of the National Steeplechase and Hunt Association.

§ 4055.2. Application for registration.

Application for registration for racing purposes only must state the age, color, sex, pedigree if known, and distinguishing marks if any. The application must be accompanied by such other information as may be required by the stewards of the National Steeplechase and Hunt Association.

§ 4055.3. Names subject to approval.

All names are subject to approval or disapproval of the stewards of the National Steeplechase and Hunt Association.

§ 4055.4. Changing name of horse.

(a) An owner desiring to change the name of a horse, registered with the National Steeplechase and Hunt Association only, must obtain special permission from the stewards of the National Steeplechase and Hunt Association. However, no change of name will be permitted after a horse has won a race.

(b) Whenever the name of a horse that has run in any country has been changed, the horse's old name as well as such horse's new name must be given until the horse has run three times over the course of a recognized organization.

§ 4055.5. Owners Registry.

No horse shall be allowed to enter or start unless such horse's ownership has been duly registered in the Owners Registry of The Jockey Club and such horse's certificate of foal registration, certificate of foreign registration, or racing permit has been duly endorsed, or a Jockey Club certificate of ownership has been attached thereto, in conformity with subdivisions (c) through (g) of section 4024.1 of this Subchapter.

PART 4056

Partnerships and Stable Names

Section
4056.1 Partnership must register annually
4056.2 Stable names must be registered
4056.3 When horse run as entry

§ 4056.1. Partnership must register annually.

All partnerships must be registered annually with the National Steeplechase and Hunt Association in such form as it may require.

§ 4056.2. Stable names must be registered.

A horse cannot be entered in the real or the stable name of any person as the horse's owner unless that person's interest or property in the horse is at least equal to that of any one person and has been so registered with the National Steeplechase and Hunt Association.

§ 4056.3. When horse run as entry.

No person may have any form of interest as owner, part owner or lessee in different horses running in the same race unless run as an entry.

PART 4057

Estimated Winnings

Section
4057.1 Second place saves entrance fee
4057.2 Award of cup in a walkover

§ 4057.1. Second place saves entrance fee.

In all sweepstakes (private sweepstakes excepted) or purses, the second horse shall at least save the horse's entrance fee.

§ 4057.2. Award of cup in walkover.

When a cup (other than a challenge cup) is advertised to be run for, the cup shall be given even in the event of a walkover.

PART 4058

Penalties and Allowances

Section
4058.1 Prohibition against extra weight
4058.2 Claiming allowances
4058.3 Exemption form penalties in claiming race

§ 4058.1. Prohibition against extra weight.

Extra weight shall not be incurred in respect to winning a match or point to point steeplechase.

§ 4058.2. Claiming allowances.

Allowances must be claimed at the time of entry, but omission to claim is not a cause of disqualification, and a claim for allowance to which a horse is not entitled does not disqualify unless carried out at the scales.

§ 4058.3. Exemption from penalties in claiming race.

When winners of claiming races are exempted from penalties, the exemption shall apply only to the winner of a race in which some of the horses are entered as "not to be claimed" if the winner of such a race was entered for a claiming price.

PART 4059

Weighing Out

Section
4059.1 Blinkers must be approved

4059.2 Rider must wear approved cap
4059.3 Five pounds overweight limit

§ 4059.1. Blinkers must be approved.

No horse shall be allowed to start in a steeplechase or hurdle race with blinkers unless such blinkers are of a pattern approved by the stewards.

§ 4059.2. Rider must wear approved cap.

No amateur rider or jockey shall be weighed out for or ride in any steeplechase or hurdle race unless the rider or jockey is wearing a skull cap of a pattern approved by the stewards of the National Steeplechase and Hunt Association.

§ 4059.3. Five pounds overweight limit.

A horse shall not be qualified to run in a race with more than five pounds overweight except when ridden by an amateur rider at meetings sanctioned by the hunts committee.

PART 4060

Weighing In

Section
4060.1 Two pounds limit

§ 4060.1. Two pounds limit.

If a rider in a steeplechase or hurdle race is more than two pounds short of such rider's proper or declared weight, such rider's horse may be disqualified, and the rider may be punished.

PART 4061

Starting

Section
4061.1 Horse must be ready at start
4061.2 Races started by flag
4061.3 Other methods of starting require approval

§ 4061.1. Horse must be ready at start.

The trainer or jockey of a horse not at the post, ready to start, at the appointed time may be fined.

§ 4061.2. Races started by flag.

In steeplechases and hurdle races, the horses shall be started by a flag and there shall be no start until, and no recall after, the assistant starter has dropped his or her flag in answer to the flag of the starter.

§ 4061.3. Other methods of starting require approval.

Any other method of starting horses must have the approval of the commission.

PART 4062

Walking Over

Section
4062.1 Walkover in steeplechase, hurdle race

§ 4062.1. Walkover in steeplechase, hurdle race.

In the event of a walkover in a steeplechase or hurdle race, it shall be sufficient if the rider of a horse is weighed out and the horse parades to the starting post. The horse shall then be considered the winner.

PART 4063

Claiming Races

Section
4063.1 Conditions for offering claiming race
4063.2 Starting claimed horse
4063.3 Sales, transfer of claimed horse
4063.4 Claiming price in program
4063.5 Horses considered as entry
4063.6 Horses not to be claimed

§ 4063.1. Conditions for offering claiming race.

Claiming races may be offered under either of the following conditions:

(a) In claiming races any horse is subject to claim for such horse's entered price by any owner presently registered in good faith for racing at that meeting who has nominated a starter in either a steeplechase, hurdle race or flat race, up to and including the race in which the claim is made, or by his or her authorized agent, but for the account only of the owner making the claim or for whom the claim was made by the agent; provided, however, that no person shall claim his or her own horse or cause his or her horse to be claimed directly or indirectly for his or her own account.

(b) A claiming race may be limited that any horse is subject to claim for such horse's entered price by any owner registered in good faith for racing at that meeting who has

nominated a starter in either a steeplechase or hurdle race, up to and including the race in which the claim is made, or by such owner's authorized agent, but for the account only of the owner making the claim or for whom the claim was made by the agents; provided, however, that no person shall claim his or her own horse or cause his or her horse to be claimed directly or indirectly for his or her own account, if and provided that it is so stated in the conditions of the race.

§ 4063.2. Starting claimed horse.

If a horse is claimed, such horse shall not start in a claiming race for a period of 30 days from the date of claim for less than 25 per cent more than the amount for which it was claimed.

§ 4063.3. Sale, transfer of claimed horse.

If a horse is claimed such horse shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall such horse, unless reclaimed, remain in the same stable or under the control or management of such horse's former owner or trainer for a like period, nor shall such horse race elsewhere until after the close of the meeting at which such horse was claimed.

§ 4063.4. Claiming price in program.

The claiming price of each horse in a claiming race shall be printed on the program. All claims for the same horses shall be for the amount so designated.

§ 4063.5. Horses considered as entry.

In all claiming races an owner may start more than one horse, such starters to be considered as an entry.

§ 4063.6. Horses not to be claimed.

In all cases of races with claiming conditions in which horses may be entered or may run not to be claimed, only such horses as run to be claimed shall be liable to be claimed, and with this exception, the foregoing sections of this Part relating to claiming races shall apply.

PART 4064

Amateur Riders

Section
4064.1 Application for license
4064.2 Eligibility to continue as amateur rider
4064.3 Professional riders
4064.4 Equivalents to amateur rider
4064.5 Smoking in silks prohibited

4064.6 When jockey may own horse
4064.7 When jockey may obtain license to train
4064.8 When amateur rider may obtain license to train
4064.9 Trainer defined
4064.10 Rider-trainer restrictions at hunt meeting
4064.11 Contracts of employment to be filed

§ 4064.1. Application for license.

Persons who have never ridden for hire and who are not otherwise disqualified under this Article are regarded as amateur riders, subject to section 4064.2 of this Article, and must make application in writing annually to the commission for a license. A license granted shall be good for one year from April 1 in the year in which granted, but such license may be revoked or suspended at any time by the commission.

§ 4064.2. Eligibility to continue as amateur rider.

After an amateur rider has ridden six races in any one year, either steeplechase or flat, under recognized rules in any country, such rider may be required to appear before the stewards of the National Steeplechase and Hunt Association to determine such rider's eligibility to continue to ride as an amateur rider, and the stewards may require a rider to appear before them again at any future time.

§ 4064.3. Professional riders.

Professional hunt servants, grooms, apprentices, stable lads and persons who are or have been employed with pay in any capacity in private, hunting, racing, showing, livery or horsedealers' stables, as well as persons who have ever received payment, directly or indirectly, for riding are regarded as having ridden for hire and are professional riders for the purposes of this Article.

§ 4064.4. Equivalents to amateur rider.

Wherever the words rider or jockey appear, they shall be deemed equivalent to the term amateur rider.

§ 4064.5. Smoking in silks prohibited.

Amateur riders and jockeys are prohibited from smoking while in racing colors.

§ 4064.6. When jockey may own horse.

Permission may be given, under exceptional circumstances and on special application, to a jockey holding a license as such, to own one or more horses, but this permission will only be granted by the commission when a jockey is also a trainer and the horse is trained by such jockey in such jockey's own stable.

§ 4064.7. When jockey may obtain license to train.

On special application and under exceptional circumstances, a license to train may be granted to a jockey holding a license as such, to train for one or more owners. When so licensed as a trainer, a jockey shall not be permitted to ride any other horses except those trained by himself or herself.

§ 4064.8. When amateur rider may obtain license to train.

On special application and under exceptional circumstances, a license to train may be granted to an amateur rider only to train horses owned by such rider and members of such rider's immediate family, without affecting his or her standing as such rider. When so licensed as a trainer, he or she shall not be permitted to ride any other horses except those he or she trained.

§ 4064.9. Trainer defined.

For the purpose of sections 4064.7 and 4064.8, a trainer is one who has had the horse or horses under his or her care and supervision for at least 14 consecutive days prior to the race.

§ 4064.10. Rider-trainer restrictions at hunt meeting.

At meetings held by hunt and similar organizations, a rider holding the above special permission to train may ride horses other than those under his or her control or supervision as trainer, but when a horse trained by a rider is entered in a race, such rider shall not be permitted to ride any other horse entered in the same race, except by permission of the stewards and only for a reason in keeping with the best interests of racing.

§ 4064.11. Contracts of employment to be filed.

The terms of all contracts between jockeys and their employers shall be filed with and approved by the National Steeplechase and Hunt Association before a license is granted; and such contracts may contain a provision that in case a jockey's license is revoked or suspended, the salary of the jockey in the case of a revocation shall cease, and in the case of a suspension shall cease during the time of such suspension.

PART 4065

Racing Colors

Section
4065.1 Racing colors to be registered

§ 4065.1. Racing colors to be registered.

Racing colors shall be registered with the National Steeplechase and Hunt Association either annually on payment of $5, or for five years on payment of $15. Colors so registered shall not be taken by any other person. All disputes as to the right to particular colors shall be settled by the stewards of the National Steeplechase and Hunt Association.

PART 4066

Rules for the Course

Section
4066.1 Unseated rider may remount
4066.2 Fields, enclosures defined
4066.3 Displaced flags, posts, boundary mark
4066.4 Disqualification of horse
4066.5 Time limit to cover course
4066.6 When horse fails to place

§ 4066.1. Unseated rider may remount.

In steeplechases and hurdle races, any horse losing its rider may be remounted by such rider in any part of the same field or enclosure in which the occurrence took place, but should such horse not be caught until it shall have entered another field, then such horse shall be ridden or brought back to the one in which it parted from its rider. Any rider so losing his or her horse may be assisted in catching the horse and remounting it without risk of disqualification.

§ 4066.2. Fields, enclosures defined.

In artificially constructed steeplechase courses and in hurdle races, the spaces between the fences or hurdles and the space between the last fence and the finish, are considered as fields or enclosures for the purpose of this Part.

§ 4066.3. Displaced flags, posts, boundary mark.

If any flag, post or boundary mark be placed in the course or displaced after the riders have been shown over the ground or have had the course pointed out to them, it shall not be considered binding or of any effect unless such addition or alteration shall have been particularly named previous to starting to all the riders in the race, by one of the stewards, the clerk of the course or by their representative.

§ 4066.4. Disqualification of horse.

If a horse refuses any fence or hurdle in a race and it can be proved to the satisfaction of the stewards that the horse has been led or driven over it by any of the bystanders or has been given a lead over by anyone not riding in the race, such horse shall be disqualified.

§ 4066.5. Time limit to cover course.

A race shall be declared void if no qualified horse covers the course according to this Article and within 20 minutes after the start.

§ 4066.6. When horse fails to place.

No horse finishing five minutes or more behind the winner shall be placed.

ARTICLE 3 ***NEW YORK-BRED THOROUGHBREDS***

Part
4080 New York State Thoroughbred Breeding and Development Fund
4081 New York-Bred Eligibility
4082 Distributions

PART 4080

New York State Thoroughbred Breeding and Development Fund

Section
4080.1 Authority
4080.2 Interpretation
4080.3 Administration
4080.4 Registration and de-registration
4080.5 Sanctions

§ 4080.1. Authority.

Pursuant to Laws of 1979, chapter 507, the New York State Thoroughbred Breeding and Development Fund (the fund) hereby designates the registry of the New York State Thoroughbred Breeders, Inc. (breeders association) as the official registry of New York-bred thoroughbred horses, which registry shall be administered by the fund pursuant to such arrangements with such breeders association as shall be established from time to time.

§ 4080.2. Interpretation.

The rules in this Article shall be administered by the fund and questions of interpretation and intent shall be determined by the fund.

§ 4080.3. Administration.

Procedures for establishing compliance with or satisfaction of such rules shall be established by the fund and administered by its executive director.

§ 4080.4. Registration and de-registration.

No horse shall be considered as a New York-bred thoroughbred unless such horse is so registered by the fund. Should the fund be satisfied that grounds exist to cancel or void a registration it may so determine and order any monies of the fund due any person as a result of such questionable registration held, and if paid, to be returned to the fund for proper disposition. In addition, pending such determination, the fund shall be empowered to order retention of such monies as may be payable as a result of any questionable registration, for proper disposition, upon its final determination.

§ 4080.5. Sanctions.

For good cause shown the fund may order that any individual shall be disqualified from participating as a beneficiary of such fund for such time as it may determine appropriate.

PART 4081

New York-Bred Eligibility

Section
4081.1 Definitions
4081.2 Registration as a New York-bred
4081.3 Bred back in New York State
4081.4 Permanently quartered and remained in New York
4081.5 Proof of qualifications
4081.6 Duty to cooperate
4081.7 Disqualification for cruelty, abuse or neglect of horses
4081.8 New York State Gaming Commission

§ 4081.1. Definitions.

(a) As used in this Article, the following terms shall mean:

(1) *Breeder* means the owner of the mare (dam) at the time the mare (dam) foals a New York-bred.

(2) *Breeders association* means New York Thoroughbred Breeders, Incorporated.

(3) *Dam* means the female parent of a horse.

(4) *Foal* means the offspring of a sire and dam; being born.

(5) *Foaled* means born.

(6) *Fund* means the New York State Thoroughbred Breeding and Development Fund.

(7) *Horse*, except where from the context it appears otherwise, means horse, stallion, mare, gelding, ridgling, colt or filly.

(8) *New York-bred* means a thoroughbred that is registered in the registry designated and administered by the fund in accordance with the rules of this Article.

(9) *New York stallion* means a thoroughbred stallion standing in New York State and registered with the fund in accordance with law.

(10) *Registry* means the New York-bred registry of the breeders association administered by the fund.

(11) *Sire* means the male parent of a horse.

(12) *Thoroughbred* means a horse registered or qualified for registration as thoroughbred by The Jockey Club.

(b) *Inquiries*. Questions regarding these rules and regulations, procedures, application forms or other similar matters may be directed to the executive director of the fund at the fund offices, One Broadway Center, Suite 600, Schenectady, New York 12305. Telephone (518) 395-5400.

§ 4081.2. Registration as a New York-bred.

In order to qualify for registration as a New York-bred, a thoroughbred horse must have been foaled in New York State and:

(a) If such horse was conceived in New York State by a registered New York stallion at the time of conception, the dam of such horse must have remained in New York State for a minimum of 90 days after foaling or the dam must have remained in New York continuously from the time of conception until she foaled.

(b) If such horse was not conceived in New York State by a stallion registered as a New York stallion at the time of conception, the dam of such horse must have been bred back in New York State to a registered New York stallion in the year of foaling and must have remained in New York State for a minimum of 90 days after the date of foaling.

(c) The horse conceived as a result of such breed-back shall not qualify for registration as New York-bred unless:

(1) the dam of such horse shall have remained a minimum of 90 days after the date of foaling; or

(2) the dam shall have remained in New York State continuously from the time of conception until it foaled.

§ 4081.3. Bred back in New York State.

To qualify as having been bred back in New York, a mare, after foaling in New York State, shall remain in New York for the applicable period of such year. During such applicable

period, such mare shall be booked exclusively to and serviced exclusively by a registered New York sire. Should such mare fail to be so certified as in foal during such period, it may be taken from the State after the applicable period of such year and be deemed "bred back" provided it is not serviced by a nonregistered New York sire thereafter in the year. Should such mare die or otherwise become medically unfit for breeding during or after foaling, it shall be considered "bred back" if such mare had been booked for service to a registered New York stallion in such year and, if alive, was not serviced by a nonregistered New York sire thereafter during such year or the following year.

§ 4081.4. Permanently quartered and remained in New York.

To qualify as permanently quartered or as having remained in New York State for a minimum of 90 days after the date of foaling in New York State, a mare shall be continuously present and available for examination within the State during the applicable period except that:

(a) Such mare may be removed from the State for racing or medical treatment elsewhere upon such notice requirements as the fund may direct, for a period of up to 30 consecutive days, or extended period as may be granted by the fund.

(b) If such mare dies during such period, no prior arrangements had been made to remove such mare permanently from the State during such applicable period.

§ 4081.5. Proof of qualifications.

It shall be the burden of the applicant for registration to establish by proof satisfactory to the fund that a horse is qualified under these rules for registration. Should a question arise subsequent to registration as to the validity of such registration, it shall be the burden of the party or parties asserting such validity to establish the validity thereof.

§ 4081.6. Duty to cooperate.

(a) It shall be the duty of every person concerned with the steps required for registration to cooperate with the fund, its employees and agents in their attempt to verify eligibility requirements, including but not limited to:

(1) affording such access to the premises and place where any horse may be personally seen and inspected during regular business hours;

(2) furnishing relevant information and records as may be requested concerning eligibility requirements;

(3) attendance and participation at interviews or proceedings concerning the eligibility of any horse for which such person may be able to furnish relevant information;

(4) such other reasonable requests as may be made from time to time.

(b) If the fund finds that a person has failed to cooperate as required in this section, it may impose such sanctions as it deems appropriate, including disqualifying such person from breeder's awards, stallion awards, and purses earned in New York-bred races.

§ 4081.7. Disqualification for cruelty, abuse or neglect of horses.

(a) Any individual or any entity that is charged with the commission of a crime, offense or other violation of the law involving cruelty to, abuse or neglect of, any horses within the State of New York or elsewhere within the United States, shall be required to report such charge to the fund within 10 days thereof. Upon notice of the charge, the individual or entity may be suspended from receiving breeder's awards, stallion awards and owners awards pending final disposition of said charge. The suspension of such individual or entity shall attach upon adoption of a resolution of the board. In the event of such suspension, the Fund Board shall provide written notification to the individual or entity who may request an opportunity to be heard. Such individual or entity shall not receive any breeders awards, stallion awards and owner awards, pending the final disposition of the charge. Said monies shall be placed in an interest bearing account pending final disposition of the charge.

(b) In the event an individual or entity that is charged with a crime, offense or other violation of law described in subdivision (a) of this section is convicted, the commission shall be authorized to impose an appropriate remedy, including, but not limited to, declaring a forfeiture of awards and continuing the suspension or permanently barring such individual or entity from participating in the fund in any manner or from otherwise deriving any benefits or awards from the fund. In the event that the final disposition of a charge results in a forfeiture of awards, then any award monies that are so forfeited shall be distributed on a pro rata basis within each relevant awards category to all other participants of the fund in the year in which the final disposition occurred unless impracticable, in which event such monies shall be distributed in the following year.

(c) In the event an individual or entity that is charged with a crime, offense or other violation of law described in subdivision (a) of this section is acquitted or otherwise found to be not guilty of such a crime, offense or other violation of law, then such individual or entity, including any and all principals of such entity, shall have their suspension rescinded retroactively. In the event that the charge is finally disposed and results in the individual or entity being acquitted or otherwise found not to be guilty of such crime, offense or violation of law, then the awards plus interest that had been withheld from such individual or entity shall be paid retroactively to the date of suspension.

§ 4081.8. New York State Gaming Commission.

Nothing herein contained shall be deemed to prevent the commission upon request of the fund, or upon the commission’s own initiative, from conducting an investigation into the registration requirements established by these rules or the participation by any individual in such process.

PART 4082

Distributions

Section
4082.1 Distribution schedule
4082.2 Adjustments of distribution schedules
4082.3 Amounts of awards and premiums

§ 4082.1. Distribution schedule.

Moneys received by the fund pursuant to sections 251 through 256 of the Racing, Pari-Mutuel Wagering and Breeding Law shall be distributed annually in accordance with a distribution schedule made available prior to January 1 of each year.

§ 4082.2. Adjustments of distribution schedules.

The board of directors may, from time to time, adjust the fund's distribution schedule by majority vote.

§ 4082.3. Amounts of awards and premiums.

Awards to breeders and stallion owners and premiums paid to owners of New York-breds shall not be fixed amounts. The amounts paid shall be equal to percentages of purse moneys paid to the owners of the New York-breds finishing first, second, third or fourth and shall be set by the board of directors. A schedule of the award and premium percentages shall be made available prior to January 1 of each year and may be changed from time to time by majority vote.