

A new Part 4046 is added to 9 NYCRR, to read as follows:

PART 4046

Jockey Injury Compensation Fund

Section

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§ 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 Such policy shall remain in effect unless superseded by a plan submitted by the JICF and approved by the commission.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plan, each thoroughbred owner and trainer shall pay as follows, unless such assessment is modified by the commission or superseded by a plan submitted by JICF and approved by the commission: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.