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Subtitle T

New York State Gaming Commission

Chapter I

Division of Horse Racing and Pari-Mutuel Wagering

Subchapter B

Harness Racing

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PART 4100

General Provisions

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§ 4100.1. Definitions.

(a) As used in this Subchapter, the following definitions are applicable:

(1) *Added money early closing event* means an event closing in the same year in which it is to be contested in which all entrance fees received are added to the purse.

(2) The *age* of a horse shall be reckoned from the first day of January of the year of foaling.

(3) *Appeal* means a request for the commission to investigate, consider and review any decisions or rulings of judges or officials of a meeting. The appeal may deal with placings, penalties, interpretations of the rules or other questions dealing with the conduct of races.

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

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

(6) *Claiming race* means a race in which any horse starting may be claimed for a designated amount in conformance with the rules.

(7) *Classified race* means a race regardless of the money winnings eligibility of horses, entries being selected by a racing secretary on the basis of ability or performance.

(8) *Commission* means the New York State Gaming Commission.

(9) *Conditioned race* means an overnight event to which eligibility is determined according to specified qualifications. Such qualifications may only be based upon:

(i) money winnings in a specified number of previous races or during a specified previous time;

(ii) finishing positions in a specified number of previous races or during a specified period of time;

(iii) age;

(iv) sex;

(v) number of starts during a specified period of time;

(vi) purses raced for;

(vii) claiming price in past races;

(viii) any one or more combinations of the qualifications herein listed;

(ix) other qualifications for which permission has been granted by the commission in writing.

(10) *Coupled entry* means the combination of two or more starters in the same race as a unit for wagering and disqualification.

(11) *Dash* means a race decided in a single trial. Dashes may be given in a series of two or three governed by one entry fee for the series, in which event a horse must start in all dashes.

(12) *Declaration* means the naming of a specific horse to a specific race as a starter.

(13) *Disqualification* means a decision that a horse shall not start or shall not be allowed to maintain its finishing position for betting or purse purposes or both if such horse shall have started.

(14) *Early closing race* means a race to be contested within the year of such race's closing for a definite amount to which nominations close at least 10 days preceding the race. The eligibility fee may be on the installment plan or otherwise, and all payments are forfeits.

(15) *Elimination heats* mean the heats of a race split to qualify the contestants for a final heat.

(16) *Expulsion,* whenever such penalty is prescribed in this Subchapter, means unconditional exclusion and disqualification from every phase of harness racing, either directly or indirectly, on or off the track or admission to the track as a patron or otherwise.

(17) *Futurity* means a stake in which the animal to compete is nominated either in utero or during the year of foaling.

(18) *Handica*p means a race in which allowance is made by post position.

(19) *Harness race* means a contest among horses under harness pulling a sulky and being driven by a human being designated a driver.

(20) *Heat* means a single trial in a race two in three, or three-heat plan.

(21) *In harness* means that the horses participating are attached to a sulky or similar vehicle.

(22) *Interference* means any act that, by design or otherwise, and regardless of actual contact, hampers or obstructs any competing horse or horses.

(23) *International championship* means a race advised, promoted or announced as competition among the best horses in the world of any gait or age and comprised of horses from three or more countries with no more than four horses from any one country.

(24) *Invitation race* means an overnight race to which only those horses named by the racing secretary and listed by the racing secretary with the presiding judge shall be eligible.

(25) *Late closing race* means a race for a fixed amount to which nominations close fewer than six weeks and more than 10 days before the race is to be contested. The rules herein governing early closing races shall govern late closing races in all respects except that nominations to a late closing race may be taken in a calendar year prior to such race being contested and on the first calendar day of a month in addition to the 15th calendar day.

(26) *Length of race*. Races or dashes shall be given at a stated distance in units not shorter than one-sixteenth of a mile.

(27) *Limited pari-mutuel meeting*. The Orange County Driving Park Association Meeting, held in Goshen, is, for the purposes of this Subchapter, considered a limited pari-mutuel meeting.

(28) *Maiden* means a horse that has never won a heat or race for a purse at the gait at which it is declared to start. Races or purses awarded to a horse after the "Official" sign has been posted shall not affect such horse's status as a maiden.

(29) *Match race* means a race that has been arranged and the conditions of the race agreed upon between the contestants.

(30) *Matinee race* means a race with no declaration fee and where the premiums, if any, are other than money.

(31) *Named race* means an invitation race.

(32) *New York State sire races* means races that are conducted pursuant to conditions and rules promulgated or approved by the Agriculture and New York State Horse Breeding Development Fund and the commission. No track licensee shall designate races by such title or a similar title without express approval of said fund and the commission.

(33) *Number of heats*. If no distance or number of heats are specified in the conditions, all races shall be one heat at a mile.

(34) *Nomination* means the naming of a horse or such horse's foal in utero to compete in a specific race or a series of races, eligibility for which is conditioned upon the payment of a fee at the time of the naming, the payment of subsequent sustaining fees and/or a starting fee.

(35) *Overnight event* means a race for which declarations close not more than four days (omitting Sundays) before such race is to be contested. All races other than stakes and early closing events shall be considered overnight events.

(36) *Paddock* means an enclosure to which horses scheduled to compete in a race program are confined prior to racing.

(37) *Protest* means an objection, properly sworn to, charging that a horse is ineligible to a race, alleging improper declaration, or citing any act of an owner, driver, trainer or caretaker, or official that is prohibited by the rules and that, if true, should exclude the horse or driver from the race.

(38) *Public trainer* means one who trains as an independent contractor rather than as an employee.

(39) *Scoring* means those preliminary practice starts taken by the horses in a race, after the post parade and before they are called by the starter to line up for the start.

(40) *Spouse* means a person married to the licensee or applicant or one held out by a person to be his or her spouse.

(41) *Stake* means a race that will be contested in a year subsequent to such race's closing in which the money given by the track conducting the same is added to the money contributed by the nominators, all of which except deductions for the cost of promotion, breeders or nominators awards belongs to the winner or winners. In any event, all of the money contributed by the nominators must be paid to the winner or winners. Where a definite purse is offered, same shall be known as a *guaranteed stake*.

(42) *Sulky* means a dual-shafted, dual-wheeled vehicle designed to be drawn by a horse and driven by a person. A sulky shall be not more than 72 inches wide at any point and from the point of such sulky's attachment to the harness to such sulky's most rear point (including any protruding seat or other component) shall be no longer than 120 inches. The wheels of a sulky shall not exceed 32 inches in diameter. Foot stirrups shall be fitted on each shaft and each shaft shall be attached to the harness on each side of the horse. For good cause shown, and after safety and fairness to competitors is established satisfactorily to the commission by an applicant, the commission may permit minor variations from these requirements.

(43) *Suspension*, unless otherwise specifically limited, means the unconditional exclusion and disqualification from every phase of harness racing either directly or indirectly, on or off the track, or admission to the track as a patron or otherwise.

(44) *Two in three* means a race in which a horse must win two heats to be entitled to first money.

(45) *Three-heat plan* means an event limited to three heats, except if three horses have each won a heat, in which case there shall be a fourth heat to determine the winner.

(46) *Walkover* means a situation in which only horses in the same interest start. In a stake race, a walkover is entitled to all the stake money and forfeits unless otherwise provided in the published conditions. To claim the purse, the entry must start and go once over the course.

(47) *Winner* means the horse whose nose reaches the wire first. If there is a dead heat for first, both horses shall be considered winners. Where two horses are tied in the summary, the winner of the longer dash or heat shall be entitled to the trophy. Where the dashes or heats are of the same distance and the horses are tied in the summary, the winner of the faster dash or heat shall be entitled to the trophy.

(48) *Wire* means a real or imaginary line from the center of the judge's stand to a point immediately across, and at right angles to, the track.

§ 4100.2. Power to supersede or suspend operation of the rules.

The commission may, by written order or directive, supersede or suspend the operation of any of the commission's rules or regulations when in the commission's judgment such action is necessary to insure the public interest, convenience or necessity or the best interests of racing generally.

PART 4101

Licenses

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RACE TRACK LICENSES

§ 4101.1. License required to conduct harness race meeting with pari-mutuel wagering.

All harness racing corporations or associations formed pursuant to the laws of the State of New York desiring to conduct a race meeting with pari-mutuel wagering thereon must obtain a license annually from the commission. All licenses shall be deemed conditioned upon compliance with the laws of the State of New York, the rules and regulations of the commission, payment of fees and taxes required by statute, payment of fees required for the operation of the commission laboratory for

chemical analysis of samples, and the proper installation, operation and maintenance of equipment and devices for the conducting, timing and monitoring of races that the commission shall prescribe as necessary or desirable in the public interest.

§ 4101.2. Application for license.

Application for license to conduct a harness race meeting with pari-mutuel wagering shall be made annually to the commission under oath of one officer of the applicant corporation or association and on forms provided by the commission.

§ 4101.3. Issuance of license.

Upon receipt of application satisfactory in form and content to the commission, the commission shall grant its license for a term of days during the current year during which the applicant may conduct harness racing with pari-mutuel wagering. Such license shall specify the place where and the hours of the day or night during which racing and pari-mutuel wagering shall be held.

§ 4101.4. Knowledge of rules.

Licensed harness racing corporations or associations conducting harness racing with pari-mutuel wagering are required, with their officers and employees, to be responsible for the conduct of their meetings and to make certain that all officers and executive employees are thoroughly familiar with provisions of the Racing Pari-Mutuel Wagering and Breeding Law and the rules and regulations of the commission.

§ 4101.5. Certificates of incorporation.

Neither a certificate of incorporation under section 302 of the Racing, Pari-Mutuel Wagering and Breeding Law, nor a certificate of amendment, shall be filed with the Secretary of State without the approval of the commission or the commission's predecessor endorsed on or annexed to it.

§ 4101.6. Increased retention for capital improvements.

(a) For the purposes of this section, capital improvement, as defined in section 319 of the Racing, Pari-Mutuel Wagering and Breeding Law, is any addition to, replacement of 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 harness race meetings, and shall include improvements to land but not land itself.

(b) A statutorily designated harness track may elect upon 30 days' written notice to the commission (and a copy to the 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 harness track (or, in the case of Buffalo Raceway, the county agricultural society that is deemed to

be a harness track for purposes of this section) 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 a 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 such law (section 527), 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 therefrom, 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 such track's notice of election to the commission), and annually thereafter, with such track's license application, each such electing track shall furnish the commission 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 and 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 commission 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 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 the commission's 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 such track's compliance with this section.

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

§ 4101.7. Certification of annual expenditures for enhancements.

(a) Pursuant to section 318 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 harness racing association or corporation 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 for enhancements consisting of capital improvements as defined in section 319 of such law (and section 4101.6 of this Part), repairs to such association or corporation's physical plant, structures and equipment used in its racing or wagering operations and costs connected with no more than five special events as defined in section 318 of such law and approved by the commission.

(b) In this connection, each harness racing association or corporation shall by January 31 of the current year file with the commission schedules of expenditures made during the immediately 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, as applicable, by appropriate name, the total expended for each asset or special event, and the date of completion for use for such asset or, if special event, the date it 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 immediately preceding calendar year or the average of the two immediately preceding calendar years, whichever is higher, for all tracks located outside Westchester or Nassau Counties; for a track located in Westchester or Nassau County, only the average of the two immediately preceding years shall be

considered. 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 statute it shall notify the affected association or corporation thereof by February 20 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).

§ 4101.8. 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 racing association or corporation, the commission may consider if there exists a written agreement between the racing association or corporation and its representative horsemen's association governing the terms and conditions of racing and the commission may require such an agreement to be in existence, unless the commission 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.

FINANCIAL STATEMENTS OF LICENSED RACE TRACKS

§ 4101.9. Accounting system of tracks.

All associations and corporations licensed under the Racing, Pari-Mutuel Wagering and Breeding Law to conduct harness race meetings at which pari-mutuel betting is permitted must adopt the uniform system of accounts that has been furnished such licensees by the commission.

§ 4101.10. Financial reports of tracks.

(a) The following financial reports must be submitted to the commission at the close of each licensed harness racing meet and at the close of the licensee's fiscal year:

(1) statement of assets and liabilities;

(2) statement of profit and loss and surplus; and

(3) affidavit forms.

(b) Interim reports must be submitted to the commission and must include all operations for the current period up to and including the last day of the meet. These

interim reports must be filed with the commission within 30 days after the close of the meeting.

(c) A licensee having more than one licensed meet during the year will prepare a separate report after the close of each meet. Annual reports are to include all operations for the licensee's calendar or fiscal year and must be filed with the commission within 75 days after the end of the calendar or fiscal year. All reports must be verified under oath by:

(1) at least two of the licensee's principal officers, if the licensee be an association or corporation having officers, and by one or more owners or proprietors thereof if not an association or corporation having officers; and

(2) by persons preparing the reports.

(d) Separate records of each bank reconciliation must be maintained by the licensee in a manner which will clearly indicate all reconciling items between the balance per the bank statement and the balance per the licensee's books at the date of reconciliation.

§ 4101.11. Records of tracks.

The licensee must maintain separate general ledgers and books of original entries for each calendar or fiscal year.

§ 4101.12. Reports of corporate licensees.

All associations and corporations licensed by the commission are required to submit to the commission the following:

(a) Copies of weekly payrolls of all personnel employed at the track during such association or corporation’s race meeting, including State license number of each employee.

(b) Copies of all written contracts and agreements and a summary of all verbal contracts and agreements.

(c) List of stockholders annually, or as the commission may require.

(d) List of officers and directors and compensation paid to each or as the commission may require.

(e) Upon the sale or transfer of any stock of any licensed harness racing corporation or association, such sale or transfer must be transmitted to the commission by affidavit verifying that said transfer or sale is in compliance with section 303 of the Racing, Pari-Mutuel Wagering and Breeding Law.

§ 4101.13. Transmission of racing information.

Except as otherwise provided in the rules or by statute, information concerning races conducted at all pari-mutuel harness 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, driver 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) In addition to the foregoing, 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 only approve an application submitted pursuant to this section if it finds that such application is consistent with the best interests of the racing industry in general.

(e) The board 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.

§ 4101.14. 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 the commission 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.

STATEMENTS AND REPORTS OF CONCESSIONAIRES

§ 4101.16. Filing of reports of concessionaires to tracks with commission.

Any person who, or firm, association or corporation that, holds any concession, right or privilege to perform any service or sell any article at any track at which pari-mutuel harness racing meets are conducted must submit to the commission a copy of each report, advice or other document that such person, firm, association or corporation furnishes or is required to furnish to the licensed harness racing association or corporation in order to substantiate any commissions, rentals, service fees and similar financial or other arrangements between the parties. Any person, firm, association or corporation operating a concession, performing any service or selling any article at more than one licensed harness racing track must submit separate reports of such operation at each track.

§ 4101.17. Financial statements of concessionaires.

At the end of each meet such person, firm, association or corporation shall prepare and send to the commission a record of such firm, association or corporation's operations at the track in the form of a profit and loss statement. Such report shall show the gross revenues derived from the meeting as well as all expenses paid or accrued during the same period. Income and expense items must be shown in detail. Such report must verified by at least two of the principal officers of the firm, association or corporation, if an association or corporation, and by one or more owners or proprietors thereof if not an association or corporation. Such report must be filed with the commission within 30 days after the end of each individual meet. Such person, firm, association or corporation shall submit to the commission verified financial statement including

(a) a balance sheet and

(b) a statement of profit and loss showing the combined operations for that year and the results of such operations for each specific harness racing meet at which he, she, they or it conducted business during the year.

These reports must be filed with the commission within 75 days after the end of the calendar or fiscal year of such person, firm, association or corporation. The end of the calendar or fiscal year reports must be verified as required under paragraphs (1) and (2) of subdivision (c) of section 4101.10 of this Part.

§ 4101.18. Reports of concessionaires.

Any person who, or firm, association or corporation that, holds any concession, right or privilege to perform any service or sell any article at any track at which pari-mutuel racing meets are conducted in the State of New York must submit to the commission the following:

(a) Copies of weekly payrolls of all personnel employed at the track during its race meeting, including State license number of each employee.

(b) Copies of all written contracts and agreements and a summary of all verbal contracts and agreements.

(c) List of stockholders annually, or as the commission may require.

(d) List of officers and directors and compensation paid to each annually, or as the commission may require.

(e) Upon the sale or transfer of any stock of any concessionaire at a licensed harness racing track, evidence of such sale or transfer must be transmitted to the commission by affidavit verifying that said transfer or sale is in compliance with section 303 of the Racing, Pari-Mutuel Wagering and Breeding Law.

OTHER PROVISIONS

§ 4101.23. Stock certificates of licensees.

Each licensed harness racing association or corporation issuing stock must imprint upon the face of each certificate of stock plainly and prominently the following: “This certificate of stock is transferable only subject to the provisions of section 303 of the Racing, Pari-Mutuel Wagering and Breeding Law.”

§ 4101.24. Occupational licenses.

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

(b) No person shall participate in or at any harness horse race meet as owner, driver, trainer, assistant trainer, groom, farrier, harness goods supplier, salesman, veterinarian, agent, or be the holder or operator of any concession, or perform any

service, including but without limiting the generality thereof, 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 harness horse race meet, or engage in any occupation or employment at any harness horse 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.

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

(c) It shall be the responsibility of each track licensee to prevent any person not holding an occupational license from doing or performing any act or acts at such licensee's track.

(d) 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; provided, however, that the commission may, pending final determination of any question under section 309 of the Racing, Pari-Mutuel Wagering and Breeding Law, as amended, issue a temporary license upon such terms and conditions as it may deem necessary or desire to effectuate the provisions of such chapter. No person shall be qualified to receive or hold an occupational license if he or she is not a bona fide participant in harness racing. 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, driver, racing official, mutuel employee, 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.

(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 to be paid shall be as follows: original owner—$100; owner renewal—$50; trainer, assistant trainer, driver, farrier, veterinarian, track management—$20; stable employees (grooms, etc.), cleaning and food service workers—$5; all others—$10. Such fees shall be multiplied by two for two-year terms and by three for three-year terms.

(h) The commission may suspend, revoke, exclude, or refuse to license any participant whose spouse would fail to qualify should such spouse apply for a license. In this regard the commission may require a participant to produce any evidence and information it deems necessary.

(i) It shall be the responsibility of the trainer to determine that every person employed by such trainer at a licensed track and every assistant trainer, groom clerk, assistant or other person working regularly in such trainer's stable at a licensed 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 of 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.

(j) 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.

(k) Upon the commission's request an applicant for an occupational license or a licensee holding such license shall furnish the commission records or information pertaining to such applicant's service in the Armed Forces, to treatment for any physical or mental condition including confinement in any institution, to such applicant's past or present financial condition, to such applicant's past or present employment or 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.

(l) 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 he or she is to be employed, that his or her proposed employer intends to so employ him or her upon issuance or reinstatement of the license; or

(2) that if he or she is to otherwise engage in harness racing that he or she is able, financially or otherwise, to so participate upon licensing.

§ 4101.25. Copy of the rules.

Copies of the commission rules and regulations are available at the commission office at each licensed harness race track and the commission's principal office.

§ 4101.26. Admission charges.

Admission charges for each class of accommodation must be approved by the commission. The minimum charge shall not be less than 50 cents exclusive of taxes; provided, however, that the charge for admission of members of the Armed Forces of the United States in uniform and minors under 18 years of age may be one half of the amount fixed for such admissions generally under authority of this section whether or not such one half of the amount fixed is less than the minimum amount prescribed in this section. Every admission to a track shall be a paid admission, except as provided in section 4101.27 of this Part.

§ 4101.27. Passes.

No track licensee shall issue any pass, card or badge entitling any person to free admission to such licensee's track except in accordance with section 324 of the Racing, Pari-Mutuel Wagering and Breeding Law.

§ 4101.28. Telephones.

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

§ 4101.29. Time of last race.

Each night's racing program shall be scheduled to be completed prior to midnight. On Saturday night no race shall be called on the track that cannot within reasonable expectation be completed before midnight and in no event may betting be conducted after 11:57 p.m. on said night and the presiding judge shall cause the machines or other devices used for wagering to be locked by such time.

§ 4101.30. Filing of documents.

The receipt by the commission for filing of any document, contract, agreements or writings required to be filed with the commission pursuant to law or the rules and regulations of this commission, shall not constitute an approval by the commission of the contents of such documents, contracts, agreements or writings.

§ 4101.31. Compensation insurance.

Every owner, driver or trainer who employs or hires any person or persons required by the laws of the State of New York to be covered by workers' compensation must file a certificate of insurance with the commission on a form satisfactory to the chairman of the Workers' Compensation Board. No license or permit will be issued to participate in harness racing unless the commission has a certificate of insurance on file.

§ 4101.32. Admission of minors.

Minors under 16 years of age shall not be admitted to the public area of a harness track where pari-mutuel betting is conducted unless accompanied by a parent or guardian. Minors 16 years of age or older may be admitted at all meetings whenever held. Nevertheless any track in its own discretion may bar the admission of minors under 18 years of age at all times or prescribe the conditions under which such minors may be admitted, consistent with this section.

§ 4101.33. Owners and trainers.

No person who is under 18 years of age shall be eligible to be licensed as an owner or trainer.

§ 4101.34. First aid.

Each track licensee shall employ and 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 track licensee shall also be equipped with an ambulance certified by the New York State Department of Health and an attendant during racing including qualifying races. Nothing in this section shall relieve any track licensee of the duty to comply with Part 18 of Title 10 of the New York Codes, Rules and Regulations mandating emergency health care requirements at public functions.

§ 4101.35. Unauthorized use of license cards, stickers and passes.

Commission license cards and slips, track parking stickers and track admission badges or passes are nontransferable and the use thereof by anyone other than the person to whom such is issued shall constitute a violation of this section by the person transferring and the user thereof.

§ 4101.36. Video equipment or motion picture equipment.

Corporations or associations licensed 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 videotape recordings or motion pictures of every race from start to finish. The videotape

recordings, films, or digital images shall be retained by the respective corporations or associations for a period of not less than 18 months, and shall at all times be available to the commission.

§ 4101.37. Restrictions on veterinarians and farriers.

(a) A veterinarian is prohibited from participating as owner, trainer or driver at any track at which a horse treated by such veterinarian is racing.

(b) A horse treated by a veterinarian is a horse upon which the veterinarian has practiced within the previous two weeks and such horse shall be deemed to be racing if it shall be drawn in to race on either of the two racing days prior to or the racing day upon which a horse owned, trained or driven by such veterinarian is to race.

(c) The prohibitions of this rule shall apply in like manner to a farrier.

§ 4101.38. Badge identification system.

(a) Each harness racing association or 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 harness 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 harness racing association or corporation. Guests must be logged in and out.

(e) The harness 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 harness racing association or corporation must contain a color photograph of the individual to whom issued, his 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 harness 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, and/or fine and/or license suspension and/or license revocation.

§ 4101.39. 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 the commission's 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 responsible person or persons to disciplinary action.

§ 4101.40. Internet posting to assist compulsive gamblers.

Each harness racing association or corporation 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 section 7.09(g) of the Mental Hygiene Law, which offer assistance in dealing with problem of compulsive gambling.

§ 4101.41. Reimbursement for racing officials.

(a) All licensed racing corporations shall reimburse the commission for the per diem cost to the commission to employ one associate judge and the starter at and in relation to racing meetings conducted by the licensed racing corporation. Reimbursement shall include the per diem rate accorded to the title as well as fringe benefits and any indirect costs attributable to the position.

(b) The commission shall notify each licensed racing corporation of the costs to be reimbursed prior to the beginning of each month.

(c) Payment of the reimbursement shall be made to the commission no later than the last business day of each month and shall be accompanied by a report, under oath, on a form prescribed by the commission. The report shall contain such information as the commission may require.

(d) A penalty of five percent of the payment due with interest at the rate of one percent per month calculated from the last business date of the month when payment is due to the date of payment shall be payable in the event that any reimbursement or part thereof is not paid when due.

(e) The commission or the commission's duly authorized representatives shall have the power to examine or cause to be examined the books and records of the corporations required to provide the reimbursement for the purpose of examining and checking the same and ascertaining whether the proper amounts are being paid.

(f) If the commission determines that any reimbursement received by it was paid in error or exceeded the actual amount required, the commission may cause the same to be refunded without interest out of the monies collected or credited to the racing corporation, provided an application for such a refund is filed with the commission within one year from the date the incorrect payment was made.

(g) If the commission determines that any reimbursement received by the commission was insufficient due to an increase in racing days or other circumstance, the commission shall direct the racing corporation to provide for such reimbursement by notifying the racing corporation of the obligation and requiring payment by issuance of an assessment fixing the correct amount. Such assessment may be issued within three years from the filing of any report. Any such assessment shall be final and conclusive unless an application for a hearing is filed by the racing corporation within 30 days of the date of the assessment. The action of the commission in making such final assessment 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.

PART 4102

Violations

Section
4102.1 Violators
4102.2 Attempted violations
4102.3 Penalties.
4102.4 Unpaid fines
4102.5 Financial responsibility

§ 4102.1. Violators.

Any person licensed by the commission or any person violating any of the commission's rules or regulations shall be liable to the penalties herein provided, unless otherwise limited in and by the rules and regulations of the commission.

§ 4102.2. Attempted violations.

Any attempt to violate any of the rules and regulations of the commission falling short of actual accomplishment, shall constitute an offense and shall be punishable as if consummated.

§ 4102.3. Penalties.

(a) The penalties for violation of the rules of the commission shall be as follows:

(1) denial, revocation or suspension of license;

(2) monetary fines not exceeding $25,000 for each violation;

(3) suspension from one or more activities at one or more tracks;

(4) expulsion from pari-mutuel harness racing in New York State;

(5) forfeiture or return of purses won.

(b) The penalties provided above, where applicable, shall be exacted from all persons, whether licensed by the commission or not.

(c) Penalties for violation of any rule of the commission may be imposed by the commission, the track steward or the judges presiding at each licensed harness race meeting.

(d) Suspension or exclusion of a person shall apply in each instance to the spouse of the person.

(e) Payment of a fine directly or indirectly by a person other than the person upon whom it is imposed is prohibited, and such prohibition applies to the person upon whom the fine is imposed and the person paying said fine.

(f) Where, for violation of any racing rule herein, a penalty is assessed in the form of license suspension for days certain, and the person affected requests a hearing to review said action, and in connection therewith requests the commission to assess a fine in substitution of said penalty of suspension, the commission may, in its discretion, order such substitution, and reinstate the license of said person upon payment of said substituted fine.

§ 4102.4. Unpaid fines.

Where monetary fines have been imposed and remain unpaid, the violator shall be automatically suspended until the fine is paid in full.

§ 4102.5. Financial responsibility.

Any participant who shall accumulate unpaid obligations, or default in obligations, or 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.

PART 4103

Programs

Section
4103.1 Contents
4103.2 Races without purse and workouts
4103.3 Unchartered races
4103.4 Responsibility for program
4103.5 Misinformation
4103.6 Horse actual time
4103.7 Breaks
4103.8 Chart

§ 4103.1. Contents.

(a) A printed race program shall be published and offered for sale at every licensed harness race meeting. At other than limited pari-mutuel meetings, the program shall provide the name, sex, color, age, sire, dam, letter class, and owner, trainer, driver and driver's colors of every horse. It shall separately give the number of starts for the current year and previous year, the fastest winning time in each year, the track at which such time was recorded, and state the number of times the horse was first, second or third in each year and the money winnings of each year.

(b) The program shall give the following particulars of at least the six most recent purse races of each horse:

(1) the date and place of each race;

(2) the condition of the racing strip;

(3) the class of each race and the distance;

(4) the name and time of the winner, the actual time of the particular horse, the names of the horses finishing second and third, and the number of starters;

(5) the post positions and the position at the quarter, half, three-quarters, seven eighths, and finish of the races;

(6) the beaten lengths at the finish;

(7) a notation of the occurrence and position in the race of every “break” and “parked out” with a “0” for one position out, “02” for two positions out, etc.;

(8) the dollar odds of the wagering of said horse, if any;

(9) the name of the driver in each race and a notation by the letter “p” if such driver has fewer than 25 pari-mutuel starts in his or her career;

(10) fractional times of each quarter of the race, if available;

(11) a symbol showing that a pacer will race without hopples and in which of its charted races it has raced without hopples;

(12) a symbol showing in which of its charted performances a horse has been claimed; and

(13) the base claiming price of each claiming race in which the horse has performed.

(c) Each program shall carry the speed ratings of every pari-mutuel race track, the commission rules covering the start and breaking horses, an explanation of qualifying races and workouts, and the contents of sections 4122.19, 4122.20 and 4122.27 of this Subchapter and a statement to read as follows: “Where a horse that has gone offstride in a previous race is reported to have suffered broken equipment during such race, a symbol 'ex' is used. It is not possible to reflect whether such broken equipment was a cause of or only the result of such horse's having gone offstride.”

(d) Where performance lines of any horse for two years are included in the program, there shall be inserted a symbol separating the performance of each year.

(e) If a trainer entrusts the training of a horse to an assistant the latter shall be described as “trainer” and the former shall be described as “stable”.

(f) Each program shall denote the use of furosemide for the programmed race and at least the six most recent purse races in the following manner:

(1) (L) horses running on furosemide;

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

(g) As far as practicable matters of opinion shall not be included in the program. Those matters that are opinion shall be so labeled.

§ 4103.2. Races without purse and workouts.

Performances of a horse in races without a purse, qualifying races and qualifying workouts shall be reported as such on the program. Qualifying races for a horse shall

be labelled "*Qual.". Qualifying races for a driver only shall be labelled "*Dr. Q.", but shall not be included in the horse's past performance lines unless the qualifying driver is also the programmed driver, or unless otherwise ordered by the presiding judge.

§ 4103.3. Unchartered races.

Where the most recent performance lines are from unchartered meetings, fairs, qualifying races and workouts they may be combined or eliminated under the direction of the presiding judge to conserve room in the program for performance lines from charted meetings.

§ 4103.4. Responsibility for program.

(a) Every licensed harness race track shall designate a program director who shall be responsible for the compilation and publication of the racing program.

(b) No licensed track shall make any changes in the entries for scheduled races that have been announced in a previous night's program without the permission of the State steward.

§ 4103.5. Misinformation.

Any person giving, or attempting to give, misleading or inaccurate information of a horse's performance for inclusion in a printed racing program, shall be subject to the penalties provided by this Subchapter.

§ 4103.6. Horse actual time.

Every licensed harness race track shall utilize a timing device incorporated into the photo finish camera from which the actual time of every contestant in every race may be computed. Such actual time shall be included in the performance lines published by the program director.

§ 4103.7. Breaks.

The program director shall cause a record to be made of every "break" in a race and the position in the race where same occurred. When a horse is "parked out" on a turn same shall also be recorded and included in the published performance lines.

§ 4103.8. Charts.

Each program shall print an official chart of the latest preceding night's results available. Such chart shall indicate any horses scratched and the reason therefor, broken equipment of a horse not causing a break, that a horse's performance has been materially affected because it choked down, the average weather temperature for the program, and other factual information that may be deemed necessary by the commission from time to time.

PART 4104

Paddock

Section
4104.1 Requirements
4104.2 Urine tests
4104.3 Equipment
4104.4 Blacksmiths
4104.5 Drivers stand
4104.6 Paddock
4104.7 Equipment check
4104.8 Admission to paddock
4104.9 Post parade from paddock
4104.10 Code of conduct
4104.11 Recording conversation
4104.12 Test for alcoholic consumption.
4104.13 Veterinarians
4104.14 Use of cellular telephones and electronic communication devices

§ 4104.1. Requirements.

Every licensed harness racing association or corporation shall maintain a paddock or receiving barn from which all horses shall be raced. The paddock or receiving barn shall be entirely enclosed with a man-tight fence, and the gate or gates through said fence shall be so manned and controlled that the general public shall be excluded therefrom. A horse ambulance, stone boat and blankets for the humane removal of horses injured on the race track shall be available for paddock use.

§ 4104.2. Urine tests.

Each such paddock or receiving barn shall contain four stalls properly equipped for the exclusive use of taking urine samples for analysis.

§ 4104.3. Equipment.

During racing hours each licensed racing association shall have such suitable extra equipment in the paddock as may be required for the proper conduct of racing without unnecessary delay.

§ 4104.4. Blacksmiths.

During racing hours the racing association shall provide the services of a blacksmith, within or adjacent to the paddock. Said blacksmith shall be equipped with all the tools, materials and equipment necessary to replace and reaffix lost or dislodged shoes.

§ 4104.5. Drivers stand.

Each racing association shall provide a stand located conveniently to the gate through which horses enter the race track from the paddock or receiving barn, for the use of drivers scheduled to race.

§ 4104.6. Paddock.

The paddock at all times shall be under the supervision of the paddock judge whose duties are set forth in section 4104.9 of this Part.

§ 4104.7. Equipment check.

Every licensed harness race track shall cause a record to be kept showing the tattoo number, equipment, shoes and harness customarily worn by each horse competing at the track. The equipment, shoes and harness worn by every horse in every night's program, its hopple lengths and tattoo number, shall be checked in the paddock before each race against such record and all changes from the previous start shall be noted thereon, and the presiding judge notified. Any such changes shall be posted by the track on an information board for such purpose in the public area of the track.

§ 4104.8. Admission to paddock.

(a) All horses to be raced on a particular day or night shall be in the paddock, accompanied by the trainer of record or assistant trainer or by a trainer or assistant trainer designated in writing by the trainer of record, at the time prescribed by the presiding judge. Such time, in no event, except with the expressed permission of the steward or presiding judge, shall be later than one hour prior to post time of the race in which the horse is to start. Horses entered in the races constituting the daily double shall be in the paddock at least two hours before the post time of the first race of the daily double. Except for warmup trips, no horse shall leave the paddock until called to the post.

(b) No person shall be admitted to the paddock except the owners, trainers, drivers and grooms of the horses actually competing in the races of the particular day or night, and such other persons as are specifically authorized by the commission.

(c) A driver, trainer or groom, once admitted to the paddock shall not leave the same until the horse to which he or she is assigned shall have completed its race, returned to the paddock, and the race is declared official, except to warm up.

(d) An owner may enter the paddock once prior to the race in which such owner has a horse programmed to start, but shall leave the paddock prior to the post parade of the race following that in which such owner's horse has competed. When an owner has two or more horses programmed to start such owner may remain in the paddock or may enter and leave the paddock once for each such horse before it races,

provided such owner shall leave the paddock prior to the post parade of the race following the last race in which such horses competed. Not more than two owners of a horse, exclusive of the driver, shall be entitled to enter the paddock for said horse.

(e) The track shall provide the paddock judge with a list of such track's personnel eligible for admission to the paddock. The track shall keep a list of all persons entering and leaving the paddock on a form approved by the commission.

§ 4104.9. Post parade from paddock.

Fifteen minutes before the post time for a heat or dash, the paddock judge shall cause all horses entered in such heat or dash to be formed in a parade line. Such horses shall be attended by their drivers unless specifically excused by the paddock judge. All horses in a heat or race shall parade from the paddock upon the track and before the grandstand not later than five minutes before post time. A horse failing to parade without being excused by the judges may be scratched from the race or its driver or trainer may be penalized. Drivers shall not engage in conversation during the post parade.

§ 4104.10. Code of conduct.

(a) While in the paddock:

(1) An owner shall not engage in conversation with a driver or trainer who is not employed by such owner for the owner's horse programmed to race the same day. A driver or trainer shall refuse to engage in conversation with any owner whom he or she is not representing in a race the same day.

(2) A driver or trainer shall not mark a program for anyone including his or her own owner.

(3) Owners, drivers and trainers shall so conduct themselves as to avoid creating any appearance or suggestion that would reflect adversely on the integrity of the racing.

(b) The presiding judge and paddock judge are authorized on any occasion to revoke or curtail the paddock privileges of an owner if, in the judgment of the presiding judge or paddock judge, circumstances warrant such action in order to maintain proper decorum in the paddock.

§ 4104.11. Recording conversation.

All telephone conversations into and from the paddock shall be recorded from the time pari-mutuel sales are begun until the last horse has left the paddock.

§ 4104.12. Test for alcoholic consumption.

(a) Each track shall provide a device approved by the commission in the paddock 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 presiding judge or other commission designee and shall be administered by only qualified individuals employed by the commission.

(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 driver 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 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.

§ 4104.13. Veterinarians.

During racing hours, and any time a horse is raced upon the race track, the racing association shall provide the services of a veterinarian, within or immediately adjacent to the paddock. Said veterinarian shall be equipped with all the instruments, materials and equipment necessary that might affect the health of the horse while on the race track.

§ 4104.14. Use of cellular telephones and electronic communication devices.

The use of cellular telephones or any other electronic communication device, including devices that are capable of sending or receiving text messages or e-mails,

by any person while in the paddock or receiving barn is restricted to use in an area designated by the Paddock Judge.

(a) Notwithstanding the provisions of Rule 4104.11, a sign shall be posted prominently at the entrance of the paddock or receiving barn stating that the use of a cellular telephone or an electronic communication device by any person while in the paddock is restricted to an area designated by the Paddock Judge, and identified by a sign that reads “Designated Cell Telephone Area”

(b) Nothing contained in this rule shall diminish the right of any track to adopt or implement more restrictive procedures concerning the use of cellular telephones and other electronic devices.

(c) This section shall continue for one year after the date that it goes into effect.*

PART 4105

Officials of Race Meetings

Section
4105.1 Appointment of officials
4105.2 Administrative steward
4105.3 Track stewards and inspectors
4105.4 [Repealed]
4105.5 Authority of the presiding judge
4105.6 Power of judges
4105.7 Special duties of presiding judge
4105.8 Duties of judges
4105.9 Duties of paddock judge
4105.10 Photo finish
4105.11 Duties of patrol judges
4105.12 Duties of the recording judge
4105.13 Duties of the racing secretary
4105.14 State veterinarian
4105.15 Wagering or interest by officials
4105.16 Wagering or interest by certain track employees

§ 4105.1. Appointment of officials.

(a) The executive director of the commission shall appoint the presiding judge, associate judges, inspectors, recording judges, starters, patrol judges, paddock judges, stress coordinators who counsel licensees on behalf of the commission regarding alcohol and drug abuse, State veterinarians, and such other State officials as may be needed to act as the commission's representatives at the race meeting.

* Section 4101.14 went into effect on August 21, 2013.

(b) The racing associations and corporations shall employ and appoint the following association racing officials and their assistants: race secretaries, program directors, announcers, marshals, timers, photo finish operators, track superintendents, and photo patrol operators.

§ 4105.2. Administrative steward.

The administrative steward shall be the principal advisor to the commission on harness racing activities throughout the State. The administrative steward shall exercise administrative supervision over all track stewards, State racing officials and association racing officials listed in paragraph (1) of subdivision (a), and subdivision (b), of section 4105.1 of this Part. The administrative steward shall be responsible for keeping the track stewards, State racing officials and association racing officials informed of commission policies and procedures. Under direction of the commission, the administrative steward shall have the authority to conduct inquiries and in connection therewith to issue subpoenas to compel the attendance of witnesses, and the production of all relevant and material reports, books, papers, documents correspondence and other evidence; and in connection therewith the administrative steward shall have the power to administer oaths and examine witnesses and shall submit a report of all proceedings thereon. The commission may assign the administrative steward to act in the place of a track steward or State racing official at any meeting for a specified period. In an emergency, created by the absence or disability of a track steward or State racing official, the administrative steward shall act in his or her place or appoint a substitute for the duration of the emergency. The administrative steward shall carry out any special duty assigned by the commission.

§ 4105.3. Track stewards and inspectors.

The commission shall assign a track steward and as many inspectors as it deems necessary to each race meeting. The track steward shall be the principal representative of the commission at such meeting. The track steward shall have general supervision over all State and association racing officials, inspectors, licensees and appointees of the commission assigned or engaged at such meeting. The track steward shall supervise the licensing procedure at such race track. The track steward shall supervise the conduct of the racing and of the pari-mutuel department. If necessary, the track steward may act in place of an official, or as an additional official or may appoint a substitute official at such race meeting. The track steward shall have the authority to conduct inquiries and in connection therewith to issue subpoenas to compel the attendance of witnesses, and the production of all relevant and material reports, books, papers, documents, correspondence and other evidence. The track steward shall have the power to administer oaths and examine witnesses and shall submit a report of all proceedings thereon. The inspectors assigned to each meeting shall carry out such duties as are assigned by the track steward.

§ 4105.4. [Repealed]

§ 4105.5. Authority of the presiding judge.

The presiding judge at each meeting shall exercise authority and supervision over the State racing officials and over the association racing officials assigned to or employed at such meeting. In the presiding judge's absence, or incapacity, the powers and duties of the presiding judge shall be exercised by the associate judge designated by the presiding judge for such purpose.

§ 4105.6. Power of judges.

Presiding judges and associate judges shall have authority to:

(a) Determine all questions of fact relating to the race.

(b) Impose fines and penalties as prescribed by the commission rules and regulations.

(c) Decide any difference between parties to the race or any contingent matter that may arise that is not otherwise provided for in this Subchapter.

(d) Declare pools and bets "Off" in case of fraud, or to declare any horse a non-starter and to direct the refund of all wagers made thereon, from which no appeal will be allowed. All pools and bets shall follow the decision of the judges. Such decisions in respect to pools and bets shall be made at the conclusion of the race upon the observations of the judges and upon such other facts as an immediate investigation will develop. A reversal or change of decision after the official placing at the conclusion of a heat or dash shall not effect the distribution of the betting pools made upon such official placing.

(e) Control the horses, drivers, grooms and every person or machine engaged in any portion of the racing program.

(f) Investigate every apparent or possible interference or rule violation and examine all parties connected with a race under oath as to any such violation of rules or complaint.

(g) Make such decision in the public interest required by extraordinary circumstances not covered by this Subchapter.

§ 4105.7. Special duties of presiding judge.

The presiding judge shall be responsible for the performance of the judges' duties by himself or herself and other officials under his or her supervision. In addition the presiding judge shall supervise:

(a) The maintenance of the judges' book, the stewards list and the accident reports.

(b) The preparation, delivery and posting of all notices of penalty, rulings and decisions relative to racing.

(c) The procedures prescribed by this Subchapter with respect to investigations.

(d) The drivers' meetings prescribed by this Subchapter.

(e) The handling of entries and declarations to start and the application of preferences to race.

(f) All announcements over the public address pertaining to the race program.

(g) The admittance of persons to judges' stand subject to the direction of the commission.

(h) The coupling of horses accepted for entry where it is necessary to protect the public interest.

§ 4105.8. Duties of judges.

It shall be the duty of the judges to:

(a) Closely observe the performance of all horses and drivers competing at the race meeting.

(b) Determine the result of every race contested before them and to place the horses competing therein in the order of their finish.

(c) Investigate any act of cruelty to a horse racing at a meeting whether seen by them or reported to them and punish any person guilty of such cruelty.

(d) Investigate any accidents on the track to determine the cause thereof and promptly make a full report to the commission.

(e) Exclude from any race, a horse that is improperly equipped, dangerous, unmanageable, unfit to race, or liable to cause accident or injury to another horse or driver in the race or that has fallen upon the track during the program.

(f) Where a violation of any rule is suspected to conduct an inquiry promptly and to take such action as may be appropriate and render their report to the commission. Any action, as a result of such inquiry, must be concurred in by at least two of the three judges.

(g) Be represented by at least two judges in the judges' stand before wagering opens. All judges shall be in position at least 15 minutes before the first race, at all times when horses are on the track thereafter, and for 10 minutes after the last race.

(h) Observe the preliminary warming up of horses and the scoring, noting the behavior of the horses and the drivers, the equipment of the horses and any lameness which might appear as well as the changes of the betting odds shown on the totalisator board and any other incidents relating to the racing.

(i) Advise the paddock judge of the schedule of post times for the program as set by the presiding judge.

(j) Be responsible for locking the pari-mutuel machines immediately upon the horses reaching the official starting point of the race.

(k) Maintain communication with the patrol judges, by telephone from the time the starter picks up the field of horses until all horses pass the finish line. A written record is to be made of every “break,” violation of rules or incident reported by the patrol judges. A mechanical recording shall be made and preserved of all communications between the patrol judges and the main judging stand at all, other than limited, pari-mutuel meetings.

(l) Cause the appropriate signs to be posted on the result board to indicate objection or inquiry in event of rule violation or complaint and notify the public address announcer of the horses involved and the nature of the objection. When a decision is made, the judges shall cause the objection or inquiry sign to be removed, the correct placing of the horses to be shown, and the “Official” sign to be shown.

(m)Display the “Photo” sign if there is less than one-half length between contending horses or if a contending horse is on a break at the finish. They shall examine the photo of the finish before rendering decision on the placing thereof and to cause copies of such photos to be posted and displayed to the public.

(n) Sign the judges' book after each race.

(o) Suspend payment of purse moneys on the positions affected by a protest or appeal until final decision is rendered.

§ 4105.9. Duties of paddock judge.

It shall be the duty of the paddock judge to:

(a) Supervise the assembling of the fields of horses in the race on the track for post parades in accordance with the schedule given to the paddock judge by the presiding judge.

(b) Supervise the identification of horses in the race.

(c) Supervise the inspection of equipment and shoes; and the head and saddle numbers of each horse during warm ups and before the parade.

(d) Supervise the paddock gate men.

(e) Supervise the checking in and out of horses, grooms, owners and drivers.

(f) Supervise the activities of the paddock blacksmith.

(g) Notify the presiding judge of any change of racing equipment or shoes before the race.

(h) Notify the presiding judge of any incident that could in any way change, delay or effect the routine progress of the racing program.

(i) Keep out unauthorized people.

(j) Inspect and supervise the maintenance of all emergency equipment kept in the paddock.

(k) Notify judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race.

(l) Notify judges of all trainers and grooms who leave the paddock in an emergency.

§ 4105.10. Photo finish.

(a) The judges shall determine the order of finish of every race contested at licensed harness race tracks.

(b) Every licensed harness race track shall provide photo finish service of a type and quality approved by the commission as an aid to the judges in determining the order of finish.

(c) Whenever the judges call for a photo finish picture to determine the order of finish they shall cause the word “Photo” to be flashed on the infield board and to remain there until the order of finish is determined.

(d) Whenever a photo finish picture is used to determine the order of finish such picture, or true copies thereof, or projections thereof, shall be posted or projected for public inspection.

(e) In the event of an electrical or mechanical failure of the photo finish camera, or if a distorted, deceptive or otherwise inadequate picture is developed, the judges shall decide the order of finish and such decision shall be final.

§ 4105.11. Duties of patrol judges.

It shall be the duty of the patrol judges to:

(a) Observe all activity on the race track at all times during the racing program.

(b) Be in constant telephonic communication with the judges, during the course of every race.

(c) Immediately report to the judges:

(1) any action on the track which could improperly affect the result of a race;

(2) every violation of the racing rules;

(3) every violation of the rules and decorum;

(4) the lameness or unfitness of any horse;

(5) any lack of proper racing equipment.

(d) Individually report in writing daily their observations of each race to the presiding judge.

(e) Attend investigations on violations and testify thereat under oath when so directed.

§ 4105.12. Duties of the recording judge.

It shall be the duty of the recording judge to:

(a) Maintain all official race summaries, records, suspensions and fines; prepare and serve all notices relating thereto and provide daily copies thereof to the commission, the licensed harness race track and to all stewards at licensed harness race tracks in New York State.

(b) Check the eligibility of all horses entered in races as well as the ownership and management of such horses.

(c) Check all drivers' licenses and advise the program director and judges of fines and suspensions listed thereon and whether such license is a limited one.

(d) Assist the judges in drawing positions, at the request of the presiding judge.

(e) Maintain a list of all owners, trainers and drivers at each race meeting together with their commission license numbers, and keep such list current.

(f) Keep the judges' book and record legibly therein:

(1) all horses entered and their eligibility certificate numbers;

(2) names of owners and drivers and their license numbers;

(3) a record of each heat, giving the position of horse at the finish and money won;

(4) note of drawn or ruled out horses, placing horses;

(5) record time in minutes, seconds and fifths of seconds.

(g) Check eligibility certificate before the race, and after the race enter all information provided for thereon, including the horse's position in the race as it was chartered. In the event a horse has been placed on the steward's list, such fact and the reason therefor shall be recorded thereon.

(h) See that the judges' book is properly signed.

(i) Forward daily a copy of the judges' book to the commission.

(j) Notify owners and drivers of any penalty assessed by the judges or starter and post a copy of such notice in the racing secretary's office.

§ 4105.13. Duties of the racing secretary.

It shall be the duty of the racing secretary to:

(a) Provide electronic access to the eligibility certificates and other horse ownership and registration records of the United States Trotting Association and Standardbred Canada.

(b) Be familiar with the age, class, and competitive ability of all horses racing at the track.

(c) Where the rules require, to classify and reclassify horses in accordance therewith.

(d) List horses in the classes for which they qualify and to cause such lists to be kept current and to be properly displayed in the room in which the declaration box is located for examination by horsemen and others.

(e) Write conditions and schedule the daily racing programs to be presented at the track.

(f) Provide for the listing of horses in such daily program; to examine all entry blanks and declarations; to verify all information set forth therein; to select the horses to start and the also eligible horses from the declarations in accordance with the rules governing these functions.

(g) Examine nominations and declarations in early closing and stake events; to verify the eligibility of all declarations and nominations, and to compile lists thereof for publication.

§ 4105.14. State veterinarian.

(a) The State veterinarian, unless otherwise directed by the commission, shall devote his or her full time to the performance of the duties of the office of State veterinarian and shall not render professional services to any horseman on the grounds to which the State veterinarian is assigned during the course of the meeting.

(b) It shall be the duty of the State veterinarian to:

(1) Supervise the inspection and examination of every horse when first entered at the race meeting.

(2) Examine such horse as the judges may request and report thereon.

(3) Examine and approve for release from the steward's list all horses that have been placed thereon for being lame, sick or injured.

(4) Observe the training of all horses performing at the track and examine any horse which may appear ill or infirm and report thereon to the presiding judge.

(5) Observe the horses in the paddock and warming up for the racing program and investigate into and examine such horses which may appear ill or infirm and report thereon to the presiding judge.

(6) Verify the tattoo number and supervise the taking of saliva, urine, blood or such other samples from the horses as may be required by the rules or as directed by the presiding judge and be responsible for the proper storing and delivery thereof to the State laboratory and the maintenance of required records.

(7) Examine horses to be scratched from any race because lame, ill or infirm and report thereon to the presiding judge.

(8) Approve for subsequent declaration all horses that have been scratched from a race for unfitness when such horse has become fit to race.

§ 4105.15. Wagering or interest by officials.

No person employed or appointed by the commission or in any way representing the commission shall place wagers upon the outcome of any harness horse race conducted at a track at which pari-mutuel betting is conducted by any licensee of the commission, or have or maintain any interest, direct or indirect, in a horse participating at any licensed meeting in the State of New York.

§ 4105.16. Wagering or interest by certain track employees.

No employee of a licensed harness race track whose duties include the classification of horses shall place wagers upon the outcome of any harness horse race conducted

at the track where he or she is employed, nor shall any such employee directly or indirectly be the owner of any horse racing at such meeting or participate financially, directly or indirectly, in the purchase or sale of any horse racing at such meeting.

PART 4106

Identification of Horses

Section
4106.1 Records.
4106.2 Misrepresentation.
4106.3 Examination of horse or records
4106.4 Reports on ownership and control of horses
4106.5 Identification of horses
4106.6 Importation prohibited without document
4106.7 Importation prohibited
4106.8 Nerved horses—restrictions
4106.9 Death of a horse
4106.10 Geldings

§ 4106.1. Records.

No horse will be permitted to race unless an eligibility certificate or other certificate of registration, in current form, is on file with the United States Trotting Association or Standardbred Canada.

§ 4106.2. Misrepresentation.

Any misrepresentation of a material fact concerning the record of a horse entered at a licensed harness racing track shall be deemed a violation of this Subchapter and subject the person or persons responsible therefor to all the penalties of this act.

§ 4106.3. Examination of horse or records.

Any racing official, track official, owner or driver of a horse may call for information concerning the identity or eligibility of any horse competing at a licensed harness race track, and may demand an opportunity to examine such horse with a view to establish identity or eligibility. No owner or party controlling such horse may refuse to afford such information, or to allow such examination. No person shall demand identification of a horse without cause or to embarrass a race.

§ 4106.4. Reports on ownership and control of horses.

(a) Within 72 hours, or shorter period if so directed, after arrival of any horse at a race track, the person in charge of such horse shall file a statement with the commission steward, in form satisfactory to the commission, listing the following information:

(1) The owner or owners of each such horse with address, telephone number and commission license number.

(2) The trainer and, if any, the assistant trainer, with address, telephone number and commission license number.

(3) Each groom or other employee employed for such horse with address and commission license number. If any such employee is thereafter discharged or leaves his or her employment, such fact shall be reported to the commission steward within 24 hours.

(4) The name and policy number of the workers' compensation carrier if any.

(5) The tattoo number of each such horse.

(6) Such other information as may be required.

(b) Upon any change in ownership, training or employment regarding such horse during the meeting, the person in charge of the horse shall promptly report that information to the commission steward.

(c) The trainer of a horse shall file a statement with the recording judge, designating an assistant to assume such trainer's responsibility when such trainer will not be available for a period exceeding one day.

(d) Copies of all such statements required above shall be filed with the presiding judge and race secretary.

§ 4106.5. Identification of horses.

No horse shall be permitted to race that has not been registered and tattooed and/or freeze branded in a manner approved by the commission. Before each start such horse's tattoo, or freeze brand number shall be read and verified and, if thereafter tested pursuant to section 4120.1 of this Subchapter, such number shall again be read and verified.

§ 4106.6. Importation prohibited without document.

(a) No horse shall enter the State of New York unless accompanied by a certificate of equine examination signed by a veterinarian accredited and licensed by the state in which the examination required by the certificate was made and further provided that no horse shall enter the State of New York until the original of said certificate has been placed in the mail for delivery first class to the state veterinarian of the state in which the required examination was conducted.

(b) *Form of certificate*.

(1) The information on the certificate shall include the name of the owner or trainer with address, the consignee or destination in New York with address, the date of examination, the number of horses examined, the establishment or premises at which the horses were examined, the name, registration number if any, tattoo if any, sex, age, rectal temperature and color and markings of each horse listed on the certificate.

(2) The certificate shall include the following statement signed by the examining veterinarian:

I hereby certify that I am accredited and licensed in the State of __(State)__ and that the __(number)__ horse or horses described above was or were examined by me on the date indicated and found to be free from symptoms of any infectious or communicable disease. I further certify that the temperature of each horse was as recorded above.

Signature: _____ Address: _____
(Accredited Veterinarian)

(3) The certificate shall make provision for the recording of test results by the state veterinarian of the state of origin and shall include the following statement for subsequent counter-signature by such state veterinarian:

This certifies that the issuing veterinarian is accredited and licensed to practice in the State of __(State)__ and that the test results recorded above are correct to the best of my knowledge and belief.

Signature: _____
(State Veterinarian)

Date Countersigned: _____

(c) *Time limitation of certificates*. A certificate of equine examination shall be valid for the purposes of this Part until the 10th day following the date of examination appearing on the certificate.

§ 4106.7. Importation prohibited.

(a) All persons, associations or corporations, their agents, officers and employees and any person acting by or at their behest, are hereby forbidden to bring into this State, or cause to be brought into this State, any horse affected with or having been exposed to the disease known as equine infectious anemia (swamp fever). Every horse brought into this State or caused to be brought into this State shall be accompanied by a statement signed by a veterinarian of recognized standing in his state or country of residence certifying that such animal is not suffering from and has not been exposed to equine infectious anemia.

(b) Manure from any horse suffering from equine infectious anemia shall not be brought or caused to be brought into this State.

(c) Every person, association or corporation, and any agent, officer or employee thereof, failing to obey this order shall be subject to the fines and penalties provided by law.

§ 4106.8. 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 [posterio] digital nerve only) may be permitted to start provided that such nerving has been reported to the racing secretary who shall cause such fact to be entered on the eligibility papers and prominently displayed in the entry room prior to any subsequent start.

§ 4106.9. Death of a horse.

(a) Upon the death of a horse on any part of the grounds of a harness 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 containing such information as the commission may require;

(2) the filing of said death certificate with the presiding judge or his or her designee; and

(3) the written consent of the presiding judge or his or her designee, authorizing the removal of the remains.

(b) Upon the death of a horse on the grounds of a harness 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.

§ 4106.10. Geldings.

The gelding of a horse shall be reported to the racing secretary at any race meeting at which the racehorse might race and, as applicable, to either the United States Trotting Association or Standardbred Canada.

(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 accurately listed on its eligibility certificate or other certificate of registration on file with such organizations.

(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 certificate of registration and horse identification record of the horse.

PART 4107

Racing, Farm or Stable Names

Section
4107.1 Disclosure
4107.2 Limitations
4107.3 Liabilities
4107.4 Leases
4107.5 Corporate ownership

§ 4107.1. Disclosure.

A racing, farm or stable name may be used by the owners or lessees of horses. The names of all persons interested in the stable or operating thereunder and any additions, deletions or changes therein shall be disclosed to the commission upon request.

§ 4107.2. Limitations.

(a) No horse shall be entered or started that is owned by 35 or fewer owners unless all such owners are licensed. If a horse is owned by more than 35 owners, then only those individuals having a three percent or greater property interest in such horse shall be required to be licensed as an owner.

(b) No more than one stable may be registered under the same name. The commission may reject any name that is misleading to the public or unbecoming to the sport.

§ 4107.3. Liabilities.

All persons interested in a stable or operating thereunder, whether incorporated or not, shall be liable for all entry fees and penalties against the stable. If one of such persons is suspended or refused a license, all the horses in such stable shall be excluded from racing.

§ 4107.4. Leases.

The lessee of a horse shall file with the eligibility paper of such horse a copy of the leasing arrangement that shall contain the name of the horse, the name and address of the owner, the name and address of the lessee, the stable name, if any, of either party and the terms of the lease. Each lessor and lessee must obtain an owner's license from the commission.

§ 4107.5. Corporate ownership.

If a horse is owned by a corporation, all officers, directors, and persons owning any of the capital stock, or beneficial interest therein, shall be disclosed to, and licensed by the commission, except that if there are more than 35 individual owners of a horse then only those owners having a three percent or greater property interest in the horse shall be required to be licensed as an owner.

PART 4108

Classification and Eligibility

Section
4108.1 Eligibility
4108.2 Classified races
4108.3 Time bars prohibited
4108.4 Time of eligibility
4108.5 Two-year-old distances; heats
4108.6 Time to post overnight conditions
4108.7 Maiden status
4108.8 Types of races to be offered
4108.9 General procedure

§ 4108.1. Eligibility.

For purposes of eligibility, a racing season or racing year shall be the calendar year. In recording winnings, gross winnings will be used and odd cents will be dropped and disregarded.

§ 4108.2. Classified races.

(a) *Classification by racing secretary*. The racing secretary, according to the racing secretary's judgment, shall assign horses eligible for classification by gait to not more than the following classes based upon ability as demonstrated by past performances: FFA (Free-For-All), JFA (Junior-Free-All), AA, A, B, C, D, and where feasible, into not more than three subclasses designated by number within classes AA, A, B, C, and D. Such assignment shall be made when a horse is first accepted for racing at the track and all such assignments and changes thereof shall be posted in the declaration room.

(b) *Races to be based on class*. Races shall be offered based upon such classes and where applicable subclasses, and shall be confined to horses posted in the same or slower class or subclass at the time of declaration with preference being given to horses posted in the advertised class or subclass. Starters shall be determined by lot. A race may be conditioned for two or more classes or subclasses, in which case it shall be deemed a handicap race and post positions shall be drawn by class or subclass with the slower class or subclass nearer the rail.

(c) *Eligibility for classification*.

(1) A horse four years or older is eligible for classification.

(2) A two- or three-year-old horse may be classified only if it has won three purse races, each for a purse exceeding $450, or two wins and two seconds in such races, or if it has been previously classified, or if the owner or trainer thereof requests in writing that the horse be classified. However such request may be denied by the racing secretary. When a two- or three- year-old horse first becomes eligible for classification it may not be classified higher than C.

(d) *Changes in classification*. A horse may be advanced or moved back to any class or subclass if the horse's performance in the judgment of the racing secretary, demonstrates that it should be so moved to be properly classified, except that a two- or three-year-old horse may not be advanced to a higher class through AA for the first time until it shall have had at least two starts in the next lower class.

(e) *Basis of classification*. Classification and changes in classification shall be based upon all performances of a horse, both classified and nonclassified, after it has become eligible for classification. Classification at other tracks may be disregarded. In classifying a two- or three- year-old horse all starts of such horse after it would have become eligible for classified racing shall be considered as having been made in classified races at the present track. Double dashes and any heat racing shall be considered as one race.

(f) *Preferred races barred*. Preferred races may not be conducted in conjunction with classified races but one invitational race per week at each gait may be conducted for the fastest horses at the meeting.

§ 4108.3. Time bars prohibited.

No time bars shall be used as an element of classification.

§ 4108.4. Time of eligibility.

Horses must be eligible when entries close, but winnings on closing date of eligibility shall not be considered. In mixed races, trotting and pacing, a horse must be eligible under the conditions for the gait at which it is stated in the entry the horse will perform.

§ 4108.5. Two-year-old distances; heats.

No two-year-old shall be permitted to start in any dash, heat or race exceeding one mile, nor shall a two-year-old be permitted to start in more than two heats, dashes, or races in any single day.

§ 4108.6. Time to post overnight conditions.

Conditions for races shall be posted in the declaration room at least 25 hours before the closing of declarations thereto, except where conditions for three successive days racing are posted in which event such conditions shall be posted at least 18 hours prior to the closing of declarations to the first of such three days' conditions.

§ 4108.7. Maiden status.

Races awarded after the “official” sign has been posted shall not affect the status of a maiden.

§ 4108.8. Types of races to be offered.

(a) In presenting a program of racing, the racing secretary shall use the following types of races only:

(1) stakes and futurities;

(2) early closing events;

(3) overnight events:

(i) conditioned races;

(ii) claiming races;

(iii) preferred races limited to the fastest horses at the meeting. These may be open races, free-for-all races, invitational races, conditioned races. Horses to be eligible in such races shall be posted in the declaration room, and listed with the presiding judge. Horses so listed shall not be eligible to conditioned races unless such conditions specifically include horses on the preferred list. Not more than 12 such preferred races may be conducted during a racing week. Purses offered for such preferred races shall be at least 25 percent higher than the highest purse offered for other conditioned races or letter class races scheduled the same racing week. A two or three year old horse may not be used in such races, without the consent of the owner, unless such horse has won three races at the track during the year or has lifetime earnings of $15,000;

(iv) classified races but only with the express written permission of the commission and only if the track offers and schedules sufficient claiming races to give those horses authorized for claiming races and intended to be so raced an equal opportunity to race; and

(v) invitational races for two- or three-year-olds.

(b) Notwithstanding any preference requirements set forth in section 4108.9 of this Part and section 4111.9(a) of this Subchapter, the racing secretary may offer condition races or claiming races that limit entries only to horses that have competed at licensed New York State tracks for the majority of their most recent starts. The racing secretary may establish the limitation for each race. The limitation shall not exceed 75 percent of the most recent starts for an individual race. At least one race must be carded in the same class without the New York limitation on the same or the next race date for each race that is carded with the New York limitation.

(c) Notwithstanding any preference date requirements set forth in section 4108.9 of this Part and section 4111.9(a) of this Subchapter, the racing secretary may offer condition races or claiming races that limit entries only to New York-bred horses, pursuant to Section 307-a of the Racing, Pari-Mutuel Wagering and Breeding Law.

§ 4108.9. General procedure.

(a) For all overnight races other than invitational races the starters shall be determined by lot from those properly declared in with preference. The names of all horses declared shall be posted by race with preference dates. However, where necessary to fill a card, one conditioned race per day may be divided into two divisions and the divisions may be selected by the racing secretary.

(b) For all races other than handicap races the post positions of all starters and also eligibles shall be drawn by lot.

(c) A substitute race may be provided for each day's program and shall be so designated. The substitute race shall be used only if regularly scheduled races fail to fill and if a regularly scheduled race is not divided. No substitute or other race may be used as part of the next program.

(d) A fair and reasonable racing opportunity shall be afforded all horses and conditions shall not be written in such a way that any horse is deprived of a fair opportunity to race.

(e) The name of each horse at the track ready to race shall be posted by gait in the declaration room together with all pertinent information concerning such horse which may be required to determine eligibility of such horse to races at the track. The names of horses invited to invitational races shall be posted at least 18 hours prior to the close of declarations.

(f) (1) Handicap races are permitted where provided for in the published condition book and in conformity with such conditions with post positions determined according to the relative standings within such conditions (including claiming prices). No time records or bars shall be used as a condition.

(2) Handicap races are permitted for preferred races or for invitational races. In such races all post positions may be assigned by the racing secretary if the horses are invited and the names of the invited horses and their post positions are posted in the declaration room at least 18 hours prior to closing of declarations thereto.

(g) In an overnight race the racing secretary, with the approval of the presiding judge, may reject the declaration of any horse which has a past performance indicating that it is below the competitive level of the other horses declared providing such rejection does not result in cancellation of the race.

PART 4109

Claiming Races

Section
4109.1 Claimant
4109.2 Prohibitions
4109.3 Claiming procedure
4109.4 Claiming price
4109.5 Horses claimed—testing
4109.6 Pregnant mare—disclosure prior to entry in a claiming race
4109.7 Certain voidable claims

§ 4109.1. Claimant.

(a) Claims may be made by an owner licensed for the current year.

(b) Notwithstanding the provisions of subdivision (a) of this section, a person who has not previously been licensed in any state as an owner, upon application for an owner's license in this State made 72 hours prior to the intended claim, may apply to the presiding judge for a certificate authorizing such person to claim one horse during the next 30 racing days following the issuance of the certificate. The certificate shall be valid for claiming only at the track at which it was issued. Such a certificate shall be issued by the presiding judge only after the presiding judge has been advised by the commission that 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 be responsible for any horse the applicant may claim.

§ 4109.2. Prohibitions.

(a) No person may claim his or her own horse or a horse trained or driven by himself or herself or his or her trainer.

(b) No person may claim more than one horse in a race nor may any person file more than one claim in a race either for himself or herself or acting as agent for another.

(c) No person may claim a horse for an unqualified person.

(d) No owner may cause his or her horse to be claimed directly or indirectly for such owner’s own account.

(e) No person may offer or agree to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race.

(f) No person may declare a horse to a claiming race against which there is a mortgage, bill of sale, lien, lease or encumbrance of any kind unless the written consent of the holder thereof shall be filed with the recording judge at the track.

(g) A starter in a claiming race may not be declared to any subsequent race until after the claiming race is contested.

§ 4109.3. Claiming procedure.

(a) *Claimant's credit*. The claimant must have to his credit with the track an amount equivalent to the specified claiming price, the applicable sales tax, the cost of transferring the registration, and the fee for the test for equine infectious anemia. No claims shall be accepted unless such credit is certified in writing by an authorized track official and such written certification is included with the claim. No track official of said association shall give any information as to the filing of any claim or claim information to the public and horsemen until after the race has been run.

(b) *Owners consent*. No declaration to a claiming race shall be accepted unless both the registration certificate of the horse and written authorization by the owner to

subject the horse so declared to claim is on file with the racing secretary of the track at which the horse is entered.

(c) *Program*. The claiming price shall be printed in the program and all claims shall be for the amount so designated and any horse starting in a claiming race may be claimed for the designated price.

(d) *Claim box*. All claims shall be in legible writing, in a form satisfactory to the commission, sealed in an envelope and presented to the presiding judge or his designee. The presiding judge or his designee shall then write the date and time that the claim was submitted, the date and number of the race, and initial the claim envelope. The claimant must then deposit the claim in a locked claim box at least 30 minutes before the race in the commission office of the track.

(e) *Opening of the locked claim box and sealed envelope*. No official or other person shall open the claim box and envelope or give any information on claims filed except to check on the claimant's license and eligibility of the claim or at least 10 minutes before post time, to withdraw the claim. Immediately after the race, the claim box shall be opened in the presence of the judges and claims, if any, examined by such officials. If the claimant is properly licensed and the claim form is accurate, signed and complete, the claim can be allowed by the judges. The claim information will then be given to the paddock judge, program director and announced. A claim should not be voided due to minor errors on the claim form. The claim should be voided only if, in the opinion of the presiding judge, it is impossible to determine what horse is being claimed or who submitted the claim.

(f) *Multiple claims on same horse*. Should more than one claim be filed for the same horse, the successful claimant shall be determined by lot by the judges.

(g) *Delivery of claimed horse*. A horse claimed shall be delivered with its halter and its shoes intact immediately by the original owner or his trainer to the successful claimant upon direction of the presiding judge.

(h) *Refusal to deliver claimed horse*. No person shall refuse to deliver a horse after direction by the presiding judge.

(i) *Vesting of title*. Every horse claimed shall race in all heats of race in the interest and for the account of the owner who declared it to such race, but title to the claimed horse shall be vested in the successful claimant from the time the word “GO” is given by the starter in the first heat, and said successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured either before, during or after the race, except for a misrepresentation as to the sex or age of such animal and except as hereinafter provided in subdivision (o) of this section.

(j) *Affidavit by claimant*. The judges may require any person making a claim for a horse to make affidavit that such claimant is claiming said horse for such claimant's own account or as authorized agent and not for any other person.

(k) *Penalty for 30 days*. No right, title, or interest in a horse claimed shall be transferred by the claimant until 30 days have elapsed except in a claiming race. No horse claimed at a track may start at any other track until the meeting has closed or 30 days have elapsed, whichever is sooner, or unless it has been released to start elsewhere by the racing secretary of the track at which it was claimed, in writing.

(l) *Return to original owner*. A horse claimed shall not remain in the same stable or under the care or management of its original owner or trainer or anyone connected therewith until 30 days have elapsed unless it is subsequently claimed in another claiming race.

(m)*Inspection*. From 11:30 a.m. to 12 noon the day of its race, the trainer of a horse programmed to start in a claiming race shall make such horse available for inspection outside its stall by anyone desiring to so inspect said horse who is properly in the barn area. For purposes of such inspection, all bandages, blankets, equipment or other covering shall be removed from such horse upon request of such person inspecting.

(n) *Scratch*. If a horse, listed to start in a claiming race, is scratched, said horse shall be subject to claim in its next start (regardless of the conditions of such race) at the claiming price to which it was subject in the race from which it was scratched. This subdivision shall not apply for more than 30 days to any such horse.

(o) *Blood sample procedure if horse is claimed*. 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 therefor, 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 who claimed the horse. The cost of the test is to be borne by the claimant.

(p) *Withdrawal of claim*. A claimant may withdraw a claim up to 10 minutes before post time of the race in which the horse will compete. The withdrawal must be submitted by the claimant in writing on a form prescribed by the commission.

§ 4109.4. Claiming price.

The track shall pay the claiming price to the owner from whom a horse is claimed when, and not until, all incidents of delivery of the horse including all necessary instruments of ownership and registration, have been executed by such owner.

§ 4109.5. Horses claimed—testing.

Each horse claimed in a race shall be designated by the judges for post-race blood and urine testing.

§ 4109.6. 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.

§ 4109.7. Certain voidable claims.

(a) *Post-race positive*. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a post-race positive test, the claimant's trainer shall be promptly notified in writing by the judges and the claimant shall have the option to void said claim within five days of receipt of such notice by such trainer. An election to void a claim shall be submitted in writing to the judges by the claimant or such claimant’s trainer.

(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 judges and the claimant shall have the option to void said claim within five days of receipt of such notice by the claimant’s trainer. An election to void a claim shall be submitted in writing to the judges by the claimant or the claimant’s trainer.

(c) *Reserpine and fluphenazine.* Notwithstanding any inconsistent provision of Part 4120, 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 judges and the claimant shall have the option to void said claim within five days of receipt of such notice by the claimant’s trainer. An election to void a claim shall be submitted in writing to the judges 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 Subchapter or a lower

neurectomy that has not been reported as required in subdivision (b) of section 4025.31 of this Subchapter 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 judges 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 Chapter, the claimant shall have the option to void the claim upon written notice to the judges from the claimant or his or her trainer within 10 days following the date of the claim.

(f) *Excess TCO_2 levels.* In the event that a claimed horse tests in violation of section 4120.13 of this Subchapter, 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 4110

Time and Records

Section
4110.1 Timing
4110.2 Manual timers
4110.3 Certification of time
4110.4 Time of winner
4110.5 Dead heat
4110.6 Place of starting time
4110.7 Records

§ 4110.1. Timing.

Unless specifically exempted by the commission, in every race including every qualifying race, the time of each heat or dash shall be accurately taken by an electrical timing device approved by the commission. There shall be one manual timer in addition to the operator of such electrical device.

§ 4110.2. Manual timers.

Where manual timers are permitted by the commission there shall be three timers, who shall be in the stand 15 minutes before the first heat or dash is to be contested. Operators of mechanical timers shall have their equipment checked and be in their place of operation at least 15 minutes before the first heat or dash is to be contested. Timers shall start their watches when the first horse leaves the point from which the distance of the race is measured. The time of the leading horse at the quarter, half, three-quarters and the finish shall be taken. If odd distances are raced, the fractions shall be noted accordingly.

§ 4110.3. Certification of time.

Each manual timer and the operator of the electrical timer shall record his or her or its time for each quarter, or parts thereof, in minutes, seconds and fifths of seconds. Each such timer and operator of said electrical timer shall sign the judges' book for each race certifying the official time of the race. No unofficial timing shall be admitted to record.

§ 4110.4. Time of winner.

The leading horse shall be timed and only such horse's time shall be announced. No horse shall obtain a win race record by reason of the disqualification of another horse unless a horse is declared a winner by reason of the disqualification of a breaking horse on which such horse was lapped.

§ 4110.5. Dead heat.

In the case of a dead heat, the time shall constitute a record for the horses making the dead heat and both shall be considered winners.

§ 4110.6. Place of starting time.

The time shall be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the finish wire. Where the horses are started from a chute, and approved electronic or electric timing device must be used.

§ 4110.7. Records.

A record can be made only in a public race; the word must be given by a licensed starter; the time must be taken by official timers, as defined in section 4110.1 of this Part, and the record of the race signed by the judges, timers and starter.

PART 4111

Declarations to Start and Drawing Horses

Section
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4111.2 Declaration by mail
4111.3 Misrepresentation in declaration
4111.4 Declaration fee
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4111.7 General procedures and restrictions
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4111.33 Date of events
4111.34 Declarations by racing secretary
4111.35 Authorized agents

§ 4111.1. Form of declaration.

All declarations must:

(a) be made in writing on forms approved by the commission;

(b) state name of horse;

(c) name the driver and such driver's colors or state "no driver" if none is yet contracted;

(d) name the event or events in which the horse is to start;

(e) give date of declaration and date of race;

(f) name the owner, training stable and trainer;

(g) be signed by the owner or the owner's authorized agent, or upon satisfaction of the requirements of section 4111.34 of this Part by the racing secretary;

(h) state if pacer is racing without hopples; and

(i) denote the use of furosemide on the entry form of horses eligible for the administration of furosemide pursuant to section 4120.2(b) of this Title.

§ 4111.2. Declaration by mail.

Declarations for any race may be accepted if made by mail or telegraph and deposited in the declaration box prior to the time prescribed for closing declarations. Such declaration must set forth the information required in section 4111.1 of this Part. Every owner bears the risk of ineligibility caused by noncompliance with the declaration requirements by any agency selected to make or forward declarations.

§ 4111.3. Misrepresentation in declaration.

A misrepresentation, error or omission made in a declaration may void the declaration and the person or persons responsible therefor shall be subject to the penalties prescribed by this Subchapter.

§ 4111.4. Declaration fee.

The fee for nomination or declaration shall be fixed by the licensed association and shall be published in the conditions of the race.

§ 4111.5. Declaration box.

At all tracks the management shall provide a locked declaration box with openings through which declaration slips may be deposited. Declarations shall close at 9 a.m. and such box shall not be opened until thereafter unless otherwise specified in the conditions, or unless another hour is approved by the commission.

§ 4111.6. Closing of declarations.

All declarations for overnight events shall be closed not less than 18 hours, and not more than four racing days, prior to the date on which the race is scheduled. For overnights, stakes and all other races a change in the ownership or training of a horse drawn to start is prohibited and in the event such prohibited change occurs the horse shall be scratched and the parties responsible therefor shall be subject to fine or suspension.

§ 4111.7. General procedures and restrictions.

(a) At the closing time prescribed, the presiding judge shall unlock the box, list the declarations in writing according to race, and deliver them to the racing secretary.

(b) The racing secretary shall ascertain eligibility, preference, and racing status of the horses declared and determines the starting field of each race in accordance with the rules.

(c) Declarations to start a horse that is scheduled to start in any other race (except as also eligible) may only be accepted by permission of the presiding judge. Such permission shall not be given, however, when such horse is scheduled to start in a claiming race. In no event may a horse start in more than one race per day.

(d) Declarations to start a horse for which an eligibility certificate is not on file at the track may only be accepted by permission of the presiding judge.

(e) The presiding judge shall supervise the drawing of post positions in the presence of such owners, drivers and trainers as may appear.

§ 4111.8. Minimum starters in overnight events.

In overnight events eight eligible starters from different interests may be required by the track before post positions are drawn.

§ 4111.9. Preference.

(a) Preference shall be given in all overnight purse races according to a horse's last previous purse race during the current year, but a horse of the classification offered shall in all events be preferred over horses of slower classification. The preference date on a horse that has been drawn to a race and been scratched is the date of the race from which the horse was scratched. In order to insure proper diversification of racing fields in classes having less than 25 horses available for competition, the racing secretary may consider two consecutive race dates in the class of equal preference.

(b) When a horse is declared to race for the first time in any year, the date of its prerequisite qualifying race, if any, or otherwise of its first such declaration shall be considered its last race date and preference shall be applied accordingly.

(c) A horse that has last raced at a fair meeting shall carry the preference date of such fair race.

§ 4111.10. Reopening of declaration box.

(a) If the requisite number of starters in any overnight race is not found at the time declarations close and it is desirable to extend the time for declaration, the presiding judge may authorize the reopening of the race at a definite later hour and such reopening shall be announced over the public address system at least twice before such time. If thereafter there are still not found the requisite number of starters, the presiding judge may authorize such race to be reconditioned and reopen declarations thereto as above. When such race is reconditioned however, original declarations may not be used if expressly withdrawn prior to the closing time for new declarations.

(b) Notwithstanding this section, no horse may be moved up or down in class or group after declarations have initially closed for the day under section 4111.5 of this Part.

(c) Notwithstanding section 4111.9 of this Part, horses originally declared shall have preference over horses subsequently declared to a race which has been reopened or reconditioned.

(d) Whenever a race is reopened or reconditioned, declarations thereto shall be deposited only in a locked box for such purpose in the declaration room and said box may not be opened until the designated closing time and may only be opened by the presiding judge.

§ 4111.11. Also eligibles.

(a) In addition to the requisite number of starters, not more than two additional horses may be selected by the racing secretary as also eligibles for a race. Also eligibles shall draw priority to race at the same time the post positions for starters are drawn.

(b) No other horses shall be added to a race after post positions have been drawn.

(c) Scratch time shall be not later than 9:00 a.m. of the day of the race. Horses listed as also eligible may be held for use in the race to which they are so listed not more than 30 minutes after scratch time for the race and if not added to start in the race by that time they shall be released.

(d) If any horse or horses, drawn to start in a race be excused therefrom by the presiding judge, the also eligible horses, in the order of their priority, may be added to the race. They shall race from the post position of the horse replaced, except in handicap races including horses of several classes and claiming races in which post position is related to claiming price when they shall race from the most outside position of their class or price or if the horse replaced is of a different class or price.

(e) Upon the addition of an also eligible to the race, notice thereof shall be given to the owner or trainer of such horse and notice thereof shall be posted on the bulletin board at the racing secretary's office.

§ 4111.12. Programming of drivers.

(a) Drivers may be nominated or changed after declaration by an owner or the owner’s agent or trainer until “programming time,” the day and time established by the presiding judge at the beginning of the meeting and posted in the declaration room. At programming time it shall be the responsibility of the trainer to make any nomination or change necessary to complete the program after which such nominations or changes shall be made by the judges. Failure to make a necessary

nomination or change by programming time shall subject the trainer to fine and/or suspension.

(b) After programming time, but before wagering has begun on the horse, if the programmed driver is unable to drive or has not reported to the paddock judge at least 10 minutes before such wagering has begun, the judges shall substitute another driver therefor, if feasible.

(c) (1) After wagering has begun on a horse, if its programmed driver is unable to drive the horse shall be scratched unless:

(i) the race is an early closing event or stake;

(ii) the driver is unable to compete because of injuries suffered in a previous race on the same program; or

(iii) the judges believe a scratch of the horse will not be in the public interest.

(2) In the circumstances enumerated herein the judge may appoint a substitute driver.

(d) Compensation for an assigned or substitute driver may be fixed by the judges.

§ 4111.13. Judge's scratch.

After declarations to a race have closed no horse may be withdrawn except by permission of the presiding judge. The presiding judge acting on personal knowledge, belief or discretion may order a horse scratched from a race at any time prior to the actual start of the race, if the presiding judge has reasonable grounds to believe that any rules have been violated by any person connected with such horse.

§ 4111.14. Declarations—omissions, deletions, errors.

(a) Once drawn, post positions in stakes or early and late closing events shall be final, unless there is evidence satisfactory to the presiding judge that a horse was properly declared and has been omitted from the race through the error of either the track or its agent or employee. In such event, if the error is discovered prior to scratch time or the printing of the program, whichever is sooner, the horse shall be added to the race, and post positions therefore shall be redrawn. If such race has been divided however, the additional horse shall be added to the division determined by the presiding judge and only the post positions in such division shall be redrawn.

(b) The provisions of this rule shall not apply to overnight events.

§ 4111.15. Coupling of entries.

(a) In all races starters shall be coupled when owned in whole or in part or under the control of, or trained by the same person, or trained in the same stable or by the same management, or where, in the discretion of the judges, it is necessary to protect the public interest. A horse to be driven by a full-time employee of another driver in the race shall be considered as racing from the same stable. If a race is divided into two or more divisions, such starters shall be seeded into separate divisions where possible, first on the basis of ownership, next on the basis of training, and finally by stable, but the divisions in which they compete and their post positions shall be drawn by lot. Whenever such horses are coupled in the same race the presiding judge shall approve the second and additional drivers.

(b) Except by express permission of the commission, coupled entries are prohibited in overnight events.

(c) After post positions have been drawn, horses may be coupled as an entry (or uncoupled, if erroneously coupled) but such race, as divided, and as post positions have been drawn shall be final.

§ 4111.16. Coupled entries, wagers on.

A wager on one horse of a coupled entry shall be a wager on all of that entry.

§ 4111.17. Racing after scratch.

No horse, having previously been scratched from a race on certification of unfitness by the State veterinarian, may be accepted for racing at a licensed harness race track unless the State veterinarian certifies that such horse is currently fit to race.

§ 4111.18. Nomination in early closing events, stakes and futurities.

All nominations not actually received at the hour of closing shall be ineligible, except those by letter bearing postmark not later than noon of the following day (omitting Sunday) or entries notified by telegraph, the telegram to be actually received at the office of sending at or before the hour of closing, such telegram to state the color, sex, and name of the horse, the class to be entered; also to give the name and residence of the owner and the party making entry. Whenever a nomination or payment in a stake, futurity, or early closing race becomes payable on a Sunday or a legal holiday that falls on Saturday, such payment is to be due on the following Monday and if made by mail the envelope must be postmarked on or before noon of the following Tuesday. If a payment falls on a Monday that is a legal holiday, such payment is due on Tuesday, and if made by mail must be postmarked on or before noon of the following Wednesday.

§ 4111.19. Void entries.

All entries not governed by published conditions shall be void and no deviation from such published conditions shall be permitted. Any nominator who is allowed privileges not in accordance with the published conditions of the race, or that are in conflict with this Subchapter, shall be debarred from winning any portion of the purse.

§ 4111.20. Nominator's guarantee.

A nominator is presumed to guarantee the identity, eligibility and accuracy, of his or her nominations and declarations and if given incorrectly such nominator may be deemed guilty of a violation of this Subchapter and any winning shall be forfeited and redistributed to eligible entries. A person obtaining a purse or money through fraud or error shall surrender or pay the same to the racing association conducting the meeting and such purse or money shall be awarded to the party justly entitled to the same. However, where an ineligible horse races as a result of the fault of the racing secretary, the track shall reimburse the owner for the resultant loss of winnings.

§ 4111.21. Transfer to eligible class.

A horse entered in a class to which such horse is ineligible may be transferred to any event to which such horse is eligible at the same gait.

§ 4111.22. Engagements continue.

Unless otherwise provided in the conditions, a horse eligible to a stake or early closing event does not lose its eligibility through transfer of ownership if such transfer occurs prior to the close of declarations. A horse does not lose its eligibility through death of the nominator whether such occurs before or after close of declarations.

§ 4111.23. Conditions and payments in early closing events and stakes.

(a) *Approval*. The proposed offering of and the conditions for each early closing event and stakes shall be submitted to the commission for approval not less than 20 days before advertising, and shall not be advertised before approval.

(b) *Conditions*. The proposed conditions shall include the place where the race is to be conducted, the conditions of eligibility, distance, amount of payments and due dates, the amount the sponsor will add to the purse, and, if the event is to be raced during the current year, the date of the race and the date and time for making declarations thereto.

(c) *Payment dates*.

(1) Starting payments shall fall due at declaration time and accompany declarations.

(2) Nomination payments shall fall due on the 15th day of any month and in stakes may not fall due later than August 15th.

(3) All other payments shall fall due on the 15th day of any month other than September, October, November, December, and, except in the case of New York State Sires Stakes, January.

(d) *Number of payments*.

(1) Only a nomination payment may be required for a horse before it is two years old.

(2) Only one payment may be required of a two-year-old if there is no two-year-old division to be raced.

(3) Not more than two payments exclusive of starting payment may be required in any year for any horse.

(e) *Lists of eligibles*. A complete list of nominations and remaining eligibles after each payment date shall be filed with the commission within 30 days after such nomination or payment date. The most recent list shall also be mailed upon request to any nominator or eligible owner prior to any payment date and must be mailed to the owners of all horses eligible for declaration within 20 days after the payment date immediately preceding declaration date.

(f) *Cancellation*. A sponsor may cancel any early closing event or stake within 10 days after nomination. In such event immediate notice shall be given to the commission and any nominators affected, and nomination fees shall be refunded. After such time stakes and early closers may not be cancelled except as elsewhere provided by these rules or by the conditions.

§ 4111.24. Change of gait.

(a) Unless conditions published for early closing events provide otherwise, transfers for change of gait shall be to the slowest class the horse is eligible to at the adopted gait, eligibility to be determined at time of closing entries, the race to which transfer may be made must be the race nearest the date of the event originally entered.

(b) Two-year-olds, three-year-olds or four-year-olds, entered in classes for their age, may only transfer to classes for the same age group at the adopted gait to the race nearest the date of event originally entered.

§ 4111.25. Withdrawals.

Where subsequent payments are required, a complete list of those withdrawn or declared out shall be made within 15 days after payment was due and the list filed with the commission and mailed to every nominator.

§ 4111.26. Segregation of fees.

All fees paid in added money events, early closing events, stakes and futurities shall be segregated and held as trust funds until the event is contested. Proof of such segregation by bank letter or bank statement shall be submitted to the commission.

§ 4111.27. Stabling.

A horse accepted to start in any purse race shall be offered stable space on the grounds of the track, from 6 p.m. the day before until noon the day after such race, and such horse must be on the grounds at least 24 hours before its race in order to be available for examination by the State veterinarian, except where such horse is stabled elsewhere with the approval of the presiding judge, in which case the horse shall be available for such examination under conditions prescribed by the presiding judge.

§ 4111.28. Limitations on conditions.

Conditions of early closing events that will eliminate horses nominated or add horses that have not been nominated by reason of the performance of such horses at an earlier meeting held the same season are invalid. Early closing events shall not have more than two also eligible conditions. No condition which has the effect of backing up a horse four or more classes shall be permitted.

§ 4111.29. Proportion of entry fees to purse.

In early closing races, late closing races, and overnight races requiring entry fees, all monies paid in by the nominators in excess of 85 percent of the advertised purse shall be added to the purse. In addition to adding excess entry fees as provided above, the sponsor shall contribute at least 15 percent to the advertised purses of late closing races and overnight races. At least 15 percent of all monies paid in by the nominators shall be contributed to all early closing races by the sponsor. Where a race is split into divisions each division shall have a purse.

§ 4111.30. Declaration by person suspended.

Declaration shall not be filed for any horse owned or controlled wholly or in part by a person who does not hold a license issued by the commission, or whose license has been fully suspended or revoked.

§ 4111.31. Fraudulent transfer of horse.

(a) The transfer of a horse by any person or persons under suspension, unless to a bona fide owner for a valuable consideration accompanied by the transfer of all control over such horse, shall be deemed fraudulent and an effort to circumvent said suspension. All parties thereto shall be subject to the penalties of this Subchapter.

(b) Anyone transferring any ownership interest in a horse after the commission's refusal to license such person or suspending or revoking such person's license shall be prohibited from thereafter regaining any ownership interest in said horse.

§ 4111.32. Withholding of purse.

A licensed harness race track shall be warranted in withholding the premium or purse of any horse, if information establishes that the declaration of any horse was fraudulent or that the horse was ineligible. Such premium shall be withheld by the licensed harness race track pending decision of the commission concerning such fraud or ineligibility.

§ 4111.33. Date of events.

Before taking a nominating payment to an early closing event, or any sustaining payment to a stake during the year the stake is to be contested, the week and place of the race shall be announced and properly advertised by the stake sponsor.

§ 4111.34. Declarations by racing secretary.

A racing secretary may declare a horse to race provided such racing secretary has been specifically so requested by a person known to such racing secretary to be authorized to make the declaration. To complete such declaration, the racing secretary must deposit it in the declaration box prior to the closing time for declarations with an attached form signed by such racing secretary certifying that such racing secretary was so requested, the time of such request, by what means the request was made, and that such racing secretary knows the person so requesting was authorized to make such request. The request must relate to a specific race and may not be general in nature.

§ 4111.35. Authorized agents.

Except as provided in section 4111.34 of this Part, no person or organization may be the authorized agent for more than one owner for the purpose of declaring a horse or horses in a race unless the person acting as authorized agent is the trainer of record for the horse or horses being declared.

PART 4112

Number of Starters in Races

Section
4112.1 Overnight events
4112.2 Early closing events, stakes and futurities
4112.3 Qualification to continue in elimination heats
4112.4 Drawing post positions for elimination heats

4112.5 Race mandatory
4112.6 Post positions for two in three races or two dash early closing races

§ 4112.1. Overnight events.

No more than eight horses shall be allowed to start in overnight events except in invitation races unless otherwise authorized by the commission.

§ 4112.2. Early closing events, stakes and futurities.

(a) In early closing events, stakes and futurities no more than 12 horses on a half-mile track, or 16 horses on a track in excess of a half mile, in two tiers, allowing eight feet per horse, will be allowed to start in any dash or heat. Where there are more than 12 or 16 horses, as the case may be, declared in to start, the track conducting the event must adopt one of the following methods to be stated before positions are drawn. All elimination heats and the concluding heat must be programmed to be raced upon the same day or night unless published conditions provided otherwise.

(b) *Division methods*.

(1) (i) In stakes and New York-sired events, the race may be divided into as many divisions as necessary, each division racing one heat for the portion of the purse resulting from dividing the total purse (before allocation of starting fees) by the number of divisions and adding to each division the starting fees paid for each starter in such division.

(ii) In early closing events the race may be divided by lot and at least 50 percent added to the advertised purse and raced in two divisions; each division racing for one half of the total increases purse as above provided. If three or more divisions are necessary, the track shall add an amount sufficient to allow each division to race for at least 75 percent of the purse originally advertised.

(2) The race may be divided into two divisions by lot and raced in two elimination heats with all money winners from both heats competing in the final. Each division shall race one elimination heat for 20 percent of the total purse and the remainder of the purse shall be distributed to the money winners in the final.

(3) The race may be divided by lot and raced in two divisions, each of which shall race two heats for 20 percent of the purse each heat. The heat winners from both divisions shall compete in a final heat for the remaining 20 percent of the purse which shall go to the winner.

(4) The field may be divided by lot into two divisions, the first division to race for 30 percent of the purse, and the second division to race for 30 percent of the purse. The horses qualifying in the first and second divisions shall race the third

heat for 30 percent of the purse. The race winner shall receive the remaining 10 percent of the purse. If after the third heat no horse has won two heats, a fourth heat shall be raced by only the heat winner to determine the winners of the race.

(5) The race may be divided in two divisions by lot and raced in two elimination heats with the first four horses finishing in each heat competing in the final event. Each division shall race one elimination heat for 30 percent of the total purse and the remainder of the purse shall be distributed to the money winners in the final event.

(6) The race may be divided in such other method as set out in the conditions approved by the commission.

(7) In the event there are more horses declared to start than can be accommodated by two qualifying dashes, there will be scheduled enough elimination dashes to take care of the excess. The percent of the purse raced for in each elimination dash will be determined by dividing the number of elimination dashes into 60. The main event will race for 40 percent of the purse. If there are two elimination dashes, the first four finishers in each dash qualify for the final; if three or four elimination dashes, the first three horses in each dash qualify for the final; if five or six elimination dashes, the first two horses in each dash qualify for the final.

§ 4112.3. Qualification to continue in elimination heats.

If in any of the described races in subdivision (b) of section 4112.2 of this Part, 12 horses declare in to start, only the first four horses in each elimination heat shall qualify to continue. If 13 horses declare in to start, the first four horses in the division with six horses and the first five horses in the division with seven horses shall qualify. If 14 or more horses declare in to start, only the first five horses in each elimination heat shall qualify to continue.

§ 4112.4. Drawing post positions for elimination heats.

The post positions for each of the two divisions in elimination heats described in subdivisions (b) through (d) of section 4112.2 of this Part shall be drawn in accordance with the general rules for drawing post positions. The entire field of both divisions shall be listed in the program for the final heat. Horses failing to qualify for the final heat shall be stricken from this list and the qualifying horses remaining shall race from post positions drawn by the judges, who shall draw positions to determine which of the two heat winners shall have the pole and which the second position; which of the two horses that have been second shall start in third position; and which in fourth, etc. The post positions shall be announced to the public. Post positions may also be drawn as provided in conditions approved by the commission.

§ 4112.5. Race mandatory.

In early closing events if six separate interests are declared in to start, the race must be contested. If fewer interests are declared in than are required to start the race may be declared off and the horse or horses on the grounds properly declared in to race shall be entitled to all of the entrance money and forfeits from each horse named. Stakes and futurities must be raced if one or more horses are declared in to start, except if postponed under this Subchapter.

§ 4112.6. Post positions for two in three races or two dash early closing races.

In two in three races, or two dash early closing races, post positions shall be drawn for the first heat and shall be earned thereafter on the basis of the order of the finish, unless otherwise provided in the conditions approved by the commission.

PART 4113

Steward’s List and Unqualified Horses

Section
4113.1 Exclusion of horses
4113.2 Steward's list
4113.3 Reasons for placing a horse on the steward's list
4113.4 Return of declaration fee
4113.5 Unqualified horses
4113.6 Qualification
4113.7 Approval of starter
4113.8 First start

§ 4113.1. Exclusion of horses.

Horses on the steward's list shall be excluded from all pari-mutuel races and, except where permitted by the presiding judge, from all non-betting races. Unqualified horses shall be excluded from all pari-mutuel races except stakes and early closing events. Blind horses shall be excluded from all races.

§ 4113.2. Steward's list.

(a) The presiding judge shall have supervision of the steward's list at each track.

(b) The placing of a horse on the steward's list shall be recorded on the eligibility papers of the horse by the recording judge who shall record the date of such action and the reasons therefor.

(c) The steward's list shall be kept current and posted in the declaration room.

(d) Notification of the placing of a horse on the steward's list shall be given in writing to the owner, trainer, or his representative at the race track. Such notice shall contain a full statement of the reasons for such action.

(e) The owner, trainer or representative of a horse placed on the steward's list may review the circumstances thereof with the presiding judge within 24 hours of the receipt of such notice.

(f) A horse that has been placed on the steward's list three times during a season may be barred from further declaration for the balance of the season.

(g) When a horse is released from the steward's list, the date of such action and the signature of the presiding judge or the presiding judge's agent shall be recorded on the eligibility papers of the horse.

(h) A horse on the steward's list at one track shall be placed on the steward's list at any other track to which such horse may move. But the fact that a horse has not been placed on the steward's list at one track shall not prevent such horse being placed on the steward's list at any other track to which it may move based on such horse's past performance, in the judgment of the presiding judge.

§ 4113.3. Reasons for placing a horse on the steward's list.

A horse shall be placed on the steward's list at each track for the following reasons:

(a) such horse has a tube in its throat;

(b) such horse is dangerous or unmanageable. Such horse must work out before the judges on the main track, secure permission of the judges to qualify and then qualify in two consecutive qualifying races before release from the steward's list;

(c) such horse is sick, lame or unfit to race. Such horse must perform before the State veterinarian and be certified fit to race by the State veterinarian before release from the steward's list;

(d) such horse is unable to start satisfactorily behind the starting gate. Such horse must work out behind the starting gate, be approved by the starter and then qualify once before release from the steward's list;

(e) such horse has been high nerved;

(f) such horse has performed poorly. Such horse shall qualify once before release from the steward's list;

(g) such horse has tested positively for a drug, any substance prohibited by section 4120.17 of this Subchapter, or excess TCO_2. Such horse shall qualify in a workout

and thereafter test negative for drugs (and in compliance with the TCO_2 thresholds, if applicable) before release from the steward's list; or

(h) such horse has been the subject of a finding by the laboratory that the antibody of erythropoietin or darbepoetin was present in the sample taken from the horse. Such horse shall test negative for the antibodies of erythropoietin or darbepoetin in a test conducted by the laboratory before release from the steward's list**.**

§ 4113.4. Return of declaration fee.

If a horse has been declared to any stake or early closing events in which it is unable to compete because of being placed on the steward's list, the declaration fees paid thereon shall be refunded by the sponsor programming the event.

§ 4113.5. Unqualified horses.

(a) A horse shall be deemed unqualified and must qualify once before being allowed to start in any overnight pari-mutuel event for the following reasons:

(1) The horse does not show a charted line of a current performance meeting the qualifying standards at the track for the class of race. Current performance shall be defined as a start within 30 days of the date of the race to which declared. A performance on or after September 1 of the preceding year, shall be considered current for a horse making such horse's first start of the current year before June 1 at Vernon Downs, Saratoga Raceway, Monticello Raceway, and Goshen Historic Track. Official workouts shall be acceptable as qualifying performances for this paragraph for horses with previous satisfactory races.

(2) The horse is changing gait or putting on or taking off hopples unless available performance lines show that the horse has raced satisfactorily in such manner previously and in the opinion of the judges can be expected to give a satisfactory performance

(3) The horse does not meet additional standards prescribed by the racing secretary and posted in the declaration room.

(4) The judges, in their discretion, determine a horse to be unqualified because, without interference to it, it has made breaks in two consecutive purse races or in the purse race immediately following its qualifying to race.

§ 4113.6. Qualification.

In order for a horse to qualify under this rule it shall perform satisfactorily and meet the qualifying standards of the class to which it is eligible. Such performance shall be in a qualifying race except that where the judges determine that a qualifying race is impractical or undesirable an official workout shall be acceptable. The qualifying

standard of time for each particular class shall be posted by the judges in the declaration room throughout the season and amended as they deem necessary.

§ 4113.7. Approval of starter.

A horse which has never started behind a starting gate in a race shall not be permitted to start in any race with or without purse (including qualifying races) unless such horse has been schooled and has been approved for racing by a recognized starter, and such approval has been recorded on the eligibility papers of such horse.

§ 4113.8. First start.

No horse shall start in any stake or early closing event on which pari-mutuel wagering is conducted unless it shall have at least one performance line satisfactory to the judges.

PART 4114

Cancellation of Program

Section
4114.1 Program cancellation
4114.2 Rain checks
4114.3 Postponement of races
4114.4 Transfer of races

§ 4114.1. Program cancellation.

No racing program or any part of a racing program may be cancelled without the consent of the track steward. In the event any heat or race of a program is cancelled for any reason, the remainder of such program may be cancelled by the track steward, if in the track steward's judgment such action is warranted.

§ 4114.2. Rain checks.

In the event of the cancellation of any program after the completion of a numerical majority of the races to be scheduled to be run on such program, no rain checks or other similar forms of deferred admissions shall be issued on admittance, no rain checks will be validated. In the event of a cancellation of any program before the completion of a numerical majority of the races scheduled to run on such program, rain checks or other similar forms of deferred free admission shall be issued but no rain check or other form of deferred free admission shall be valid beyond the close of the meeting at which it is issued.

§ 4114.3. Postponement of races.

When a racing program is cancelled, the races scheduled shall be postponed as follows:

(a) Early closing races, stakes and futurities shall be postponed to a definite hour the next fair day and good track unless:

(1) There is not time remaining in the scheduled race meeting and it cannot be extended to permit the race to be programmed. In such case the entrance money and forfeits shall be divided equally among the nominators who have horses on the grounds declared in to start.

(2) The race has been started and remains unfinished on the last day of the scheduled meeting and the meeting cannot be extended to permit the race to be completed. In such case the race shall be declared ended and the full purse divided according to the summary.

§ 4114.4. Transfer of races.

(a) *Stakes and futurities*. Unless conditions prescribe to the contrary, stakes and futurities should be raced where advertised and the meeting extended to accomplish this. No stake or futurity may be transferred to another meeting without the unanimous consent of both meetings and of all those having horses eligible to the event.

(b) *Overnight races*.

(1) At meetings of more than five days duration, at the option of the licensed racing association, overnight races may be cancelled or may be postponed and carried over not more than 48 hours.

(2) At meetings of five days duration or less, at the option of the licensed harness racing association, overnight races may be cancelled and starting fees refunded or may be added to the racing program advertised for subsequent days of the meeting.

(c) *Three heat races*. In a three heat race, one third of purse, after deducting 10 percent shall be paid for each heat contested; also the 10 percent to the winner, and the entrance for the heat or heats not contested shall be returned, except when one horse has won two heats and the conditions provide that a horse winning the first and second heats shall be awarded the race without contesting the third heat; in that event, the full amount of the purse shall be paid as provided in the published conditions.

PART 4115

Starter and Starting

Section

4115.1 Appointment and compensation
4115.2 Powers of starter

4115.3 Duties of the starter
4115.4 Starting gate required
4115.5 Operation of starting gate
4115.6 Effect of scratch of horse on post position
4115.7 Starting without a gate
4115.8 Substitution of driver
4115.9 Bad acting horse
4115.10 All horses starters
4115.11 Withdrawal of horse
4115.12 Handicap races
4115.13 Judges' authority

§ 4115.1. Appointment and compensation.

The commission shall appoint and employ one or more starters to serve at each meeting.

§ 4115.2. Powers of starter.

The starter shall have complete control over all horses participating in the racing program from the formation of the post parade until the word “go” is given. The starter shall have authority to fine drivers not to exceed $50 for violation of any of the following rules of the start:

(a) delaying the start;

(b) failure to obey the starter's instructions;

(c) rushing ahead of the inside or outside wing of the gate;

(d) coming to the starting gate out of position;

(e) crossing over before reaching the starting point;

(f) interference with another driver during the start;

(g) failure to come up into and stay in position.

§ 4115.3. Duties of the starter.

The starter shall:

(a) be in the starting stand or starting gate 15 minutes before the first race of the program;

(b) report all rule violations observed to the judges;

(c) [Reserved]

(d) notify the judges and the drivers of the penalties imposed by the starter;

(e) make recommendations to the presiding judge for the placing on the steward's list of all horses that do not perform properly at the start;

(f) conduct such school sessions as are necessary to train horses to the method of starting adopted at the race track over which such starter presides.

§ 4115.4. Starting gate required.

Every licensed harness race track shall utilize a mobile starting gate, of a type and quality approved by the commission, with which to start races, unless special permission to start races by other means is given by the commission or track steward.

§ 4115.5. Operation of starting gate.

(a) Such starting gate shall be operated under the control and direction of the starter licensed and designated by the commission. The licensed race track may employ additional persons to assist the starter in the performance of the starter's duties and such personnel shall be licensees of the commission. The starter shall have control of the horses from the formation of the parade until the starter gives the word "go."

(b) The starting gate, with its arms extended, shall be stationed on a one-half mile track as near one-quarter mile before the starting point as the track will permit. On a mile track it will be stationed at the head of the stretch.

(c) After two preliminary warm-up scores, unless otherwise directed by the starter, the starter shall notify the drivers to come to the starting gate. At no time during the scoring or start shall the drivers engage each other in unnecessary conversation.

(d) The horses shall be brought to the starting gate within two minutes after the completion of the last warm-up score unless a longer time is prescribed by the presiding judge or the starter.

(e) Upon notice from the starter, the drivers will align their horses in the order of their post positions behind the gate.

(f) The starter will cause the gate to move towards the starting point, gradually increasing the speed of the gate but maintaining a speed which will average:

(1) for the one-eighth mile, not less than 11 miles per hour;

(2) for the next one-sixteenth mile, not less than 18 miles per hour;

(3) from that point to the starting point a gradual increase to maximum speed.

(g) During the course of the start there shall be no decrease in the speed of the gate except for recall as hereinafter provided.

(h) The starting point shall be a point marked (but not lighted) on the inside rail a distance of not less than 200 feet from the first turn.

(i) The starter shall give the word “go” at the starting point.

(j) At a point on the track designated by the commission a post shall be erected (“recall post”). Upon reaching such post during the course of the start, if the starter determines that a fair start for each horse is possible, no recall shall be had thereafter unless:

(1) a horse scores ahead of the gate;

(2) there is interference;

(3) a horse has broken equipment;

(4) a horse falls before the word “go” is given.

(k) There shall be no recall after the word “go” is given.

(l) A recall shall be signaled by the flashing of a light on the starting gate plainly visible to the drivers, and by sounding a claxon or horn or other distinctively audible signal. Upon making such signals the starting gate shall proceed out of the path of the horses.

(m) In the event of a “recall,” all the horses in the race shall return immediately to the quarter pole to form for a fresh start.

(n) Upon passing the recall post every horse shall be deemed a starter unless it has fallen or been excused by the starter before the word “go” is given.

(o) No persons shall be allowed to ride in the starting gate except the starter and the starter’s driver or operator unless permission has been granted by the track steward in charge of the race meeting.

(p) Each mobile starting gate shall be equipped with a mechanical loudspeaker for the sole purpose of communication with the drivers. The volume thereof shall be carefully kept at the minimum necessary for such purpose.

§ 4115.6. Effect of scratch of horse on post position.

If a horse is scratched or withdrawn from the start, horses with post positions outside of that of the withdrawn horse, may move one post position closer to the rail. In the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

§ 4115.7. Starting without a gate.

The horses shall be allowed two warm-up scores, unless otherwise directed by the starter, before being called to form a parade. The starter shall have full control of the horses from the formation of the parade until the starter gives the word “go.” The starter shall be stationed at or near the starting point and shall give the word “go” as close as possible to such starting or release point. All drivers shall follow the instructions of the starter as closely as possible and shall avoid unnecessary delay in the parade and scoring. If the word “go” is not given, all the horses in the race shall immediately turn on signal and jog back to their parade positions for a fresh start. There shall be no recall after the starting word has been given.

§ 4115.8. Substitution of driver.

The starter may exclude a driver who fails or refuses to obey the starter’s instructions for the heat or race. The starter may fine such driver not to exceed $50 and may order a substitute driver.

§ 4115.9. Bad acting horse.

The starter may excuse a bad acting horse prior to passing the recall post. There will be no recall for a bad acting or off gait horse after the recall post is passed.

§ 4115.10. All horses starters.

The horses shall be deemed to have started when the word “go” is given by the starter and all the horses must go the course except, if in the opinion of the judges, one or more horses should be deemed non-starters to protect the wagering public due to an unfair start or a no contest is called.

(a) In the case of a non-starter, the horse or horses shall run for purse only. The line in the program will be designated accordingly, noting that all wagers were refunded for the horse or horses deemed non-starters by the word “Refund” being included in the horses line in the program in the “Odds” section.

(b) A race may be deemed a no contest, if in the opinion of the judges, it is impossible to go the course fairly due to interference before the start, an accident or malfunction of the starting gate. If a race is declared a no contest, all wagers will be refunded. The purse shall be divided equally among all participants in an overnight

race. For other than overnight races, the provisions as set forth by the track shall apply.

§ 4115.11. Withdrawal of horse.

If in the opinion of the judges or the starter a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn, but the declaration fees on the horse shall then be refunded.

§ 4115.12. Handicap races.

Handicap races shall be started with a starting gate, unless permission to start handicap races by using snap barriers or walk-up starts, has been approved by the track steward. When snap barriers are used, all such barriers shall be sprung simultaneously with the announcement of the word “go.”

§ 4115.13. Judges' authority.

If a starter, having fined a driver $50, believes that a greater penalty should be imposed, either by additional monetary fine or a suspension, he shall so recommend to the judges who shall review the matter and take such action as they deem appropriate. Nothing herein contained shall be construed to prevent the imposition by the judges on their own initiative of a censure or penalty for the failure of a driver to obey the rules of the start.

PART 4116

Drivers

Section
4116.1 Application for license
4116.2 Qualification for driver's license
4116.3 Officials may not drive or enter horses
4116.4 Safety helmets
4116.5 Drivers' colors
4116.6 Drivers' meetings
4116.7 Examination of license
4116.8 Duties of drivers
4116.9 Suspension or revocation of drivers' license
4116.10 Special equipment
4116.11 Trainer's responsibility
4116.12 Qualification for trainer's license

§ 4116.1. Application for license

Every person desiring to drive a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission. Such

application shall be on forms provided by the commission. Applications may be filed at the commission office or with the track steward at a race track. The fee for an annual driver's license shall be $20 and shall be paid at the time of application.

§ 4116.2. Qualification for driver's license.

(a) Every applicant for a driver's license shall satisfy the commission in such manner as the commission may prescribe, that such applicant:

(1) has had at least one year's training experience and has demonstrated the ability to drive;

(2) is knowledgeable of and conversant in the training and driving of harness horses;

(3) is physically and mentally competent to drive;

(4) is familiar with the rules of racing;

(5) has a minimum of 20/40 vision in one eye, corrected, according to certification by a licensed optometrist, oculist or ophthalmologist.

(b) No person shall be permitted to drive at a race meeting licensed by the commission without a New York State license. The track steward or presiding judge at any race meeting may refuse to permit any licensed driver to compete in a race if, in the judgment of such official, such driver is unfit, unqualified, or too inexperienced to drive. Such official may require the driver to submit to a physical examination under conditions specified by the official.

§ 4116.3. Officials may not drive or enter horses.

(a) No officer, director or executive, or spouse thereof, of a track shall drive a horse at such track except at limited pari-mutuel meetings or in nonbetting races; nor may a horse be entered in which such person has any beneficial interest in any overnight event at said track.

(b) No licensed racing secretary or assistant racing secretary or any licensee performing the duties in such classifications may be licensed as an owner, trainer or driver during the racing season.

§ 4116.4. Safety helmets.

No one will be permitted to jog, train, warm up, or drive a horse at any time on the premises of a harness race track unless such person is properly wearing a protective safety helmet approved by either the Snell Memorial Foundation or the United States Department of Transportation. The United States Department of Transportation standards are reprinted in title 49 of the *Code of Federal Regulations*, chapter 5,

section 571.218 (49 CFR, 571.218). The Snell Memorial Foundation standards are contained in the publication entitled, *Snell Memorial 2000 Standard For Protective Gear*, available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660 or at www.smf.org/stds. Both standards are on file in the office of the commission, located at One Broadway Center, Schenectady, NY 12305-2553.

§ 4116.5. Drivers' colors.

No driver or trainer shall be allowed to drive in any race or public performance or to otherwise appear on the race track during the racing program unless wearing his or her own or his or her owner's registered colors, and no driver may appear in colors registered in the name of another, without the special permission of the presiding judge. No driver or trainer wearing colors may appear at any betting booth or window at a race track, or at any bar or restaurant dispensing alcoholic beverages. ”Colors” shall include white trousers and rain gear of a type approved by the commission.

§ 4116.6. Drivers' meetings.

(a) Before the first heat or race at any meeting is contested, the racing officials and the drivers shall meet at a time and place to be designated by the presiding judge. Notice of the time and place of such meeting shall be published on the bulletin board in the office of the racing secretary at least 48 hours prior to the meeting, and shall be announced over the public address system one hour prior to the meeting.

(b) The officials will announce any special rules affecting the race meeting and shall construe such of the rules of racing as shall be requested. At the conclusion of such meeting, all drivers shall be presumed to be familiar with the rules of racing.

(c) No driver will be permitted to drive unless such driver shall have attended such meeting or have met with the officials by appointment and at their convenience after such meeting.

§ 4116.7. Examination of license.

No driver will be permitted to drive in a race at a licensed harness racing meeting until such driver has presented his or her commission driver's license to the recording judge for examination.

§ 4116.8. Duties of drivers

(a) If the judges determine that a programmed driver is unreliable, unfit or incompetent, or if such programmed driver refuses to comply with the direction of the judges, or is reckless or unmannerly in his or her conduct, such programmed driver may be removed.

(b) It shall be the duty of each driver to report to the paddock judge at least 10 minutes prior to the opening of wagering on the race in which such driver is scheduled to drive and thereafter to be present in the paddock in fit condition to drive 15 minutes prior to post time of such race.

(1) Should a driver carelessly fail to fulfill such duty, such driver shall be subject to fine or suspension. Carelessness shall be presumed if a driver fails to make timely appearance to drive after such driver has competed at another track the same day.

(2) Should a driver willfully fail to fulfill such duty such driver shall be suspended.

§ 4116.9. Suspension or revocation of drivers' license.

Without limiting the generality thereof, the license of any driver may be suspended, revoked, or money fine may be imposed, at any time for:

(a) Violation of any rule of the commission.

(b) Failure to obey the instructions of a racing official appointed or designated by the commission.

(c) Any act or conduct detrimental to the sport including, but not limited to:

(1) failure to drive in a race when programmed, unless excused by the presiding judge;

(2) consumption of intoxicating beverages;

(3) loud, boisterous, offensive or profane language;

(4) assault upon any other person;

(5) smoking in silks while on the race track;

(6) warming up a horse without silks at any time after the admission gates are open; and

(7) failure to participate in post parade, unless specifically excused by presiding judge.

(d) Unless otherwise ordered where a suspension is for a driving violation and does not exceed in time a period of five days, the driver may complete the driver's engagements on horses drawn to start after which time the suspension shall begin. After said suspension has begun such driver may drive horses in early closing events, stakes and featured overnight events but the suspension shall be extended one day for each date such driver drives such races.

(e) Unless otherwise ordered where a suspension is from driving only and is for days certain, the driver may nevertheless drive in qualifying races without a purse.

§ 4116.10. Special equipment.

(a) Every sulky used in a race at a licensed harness racing meeting shall be equipped with such special equipment as the commission shall order. The obtaining and installation of special equipment are the responsibility of each owner. A driver shall not drive a sulky not equipped with special equipment as so ordered. Mud fenders must be available and must be used whenever ordered by the presiding judge. Every sulky shall be equipped with wheel discs of a type approved by the commission, which shall be of a solid color or transparent; no stripes or designs upon wheel discs shall be permitted.

(b) If a sulky is involved in an accident, the Paddock Judge will affix a tag to the sulky that says “Do Not Use.” An accident is any unintended event or occurrence during a race or exercise run where a sulky is operated in a manner in which it was not designed, including collision with any fixed or moveable object other than brief contact made between the wheel hubs of sulkies travelling in the same direction, locking of wheels with another sulky where a wheel loses contact with the ground, or an ejection of the driver from the sulky. The owner of the sulky that receives the “Do Not Use” tag must then have the sulky inspected by its manufacturer or an authorized representative. The “Do Not Use” tag may be removed by the manufacturer or authorized representative only after inspecting the sulky and making any necessary repairs. Only the manufacturer or authorized representative is approved to remove the “Do Not Use” tag. Documentation identifying the sulky and repairs made must be filed by the trainer with the Paddock Judge prior to its introduction back into use.

(c) The owner of a sulky is responsible for the overall integrity and soundness of his or her sulky used during training, qualifying or racing.

§ 4116.11. Trainer's responsibility.

A trainer is responsible for the condition, fitness, equipment and soundness of each horse at the time it is declared to race and thereafter when it starts in a race.

§ 4116.12. Qualification for trainer's license.

Every applicant for a trainer's license shall satisfy the commission in such manner as it may prescribe that such applicant has had at least one year's training experience under a recognized trainer and has demonstrated the ability to train, that such applicant is knowledgeable of and conversant with training of harness horses, that such applicant is physically and mentally competent to train, and that such applicant is familiar with the rules pertaining to trainers and training.

PART 4117

Racing and Track Rules

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4117.14 Right of the course
4117.15 Time for accidents
4117.16 Report of interference
4117.17 Open stretch racing

§ 4117.1. Drive to finish.

Every race must be contested by every horse in the race and every horse must be driven to the finish.

§ 4117.2. Failure to finish.

(a) If for any cause other than interference a horse fails to finish after starting in a heat or race, that horse shall be ruled out.

(b) A horse finishing without its driver driving shall be disqualified.

(c) Any horse or sulky that shall leave the course, is disqualified and ruled out; except that, in races contested at a track without a continuous hub rail, if, in the opinion of the judges, a horse or sulky is forced off the course as a result of the actions of another horse or driver, or as a result of a break from such horse's gait, the judges may determine the appropriate order of finish. Any horse or sulky that may partly leave the course shall be disqualified one or more positions, as appropriate, if, in the opinion of the judges, such occurrence has had a material effect on the finish of the race.

§ 4117.3. Use or removal of hopples.

(a) If a horse has warmed up in hopples or raced one heat of a race in hopples, such hopples shall not be removed from a horse or altered without permission of the presiding judge.

(b) A horse habitually wearing hopples shall not be permitted to start in a race without them except by permission of the presiding judge. A horse habitually racing free-legged shall not be permitted to wear hopples in a race except with such permission. A failure to obtain permission to add, remove or make alterations in hopples may be deemed to be a fraud in racing.

§ 4117.4. Racing violations.

The following shall be deemed racing infractions:

(a) Changing either to the right or the left when another horse is so near as to be caused to shorten stride, or to be taken back, or to break stride.

(b) Jostling, striking or hooking sulky wheels, or interfering with another horse or driver.

(c) Crossing sharply in front of a horse or a field of horses in a reckless manner.

(d) Swerving in and out so as to interfere with another horse.

(e) Taking back quickly in front of a horse or an field of horses so as to cause confusion or interference among the trailing horses.

(f) Crowding a horse or driver or putting a wheel under him.

(g) Needlessly permitting a horse to pass inside.

(h) Carrying a horse out.

(i) Sitting down in front of a horse.

(j) Helping another horse to improve its position in the race.

(k) Impeding the progress of another horse or causing it to break.

(l) After selecting a position in the home stretch, swerving from side to side, or bearing in or out so as to interfere with another horse.

(m) Causing any horse or a field of horses to excessively slow down.

(n) Driving with design not to win, or in a manner inconsistent with an attempt to win.

(o) Driving in a careless or reckless manner.

(p) Driving with indifference or lack of effort.

(q) Loud shouting or other improper conduct.

(r) Crossing the inside limits of the course.

§ 4117.5. Dismissal of drivers.

(a) At the conclusion of each race every driver in the race shall return in the sulky to the paddock unless a driver shall have an objection to file. No driver shall leave the paddock until the “official” sign has been posted.

(b) All complaints by drivers of any misconduct or other driving rule violation shall be made to the official designated for such purpose by the presiding judge unless the driver is prevented from doing so by reason of an accident or injury. After making known a desire to enter a claim of foul or other complaint and against whom he or she is lodging such objection, such driver shall immediately go to the paddock and proceed to the telephone to discuss with the judges his or her reasons for making such claim, objection or complaint. The judges shall not cause the “official” sign to be displayed until such claim, objection or complaint is considered.

§ 4117.6. Dismounting.

After the post parade and until the conclusion of the race no driver may dismount needlessly from the sulky without the permission of the starter or a patrol judge. Adjustment of equipment may be done only with the starter's approval.

§ 4117.7. Designation of horses.

Each competing horse shall be equipped with head and saddle numbers of a style, type and design approved by the commission. Coupled entries shall be designated by the same head and saddle number coupled with a letter or letters. Horses coupled in the field shall be designated by the highest consecutive numbers used.

§ 4117.8. Whips, goads and head poles.

(a) Drivers may carry a whip that shall not exceed three feet nine inches in length plus a snapper no longer than six inches.

(b) No goading device, other than a whip specified in subdivision (a) of this section, may be used upon a horse either while racing, training or at any other time on the track premises.

(c) A driver may use a whip only in the conventional manner. Brutal, excessive, unnecessary or indiscriminate use of the whip, is prohibited. The following actions shall be considered as excessive or indiscriminate use of the whip:

(1) causing visible injury;

(2) whipping a horse after a race; and

(3) whipping under the arch or shafts of the sulky.

Drivers are prohibited from kicking, punching, or jabbing a horse, or using the whip so as to interfere with or cause disturbance to any other horse or driver in a race. The use of the whip shall be confined to an area above and between the sulky shafts to include the sulky shafts and the outside wheel discs. Drivers shall keep a line in each hand from the start of the race until one-quarter of one mile before the finish of the race.

(d) Under the supervision of the judges, there shall be a mandatory visual inspection of each horse following each race for evidence of excessive or brutal use of the whip.

(e) Head poles may be used on a horse but shall not protrude more than 10 inches beyond the horse's nose.

§ 4117.9. Inspection of equipment.

Every driver shall examine the shoes and all equipment to ascertain that they are in proper condition before going to the post parade.

§ 4117.10. Breaking horses.

(a) When a horse breaks from its gait, the driver shall:

(1) avoid interfering with another horse or driver;

(2) take to the outside, where clearance exists;

(3) pull the horse to its proper gait;

(4) lose ground by the break.

(b) If there has been no failure on the part of the driver in complying with paragraphs (1) through (4) of subdivision (a) of this section, the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.

§ 4117.11. Coupled entry penalties.

(a) 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 judges 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.

(b) This section shall not apply to horses coupled as a field in the betting, nor to a horse, part of an entry penalized for running, or breaking gait, if in the opinion of the judges such break does not aid any other horse in the entry to improve his position at the finish other than being advanced in the summary as a result of the penalty. In the case of a horse coupled as the field, only the offending horse shall be disqualified.

§ 4117.12. Setting horses back.

(a) The judges may set a horse back one or more places and disqualify such horse for betting or purse purposes or both regardless of placing, if, in their judgment such horse has caused interference or its driver has violated any of these rules. In placing such horse the judges shall consider both the effect caused on competing horses and any advantage gained by the offending horse through such interference or violation.

(b) If the judges believe a driver allows or causes such driver's horse to break for the purpose of fraudulently losing a race, such driver shall be subjected to the penalties prescribed herein.

§ 4117.13. Time between heats.

The time between heats for any distance up to and including a mile shall be not less than 25 minutes; for any distance between one and two miles, 30 minutes. No heat shall be called after sunset where the track is not lighted for night racing.

§ 4117.14. Right of the course.

Horses called for a race shall have the exclusive right of the course, and all other horses shall vacate the track at once, unless permitted to remain by the judges.

§ 4117.15. Time for accidents.

In the case of accidents, only so much time shall be allowed as the judges may deem necessary and proper.

§ 4117.16. Report of interference.

It is the duty of every driver to report to the official designated for such purpose by the presiding judge, as promptly after the conclusion of a race in which such driver has

participated as possible, any interference to himself or herself or his or her horse by another horse or driver during a race. Failure to report such interference may be the subject of disciplinary action.

§ 4117.17. Open stretch racing.

(a) Where a racetrack uses an open stretch in which the line of pylons in the homestretch delineating the inner edge of the racing surface has been moved approximately eight feet further inside to create an “inner lane,” the following provisions shall govern racing in the open stretch:

(1) No horse shall be driven into the inner lane in an attempt to pass or force out a leading horse prior to the last one-eighth mile of the race.

(2) Horses driven on the outside shall yield sufficient room to interior horses at the end of the inner lane to stay on the course.

(3) During the last one-eighth mile of the race, a horse may only be driven into the inner lane for the purposes of passing a leading horse. No horse may be driven into the inner lane for the purpose of blocking a trailing horse. It shall be presumed that a horse which blocks a trailing horse in the inner lane without advancing on a leading horse is being driven for the purpose of blocking a trailing horse.

(b) Violation of these provisions shall be considered racing infractions in considering disqualifications of horses and penalties to drivers.

PART 4118

Purses and Conditions

Section
4118.1 Purses shall follow race results
4118.2 Deductions
4118.3 Racing inducements
4118.4 Acceptance of purse schedule
4118.5 Drivers' and trainers' insurance
4118.6 Stall applications
4118.7 Incomplete finish
4118.8 [Reserved]
4118.9 Restraints on racing
4118.10 International championships

§ 4118.1. Purses shall follow race results.

(a) Unless otherwise specified in the conditions, the purse money shall be divided 50 percent, 25 percent, 12 percent, 8 percent, and 5 percent. All races conducted shall

be bona fide contests with the winner in overnight events receiving at least 50 percent of the purse and the balance of the purse distributed according to the order of finish. No agreement, prearrangement, contract or conspiracy for distribution of purses other than that stated in the conditions, or provided in this Subchapter, will be permitted.

(b) *Payment of purses.* Unless otherwise directed by the presiding judge or other authorized representative of the commission, all purse checks shall be mailed to the owners of horses earning such purses within 72 hours after the time the race was run.

§ 4118.2. Deductions.

(a) At a licensed track where there is no provision relating to purse deductions for drivers in an agreement between such track and such track's horsemen's representative, each driver shall be entitled to five percent of the purse earned by any horse such driver drives at such track, which amount shall be deducted from such purse otherwise payable to the horse's owner (which term shall include lessee, nominator and breeder) and shall be payable directly to said driver by such track at such time as such purse payment is authorized. In the event a purse is thereafter declared forfeit or ordered redistributed, such action shall in like manner affect such five percent allocation, and if previously paid, the driver recipient shall promptly repay such sum to such track. Any private agreement with a driver relating to driver compensation shall not affect the track's responsibility herein to pay said driver's five percent allocation. At a licensed track where there is any provision relating to purse deductions for drivers in an agreement between such track and such track's horsemen's representative, this rule shall not apply.

(b) Except as provided in subdivision (a) of this section, all purses contested for shall be distributed according to the conditions of the race and no deduction, voluntary or involuntary, may be made from any purse or stake or futurity other than for payments to be made to owners, nominators or breeders of money-winning horses and organization or promotion expenses stipulated for stakes and futurities.

(c) At a licensed track where there is no provision relating to purse deductions for trainers, in an agreement between such track and such track's horsemen's representative, each trainer shall be entitled to five percent of the purse earned by any horse such trainer trains at such track, which amount shall be deducted from such purse otherwise payable to the horse's owner (which term shall include lessee, nominator and breeder) and shall be payable directly to said trainer by such track at such time as such purse payment is authorized. In the event a purse is thereafter declared forfeit or ordered redistributed, such action shall in like manner affect such five-percent allocation, and if previously paid, the trainer recipient shall promptly repay such sum to such track. Any private agreement with a trainer relating to trainer compensation shall not affect the track's responsibility herein to pay said trainer's five percent allocation. At a licensed track where there is any provision relating to purse

deductions for trainers in an agreement between such track and such track's horsemen's representative, this rule shall not apply.

§ 4118.3. Racing inducements.

No track shall give, promise, loan or offer to any horseman any consideration or thing of value to secure the appearance of a horse or horseman at a track for the purpose of participating in racing except:

(a) purse money distributed according to the posted conditions of a race;

(b) round trip transportation of a horse, such horse's regular driver and groom, and one ownership interest to and from a track for an international championship and a reasonable subsistence allowance for said persons during the period they are restricted from racing at another track as provided for in section 4118.9 of this Part. If such transportation and subsistence allowance are furnished by a track the cost thereof may be charged by the track, if the parties so agree, against purse winnings, except from said international championship, to the extent of said cost; provided that the track in being reimbursed does not receive more than one half of each said purse won in other races. However, such cost may not be charged against an owner for failing for good cause to enter or start such owner's horse in any race; and

(c) awards made to drivers of horses breaking or equaling track or world records, or to leading drivers at a race meeting.

§ 4118.4. Acceptance of purse schedule.

When a licensed harness race track advertises minimum and/or total season's purses to be offered, or a formula whereby such purses shall be determined, the acceptance of stabling at such race meeting by a licensed owner, or trainer shall constitute an agreement to race for such purses or to vacate such stabling promptly.

§ 4118.5. Drivers' and trainers' insurance.

Every licensed harness race track shall carry policies of insurance providing indemnity to drivers and trainers for injury and hospital expense sustained while racing or training horses at its race meeting. A certificate stating the benefits of such policy shall be prominently displayed in the office of the racing secretary of the meeting.

§ 4118.6. Stall applications.

All conditions contained in stall applications shall be submitted to the commission for approval prior to issuance or publication.

§ 4118.7. Incomplete finish.

If there is any premium for which no horse has maintained a position either through failure to start or to finish or through disqualification, such premium shall go to the race winner.

§ 4118.8. [Reserved]

§ 4118.9. Restraints on racing.

No track may enter a contract that restricts the appearance of a horse at any other track, except that a track, in consideration for transportation afforded to participate in an international championship race may bind a horse to appear and start (if at all) at its track only for such race and a period of 10 consecutive days prior to and 15 consecutive days subsequent to such race.

§ 4118.10. International championships.

A track may schedule only one international championship at each gait in any racing year. The conditions for such event must be submitted to the commission for approval not less than 30 days prior to the date scheduled. Such conditions shall state the date and distance of the event, the purse, the method to be used in selecting starters, the number of starters, and any other special conditions. Any contract made between a track and a horseman concerning such international championship must be in writing and must be filed by the track with the commission within 30 days of its execution.

PART 4119

Decorum

Section
4119.1 Conduct
4119.2 Profanity
4119.3 Assault
4119.4 Bonus
4119.5 Wagers by horsemen
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4119.7 Misconduct and association with undesirables
4119.8 Undesirable persons
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4119.10 Conspiracy
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§ 4119.1. Conduct.

All licensees of the commission are required to conduct themselves in a forthright, gentlemanly manner at all times while on or near the premises of a licensed harness race track during the operation of a licensed harness race meeting.

§ 4119.2. Profanity.

No licensee of the commission shall use improper language or otherwise abuse any official, appointee, representative or employee of the commission, or any person acting under the orders or rules of the commission.

§ 4119.3. Assault.

If any owner, driver, trainer or attendant of a horse, or any other licensee connected with the operation of a licensed harness race meeting at any time during said meeting, either on or off the grounds of a licensed race track shall commit an assault or battery, or attempt an assault or battery or threaten to do bodily harm to any person or persons connected in any way with such race meeting, such person shall be subjected to the penalties prescribed by this Subchapter.

§ 4119.4. Bonus.

No owner, trainer or driver or their agent shall demand of a licensed harness race track a bonus of money or other special award or consideration as a condition for starting a horse already entered to race.

§ 4119.5. Wagers by horsemen.

No owner, trainer, driver agent, employee or attendant of a horse shall bet or cause any other person to bet on such person's behalf on any other horse in any race in which there shall start a horse owned, trained or driven by such person, or which such person in any way represents or handles or in which such person has an interest. No such person shall participate in exacta, quinella, superfecta or triple wagering on a race in which such horse starts.

§ 4119.6. Divided interest.

No driver shall drive a horse in a race in which there shall start another horse that such driver in any way represents or handles or in which such driver has an interest unless coupled as an entry.

§ 4119.7. Misconduct and association with undesirables.

(a) The commission may impose the penalties as prescribed by law if it finds that any licensee or other person subject to the jurisdiction of the commission:

(1) is associating, consorting or negotiating with bookmakers, touts or other persons of similar pursuits;

(2) is associating, consorting or negotiating with persons who have been convicted of a crime;

(3) is guilty of any fraud or has attempted any fraud or misrepresentation in connection with racing, breeding or otherwise;

(4) has violated any law, rule or regulation with respect to racing in any jurisdiction; or

(5) has violated any rule, regulation or order of the commission.

(b) The commission may impose the penalties as prescribed by law if the commission finds that the experience, character or general fitness of any person is such that the participation by such person in harness racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally.

(c) If any licensee 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 with a suggestion that any race be conducted otherwise than in accordance with the rules and regulations of this commission, it shall be the duty of such licensee or person to report such suggestion, offer, promise or bribe immediately to the commission. Failure to so report shall subject such person or persons to the penalties prescribed by law.

(d) *Duty to give evidence*. It shall be the duty of each licensee to report promptly when requested or ordered to do so by any official of the commission in furtherance of an investigation or hearing and to testify under oath concerning any facts within the licensee's knowledge and produce any books, records, written matter or other evidence within the licensee's possession or control relevant to such matter.

§ 4119.8. Undesirable persons.

Any person whether a licensee, participant or patron whose conduct is deemed detrimental to the best interest of harness racing or who is deemed an undesirable person may be expelled from the track. In this regard the track, on such track's own initiative, or upon request of the commission or the commission's representatives, shall take immediate steps by whatever means are reasonably required to expel such person. Acts deemed undesirable shall consist of, but not be limited by, the following:

(a) bookmaking or other illegal wagering or gambling;

(b) touting;

(c) creating or continuing a public disturbance;

(d) disorderly conduct;

(e) associating with undesirables;

(f) transmitting information to points outside the track; and

(g) failure to appear when directed to do so by any official of the commission in furtherance of an investigation or hearing and to testify under oath concerning any facts within such person's knowledge and produce any books, records, written matter or other evidence within such person's possession or control relevant to such matter.

In addition, a person who has been convicted of a crime involving moral turpitude, or who has been convicted of bookmaking or other form of illegal gambling, or who has been adjudged by any court, state commission or other governing body guilty of any fraud in connection with racing or any athletic contest, shall be deemed an undesirable person and shall be subject to expulsion as provided in this section. Nothing contained in this section shall diminish the right of any track to exclude any person as a patron or otherwise without reason, provided such exclusion is not based upon race, creed, color or national origin.

§ 4119.9. Prohibited acts.

(a) No licensee of the commission or any other person shall commit any act, or conspire to commit any act, that, though not specified in this Subchapter, constitutes conduct detrimental to the best interests of racing or is in its nature fraudulent or corrupt or injurious to the character of the turf. Any such act or attempt, or conspiracy shall constitute a violation of this Subchapter and shall subject the licensee or such other persons to the penalties prescribed herein.

(b) No owner, trainer, or driver of a horse shall threaten or join with others in threatening not to race, or not to enter or declare in because of the entry of a certain horse or horses or a particular stable or the presence of such horses or stable on the grounds of a licensed track.

§ 4119.10. Conspiracy.

No person shall conspire, combine and confederate together in any manner, regardless of where the said person may be located, for the purpose of violating any of these rules nor shall they commit any act in furtherance of the said purpose and plan.

§ 4119.11. Use of drugs.

(a) No person while on the grounds of a licensed track, who is licensed as trainer, driver, assistant trainer, groom, marshal, driver of the starter's car, nor anyone who is

driving a horse in a race, a warm-up for a race or driving behind a horse anywhere on the grounds, nor 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 drive 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 presiding or associate judge or paddock judge, deliver a specimen of urine or subject himself or herself 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 drive or participate in any manner in the administration of or in any race, 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 drive or participate in any manner in any race. As a result of such interview, the commission may restore full driving and/or license privileges to such person after such person has delivered a current sample for analysis, continue such temporary suspension of driving 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.

PART 4120

Drugs Prohibited and Other Prohibitions

Section
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4120.2 Restricted use of drugs, medications and other substances
4120.3 Equine drug thresholds; per se
4120.4 Trainer's responsibility
4120.5 Disqualification
4120.6 Possession of hypodermic equipment and controlled substances
4120.7 Drug detection programs Drug detection facilities

4120.8 Drug detection programs
4120.9 Records of veterinarian
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4120.12 Anabolic Steroids
4120.13 TCO_2 blood gas testing
4120.14 Pre-race detention
4120.15 TCO_2 testing: punishment for failure to cooperate
4120.16 [Expired]
4120.17 Out-of-competition testing
4120.18 Other prohibitions
4120.19 Use and disposal of hypodermic syringes and needles

§ 4120.1. 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) *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 and in a manner prohibited by this Part.

(e) *Practicing veterinarian* means a veterinarian who treats any race horse.

(f) *Pre-race positive test* means a finding by the laboratory that a drug could be present in the sample.

(g) *Out-of-competition positive test* means a finding by the laboratory that any of the prohibited substances described in section 4120.17 of this Part was 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.

§ 4120.2. 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, leg rubs, leg paints and liniments) that may contain antibiotics but do not contain benzocaine, DMSO, 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 State veterinarian;

(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;

(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 its 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 of horses that have bled, to be maintained by the State veterinarian, 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 State 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 presiding or associate judge.

(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 section, 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 rule shall be ineligible to start.

(c) The following substances may be administered by any means 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 procaine 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 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 and non-anabolic steroids, *e.g.*, progesterone, estrogens, chorionic gonadatropin, glucocorticoids, except in joint injections as restricted in subdivision (i) of this section;

(10) hyaluronic acid derivatives

(11) immuno stimulants

(12) iodine injection (*e.g.*, Hypodermin, Harvey's Injectible Blister);

(13) methenamine (*e.g.*, Urotropin);

(14) the following nonsteroidal anti-inflammatory drugs (NSAID's): Phenylbutazone (*e.g.*, Butazolidin), Flunixin (*e.g.*, Banamine), meclofenamic acid (Arquel), naproxen (*e.g.*, Naprosyn, Equiproxen), Ketoprofen (*e.g.*, Orudis) ;

(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) dimethyl sulfoxide (*i.e.*, DMSO).

(21) notwithstanding paragraph (9) of this subdivision, the corticosteroid methylprednisolone (*e.g.*, Depo Medrol) is not a substance that is permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete.

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 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) pentoxifylline;

(7) trichloromethiazide; and

(8) vermifuges (worm medicines), except phenothiazine.

They may not be administered within 72 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 72 hours.

(g) The following substances are permitted to be administered by any means 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) clenbuterol, except as provided in subdivision (k) of this section;

(6) detomidine;

(7) dipyrone;

(8) glycopyrrolate;

(9) guaifenesin;

(10) hydroxyzine;

(11) isoxsuprine;

(12) lidocaine;

(13) mepivicaine;

(14) phenytoin;

(15) pyrilamine;

(16) xylazine

They may not be administered within 96 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 96 hours.

(h) A horse may not race for at least 14 days following an administration of firocoxib.

(i) In addition, a horse that has had a joint injected with a steroid may not race for at least five days following such procedure, and whenever such procedure is performed, the trainer shall notify the stewards of such fact, in writing, before the horse is entered to race.

(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) If a horse has been required to qualify when not showing a current performance within 30 days or more and has not yet raced after qualifying, then such horse may not race for at least 14 days following an administration of clenbuterol.

(l) Clenbuterol shall be administered only under the general supervision of a treating veterinarian and in a manner not exceeding its use for treating respiratory disorders.

(m) A horse may not race after an administration of any formulation of methylprednisolone (*e.g.*, Depo Medrol) unless such horse subsequently tests below the threshold set forth in section 4120.3 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 is released to race by the presiding judge.

(n) 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.

§ 4120.3. 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) Butorphanol:

(i) 300 ng/ml of total butorphanol in urine; or

(ii) 2 ng/ml of free butorphanol in plasma;

(3) Dantrolene: 100 pg/ml of 5-hydroxydantrolene in plasma;

(4) Detomidine:

(i) 1 ng/ml of any metabolite of detomidine in urine; or

(ii) any detomidine in plasma;

(5) Diclofenac: 5 ng/ml in plasma;

(6) DMSO: 10 mcg/ml in plasma;

(7) Firocoxib: 20 ng/ml in plasma;

(8) Flunixin: 20 ng/ml in plasma;

(9) Furosemide: 100 ng/ml in plasma and a specific gravity of urine less than 1.010;

(10) Glycopyrrolate: 3 pg/ml in plasma;

(11) Ketoprofen: 10 ng/ml in plasma;

(12) Lidocaine: 20 pg/ml of total 3-hydroxylidocaine in plasma;

(13) Mepivacaine:

(i) 10 ng/ml of total hydroxymepivacaine in urine; or

(ii) any hydroxymepivacaine in plasma;

(14) Methocarbamol: 1 ng/ml in plasma;

(15) Methylpresnisolone: 100 pg/ml in plasma;

(16) Omeprazole: 1 ng/ml of omeprazole sulfide in urine;

(17) Phenylbutazone: 2 mcg/ml in plasma;

(18) Procaine penicillin: 25 ng/ml of procaine in plasma; and

(19) 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.

§ 4120.4. 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 such trainer knows, or might have known 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 such trainer can show by substantial evidence that neither such 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 corticosteroid joint injections to horses trained by them. The record(s) of every corticosteroid 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 these reports when so designated. The reports shall be accessible to the examining veterinarian for the purposes of assisting with pre-race veterinary examinations.

§ 4120.5. Disqualification.

A horse, in respect to which there has been any violation of the prohibitions contained in this Part, 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.

§ 4120.6. 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 harness race track, including premises that such veterinarian 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 which 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 the United States Code, title 21 (Food and Drugs) section 812, or any drug which 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 judges 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 judges 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. 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. If any veterinarian or physician has been involved in any such case, a similar report shall be made to the New York State Education Department.

§ 4120.7. 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 other commissioners, the commission’s staff, the judges, the custodians of the horse, or such other persons as may be authorized by this Part.

§ 4120.8. 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 the horse 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 section 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 judges shall scratch the horse and take such further action as they deem necessary.

(6) Unless specifically permitted in writing by the presiding judge, 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 judges 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 commission 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 person or persons guilty thereof to such punishment as may be appropriate.

(4) Blood samples will be taken by the commission veterinarian or, under the commission 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 commission veterinarian, a horse may be permitted to return to such horse's stable prior to release if accompanied by a commission inspector.

(c) (1) The judges 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 commission veterinarian may also, when so directed by the judges, require the taking of any or all of the foregoing specimens from any horse stabled at a track during a meeting.

(d) The judges, commission veterinarians 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.

§ 4120.9. Records of veterinarian.

(a) Every licensed practicing veterinarian shall keep a written record of his or her practice concerning horses participating at pari-mutuel harness race meets in this State whether performed at a licensed harness 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 (i) of section 4120.2 of this Part relating to joint aspiration.

(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 in a manner restricted by this Part. 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 the 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 commission veterinarian or judges at the pertinent track.

(d) The attending veterinarian shall complete and submit daily a form prescribed by the commission that contains 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.

§ 4120.10. 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. Such horse shall be placed on the steward's list.

(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.

§ 4120.11. 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.

§ 4120.12. Anabolic Steroids.

(a) Anabolic steroids shall not be administered except that the following substances may be administered during permitted time frames and at concentrations that on race day 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) Stanozolol (Winstrol): All horses may have less than 100 pg/ml in plasma.

(4) 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.

(5) 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 a permissible anabolic steroid 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.

§ 4120.13. TCO_2 blood gas testing.

(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 4120.2 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 judges, 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 presiding judge, not to exceed 72 hours, 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 presiding judge shall determine whether the horse's TCO_2 level was physiologically natural for it. The presiding judge 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, judges, or employees of the 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 rule 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 its race by means not permitted by section 4120.2 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 rule, a horse shall be disqualified, any purse monies shall be forfeited and redistributed pursuant to section 4120.5 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.

§ 4120.14. Pre-race detention.

(a) A horse that tests in violation of section 4120.13 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 4120.13 and tests negative for drugs. If during the detention period a horse again tests in violation of section 4120.13, then the detention period shall be extended as the judges 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 judges. Where a claimed horse is found to be in violation of section 4120.13, 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 4120.13 shall be required for four months to subject to 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 also not apply unless the trainer's earlier violation happened within the past 12 months and the judges made their 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 judges.

(c) If during a detention period a trainer violates section 4120.13, then the detention period shall be extended for such time as the judges deem appropriate.

§ 4120.15. TCO_2 testing: punishment for failure to cooperate.

It shall be a violation of section 4119.7 of this Subchapter for any person subject to the jurisdiction of the commission to fail to cooperate with blood gas testing.

§ 4120.16. [Expired]

§ 4120.17. Out-of-competition testing.

(a) *Out-of-competition collection of samples*.

(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, in order to enhance the ability of the commission laboratory to detect or confirm the impermissible administration of a drug or other substance to the horse.

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

(3) 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.

(4) 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 such a representation and the managing owner has previously provided the commission with a means for the commission to give immediate telephonic notification to the managing owner that the trainer made such a representation, then the commission shall transmit such notification to the managing owner and the eligibility of the horse

shall be preserved if the managing owner is able to make the horse available for immediate sampling.

(b) *Sampling procedure*.

(1) 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. A veterinarian shall collect all blood samples.

(2) The person who takes samples for the commission shall provide identification and disclose the purpose of the sampling to the trainer or designated attendant of the horse.

(3) The owner, trainer and/or their designees shall cooperate with the person who takes samples for the commission by immediately assisting in the location and identification of the horse, making the horse available at a stall or other safe location to collect the samples and witnessing the taking of the samples.

(4) The commission, if requested and in its sole discretion, may permit the owner or trainer to present an off-track horse for sampling at a time and licensed racetrack designated by the commission.

(5) 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.

(6) The commission may arrange for the sampling of an out-of-state horse by the racing commission or other designated person in the jurisdiction where the horse is located. Such racing commission or other designated person shall follow the relevant provisions of this rule and the test results shall be available to the jurisdiction in which the horse is located for its regulatory use. The commission, if requested and in its sole discretion, may permit the owner or trainer instead to present the horse for sampling in New York State at a time and place designated by the commission.

(7) A commission judge or executive official may require any horse of a licensed trainer or owner to be brought promptly to a racetrack under the jurisdiction of the commission for out-of-competition testing when:

(i) the commission has reasonable grounds to believe that the horse might have been impermissibly administered a drug or other substance;

(ii) the commission has no other practical means to collect such samples without reducing the ability of the commission laboratory to detect or confirm the impermissible administration of a drug or other substance to a horse; and

(iii) the horse is stabled out-of-state but within a radius not greater than 100 miles from such New York State racetrack.

The trainer is responsible to have the horse or horses available at the designated time and location.

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

(9) A licensed racetrack at which a horse may be located shall cooperate fully with a person who is authorized to take samples. The person who collects samples for the commission on track may require that the collection be done at the test barn.

(c) *Prohibited substances.*

(1) The presence in or administration to a horse of the following doping agents or drugs, in the absence of extraordinary mitigating circumstances that excuse the owner and trainer from their failure to fulfill their duties and responsibilities, is prohibited at any time:

(i) Blood doping agents: any substance, including a protein- or peptide-based agent or drug, that is capable of abnormally enhancing the oxygenation of body tissues, including but not limited to erythropoietin (EPO), darbepoetin (*e.g.*, Aransep), Oxyglobin, aminoimidazole carboxamide ribonucleotide ("AICAR"), Myo-Inositol Trispyrophosphate ("ITTP") and Hemopure.

(ii) Gene doping agents: a gene, genetic element, or cell that alters the expression of genes for normal physiological functions and that may produce analgesia or enhance the performance of a horse beyond its natural ability, including but not limited to thymosin beta-4 ("TB500"). This shall not apply to such agents when used off-track in an accepted veterinary treatment to assist a disabled horse to become healthy, without producing analgesia or potentially enhancing the performance of the horse beyond its natural ability, provided that such use is documented in the contemporaneous veterinary records of the horse.

(iii) Any other protein- or peptide-based agent or drug that may produce analgesia or enhance the performance of a horse beyond its natural ability, including but not limited to toxins, venoms and allosteric effectors.

(iv) The substances described in this paragraph are prohibited regardless of any of the provisions of section 4120.2 of this Part.

(2) No person shall possess or use the prohibited substances described in paragraph (1) of this subdivision on the premises of any licensed racetrack.

(3) It shall be an affirmative defense to a violation of this section that the person used the prohibited substance only in a time, place and manner specifically permitted in writing by the commission before the administration of such substance, for a recognized therapeutic use, and subject to such appropriate

limitations as the commission shall place on the return of the horse to running races.

(d) *Penalties*.

(1) A horse found to be in violation of this rule shall be ineligible to participate in racing until it is certain that the horse is no longer affected by the prohibited substance and for not less than 180 days, after which the horse must qualify in a workout satisfactory to the judges and test negative for doping agents and drugs. The minimum fixed period of ineligibility for a horse in violation of this rule 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 4120 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 violation of paragraph (1) of subdivision (c) of this section shall, in the absence of extraordinary mitigating circumstances, incur a minimum penalty of a 10-year suspension in addition to any other penalties authorized in this Article.

(e) 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 notice of the horse's ineligibility.

(f) An application to the commission for an occupational license shall be deemed to constitute consent for access to any off-track premises on which horses owned and/or trained by the individual applicant are stabled. The applicant shall take any steps necessary to authorize access by commission representatives to such off-track premises.

§ 4120.18. 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 start of a racing program, and whirlpool until racetime. However, the judges 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 commission 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.

§ 4120.19. 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.

PART 4121

Protests and Appeals

Section
4121.1 Protests
4121.2 Procedure after protest
4121.3 Disposition of protest
4121.4 False protest
4121.5 Appeals.

§ 4121.1. Protests.

A protest may be made only by an owner, manager, trainer or driver of one of the contending horses. A protest must be made any time before the winnings are paid over and shall be reduced to writing and sworn to before a judge of the meeting. A protest shall contain at least one specific charge that, if true, would prevent the horse that is the subject of the protest from winning or competing in the race.

§ 4121.2. Procedure after protest.

The judges shall investigate each protest and where appropriate shall summon the parties thereto and examine them. In the event that the parties to the horses being protested refuse to appear or be examined the horse shall be scratched or disqualified and all entrance fees forfeited.

§ 4121.3. Disposition of protest.

(a) Where a protest is made prior to a race, and the judges find satisfactory evidence to warrant excluding a horse, such horse shall be scratched unless the owner thereof in good faith requests that the horse start under protest and waives any right of reimbursement against the track under section 4121.20 of this Part, in the event the commission should thereafter make a determination allowing said protest. Such

request shall be granted by the judges except where permitting said horse to compete would be contrary to the public interest.

(b) Where a protest is made prior to or after the race and the horse protested has started the judges shall notify the track to withhold payment of the portion of the purse affected pending determination by the commission.

§ 4121.4. False protest.

Any person found guilty of protesting a horse falsely and without cause or merely with intent to embarrass a race, shall be punished as provided by this Subchapter.

§ 4121.5. Appeals.

(a) All decisions and rulings of the judges, or other officers of the commission may be appealed to the commission for review if the licensee files a notice of appeal with the track steward or presiding judge, upon the forms provided by the commission within 10 days after notice of such decision or ruling.

(b) The commission will notify the licensee or other persons of the time and place of the hearing at which time the commission will hear the appeal.

(c) The commission after hearing the licensee may vacate, modify or increase any penalty imposed by the judges or other officers of the commission.

(d) All penalties imposed by the judges or other officers of the commission upon any person charged shall continue in full force and effect until the determination of the commission is rendered, unless otherwise directed in writing by the commission.

(e) Nothing herein contained shall effect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, when such distribution is made upon the official placing at conclusion of the heat or dash.

(f) In case of an appeal or protest, the purse money affected will be retained by the track subject to the direction of the commission.

PART 4122

Pari-Mutuel Wagering

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§ 4122.1. Pari-mutuel wagering.

Harness racing associations licensed by the commission to conduct harness racing meets with pari-mutuel betting shall use vending machines for the sale of pari-mutuel tickets unless otherwise authorized by the commission.

§ 4122.2. Heat as race.

For the purpose of pari-mutuel betting, every heat shall be a separate and distinct race.

§ 4122.3. Sale of pari-mutuel tickets.

(a) Only one method of selling pari-mutuel tickets shall be used for the sale of tickets on individual heats or races during any racing day.

(b) No pari-mutuel tickets shall be sold except through regular ticket windows properly designated by signs showing type of tickets sold at that particular window, 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.

(c) No pari-mutuel selling windows shall be closed nor shall the sale of pari-mutuel tickets be limited or restricted in any way for the purpose of impeding public participation in any wagering pool.

(d) 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.

§ 4122.4. Time for wagering.

No pari-mutuel tickets shall be sold for any pool more than one hour 15 minutes before post time of the first pari-mutuel race of the day.

§ 4122.5. Bookmaking.

Bookmaking or betting other than pari-mutuel betting is strictly prohibited.

§ 4122.6. Betting by minors.

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

§ 4122.7. Time for wagering to close.

All wagering shall stop as soon as the word "go" shall be given either by record or by voice of the starter. Where vending machines for the sale of pari-mutuel tickets are used, they shall be electrically locked by the presiding judge from the judges' stand.

§ 4122.8. No wagering after close.

When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race or heat has finished.

§ 4122.9. Denomination of pari-mutuel tickets.

(a) [Repealed]

(b) Upon permission granted by the commission, a pari-mutuel ticket combining win and place, win and show, or place and show, may be sold for $3, and a pari-mutuel ticket combining win, place and show may be sold for $5. The permission granted pursuant to this subdivision may be upon such conditions and for such period of time as the commission may prescribe.

§ 4122.10. Method of wagering.

The method of selling pari-mutuel tickets shall be approved by the commission and the State Tax Commission. No employee of a licensed track assigned to or working in the pari-mutuel department shall accept a wager from any person except through the track's pari-mutuel windows and in the regular course of business. No employee of the pari-mutuel department of any licensed corporation or association shall be permitted to bet during those periods of any day that such person is actually working in such capacity.

§ 4122.11. Notice to pari-mutuel manager before wagering opens.

The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race and any driver changes from those listed in the official program.

§ 4122.12. Limited wagering fields.

(a) If less than six interests qualify horses to start in a race, the manager of the pari-mutuel department, with the consent of the representative of the commission, shall be permitted to prohibit show wagering on that race.

(b) If less than five interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission, shall be permitted to prohibit both place and show wagering on that race.

(c) If less than three interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission, shall be permitted to prohibit wagering on the race.

(d) The said manager, with the consent of the representative of the commission, may prohibit wagering on any particular horse or entry in any race. Such consent shall be sought by the manager of the pari-mutuel department from the representative of the commission after the entries are closed on the day previous to that on which the heat or races in which exclusions are desired are to be conducted. Such exclusions if consented to by the representative of the commission shall be clearly indicated on the program or score card and horses excluded shall be numbered so as to in no way infer that they are coupled in “the field.’ Horses once excluded from the betting shall remain excluded during the day or race in which they are scheduled to start.

§ 4122.13. Coupled entries wagering.

A wager on any horse coupled as an entry shall be a wager on all horses coupled in such entry.

§ 4122.14. Field wagering.

When more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one less than the total number of post positions on the infield tote board shall be grouped in the betting as the field.

§ 4122.15. Payments.

(a) Payments due on all wagers shall be made in conformity with well-established practice of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full plus the profits. In all cases of a winning mutuel pool, each association must redistribute not less than $1.05 on each $1 wager and $2.10 on each $2 wager.

(b) Payments on all winning pari-mutuel tickets and tickets refundable according to rules shall be made only on presentation and surrender of appropriate ticket.

Mutilated tickets and those whose validity are questioned shall be submitted to the New York State Tax Commission for inspection.

(c) In the discretion of management or by direction of the commission, payments may be made by cash or check to the holder of a winning pari-mutuel ticket from whom identification may be required.

§ 4122.16. Official result of race to be reported and effect thereof.

At the end of each race, the judges shall determine the proper order of finish and upon such determination having been made the public shall be so informed by the word “official” being lighted on the tote board in the infield of the track or upon failure of such device by public announcement. Upon the lighting of such word “official” or upon its public announcement, the result of the race for pari-mutuel purposes shall be final and no appeal therefrom shall be allowed. Any ruling of the judges or of the Harness Racing Commission with regard to the award of purse money made after the sign “official” has been purposely displayed shall have no bearing on the mutuel payoff. The judges shall advise the manager of the pari-mutuel department and the representative of the State Tax Commission and the Harness Racing Commission in writing of the official placement of the horses. When no mechanical or electrical indication of the official finish of the race is used between the judges and the mutuel department, no payoff shall be made until receipt of such written notice.

§ 4122.17. Payment where no wagering on a position.

(a) If there is no money wagered on the winner to win, the win pool shall be refunded.

(b) If no money has been wagered to place on a horse that is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse that was placed first or second.

(c) If no money has been wagered to show on a horse that has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses that are placed first, second or third in that race.

§ 4122.18. Dead heats and coupled entries.

(a) If two horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two dead-heaters as in a place pool.

(b) If two horses finish in a dead heat for second place, the division is made as follows: there shall be allotted to the pool of the winner of the race one-half of the place pool and the two dead- heaters one-half each of the remaining half of the place pool.

(c) *Coupled entries and fields*. If two horses coupled in the betting as an entry or the field finish first and second, first and third or second and third, the division of the net

show pool shall be as follows: two-thirds of the net show pool shall be allotted to the pool of the entry and the balance one-third to the other horse.

(d) In the event that one horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half of the net show pool shall be allotted to the pool of the entry, one-third to the horse finishing first or second, and one-sixth to the horse finishing in the dead heat with the entry for third.

(e) If the entry or field horses should finish first, second and third, the entire money in each pool goes to the entry or field tickets, no other tickets participating.

§ 4122.19. Incomplete finishes.

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

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

(c) In any race in which no horses finish, all money wagered on the race shall be refunded.

§ 4122.20. Payoff errors.

(a) If an error is made in posting payoff figures on the public board, such error may be corrected promptly and a statement explaining the facts made over the public address system.

(b) In the event of an error in calculations of payoff prices that results in an underpayment to the public and payments have been made to the public, the amount of the underpayments made before a correction is posted shall transfer as directed by the presiding judge to the corresponding pool or pools of a subsequent race or races.

§ 4122.21. Time to present winning tickets.

(a) All winning pari-mutuel tickets must be presented for payment or refund before April 1 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.

§ 4122.22. Daily doubles.

Unless otherwise authorized by the commission, one daily double only shall be permitted during a single racing program.

§ 4122.23. Daily double terms.

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 double. If either of a purchaser's selections fails to win, such purchaser's contract is void, except as hereafter provided.

§ 4122.24. Daily double: failure to select a winner and race cancellations; dead heats; scratches.

(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.

(c) In the event of a dead heat in either or both daily double races, holders of daily double tickets combining winners in both such races shall be entitled to a distribution calculated as in a win pool dead heat.

(d) If a horse is scratched from the first or second daily double races before the running of the first daily double race, all daily double tickets selecting the horse scratched shall be refunded and the money deducted from the gross pool.

(e) Should any horse be scratched or be declared a nonstarter in the second half of the daily double after the first half of the daily double has been raced, all tickets combining the scratched horse with the winner of the first half shall become consolation tickets and shall be paid at a price per dollar bet determined as follows: the net daily double pool (the gross daily double pool less tax) shall be divided by the total purchase price of all daily double tickets designating the winner of the first half of the daily double and the quotient obtained shall constitute the price to be paid. The total amount payable on consolation tickets shall be deducted from the net daily double pool.

§ 4122.25. Refunds and exchanges.

Whenever a horse is scratched or declared a nonstarter, and a refund is required under these rules, the tickets previously issued designating such horse shall be refunded or, at the option of the holder, may be exchanged for another selection of

the same denomination in the same pool provided the track has an operating facility for such an exchange and conditions and circumstances, including available time remaining before the start, make an exchange feasible in the judgment of management. Refunds and exchanges shall be made at locations designated for the purposes by management and convenient for the public.

§ 4122.26. Effect of scratch.

In all cases when a horse has been excused by the judges after wagering has started but before the horses shall have actually started, all money wagered on the horse so excused shall be deducted from the pool and refunded.

§ 4122.27. Coupled entry scratch.

If, after wagering has begun on a race, a horse, programmed to start as part of a coupled entry or field is scratched in such race, all betting upon such coupled entry or field shall cease and all money theretofore wagered upon such coupled entry or field shall be refunded. Notwithstanding the termination of betting upon all horses that are part of such coupled entry or field, the horse or horses in such coupled entry or field that are not scratched shall start in such race as nonbetting interests for the purse and the finish of such horses in the race shall be disregarded for pari-mutuel purposes. Such circumstances shall be announced by public address and explained to the public at the time of such action and thereafter as may be necessary to adequately inform the public.

§ 4122.28. Race declared off.

In the case of a race being declared off or postponed to another day by the judges after the wagering has begun, all money wagered in that race shall be refunded.

§ 4122.29. Forms.

The officers and employees of the licensed harness racing association shall promptly give the commission and the State Tax Commission such information as they may request from time to time and shall freely and fully cooperate with them in every way.

§ 4122.30. Report of unpaid tickets.

An itemized record of all unpaid winning mutuel tickets shall be prepared and a complete record, including total, forwarded to the commission and the State Tax Commission within five days after the last day of any racing meeting.

§ 4122.31. Report if no totalisator.

The licensed harness racing association, if operating a mutuel system without the totalisator, shall, in taking off total of mutuel ticket sales, prepare an additional copy at the same time of making and furnish the same to the representative of the

commission and the State Tax Commission before the calculations for mutuel prices to be paid are made.

§ 4122.32. Report of payoff.

Complete and detailed records of each race containing the actual payoff on each horse shall be filed with the commission at the end of each day.

§ 4122.33. Report of attendance and handle.

The licensed harness racing association shall supply daily to the commission a report of the handle of each race, total daily handle and attendance.

§ 4122.34. Test of mutuel equipment.

All tracks shall have a test, by actual operation, of the pari-mutuel equipment before the opening of each meeting, which shall be approved by a representative of the commission and of the State Tax Commission.

§ 4122.35. Display of public information.

Each track licensee shall cause to be erected a sign or board upon which shall be displayed the approximate straight odds on each horse in any race; the total amount wagered upon each horse in each pool; the value of a $2 winning mutuel ticket, straight, place or show on the first three horses in any race; the elapsed time of the race; the value of a $2 winning daily double or twin double ticket, if a daily double or twin double be conducted; and any other information that the commission may deem necessary for the guidance of the general public. All machines and equipment used for pari-mutuel betting or for the display of such information must be approved by the commission and the State Tax Commission before being used. The commission and the State Tax Commission shall not require the installation of any particular make of mechanical or electrical equipment.

§ 4122.36. Personnel.

A list of the personnel of the pari-mutuel department shall be submitted to the commission for its approval. Such list shall indicate the residence of each employee and state whether such employee has been a citizen of the United States of America and a resident of the State of New York for the two years immediately prior to the commencement of such employment. A copy of the pari-mutuel department payroll shall be submitted each week to the commission and such payroll shall be accompanied by a statement sworn to by the manager of the pari-mutuel department or an official of the licensed harness racing association stating that at least 85 percent of such employees each day have been citizens of the United States of America and residents of the State of New York for at least two years immediately prior to the commencement of their employment.

§ 4122.37. Daily reports.

All licensed harness racing associations conducting pari-mutuel racing shall submit to the commission, within 24 hours after a scheduled day's racing, a complete set of such pari-mutuel forms and data as have been used in the calculations and totals of pari-mutuel wagering.

§ 4122.38. 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. The parlay 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 that 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 4122.27 of this Part. 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.

§ 4122.39. Exacta.

(a) The exacta is a form of pari-mutuel wagering. Each bettor selects, 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, twin double, or straight, place or show pools.

(b) [Repealed]

(c) Races in which exacta pools shall be conducted shall be approved by the commission and shall be clearly designated in the racing program.

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

(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;

(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) *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.

(g) *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.

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

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

(i) This rule shall be prominently displayed throughout the betting area of each track conducting the exacta and printed copies of this rule shall be distributed to patrons upon request by the track.

§ 4122.40. [Repealed]

§ 4122.41. Triple.

(a) The triple (or other approved name) is a form of pari-mutuel wagering. Each bettor selects, in order, the first, second and third placed horses in the designated triple race. The triple pool shall be held entirely separate from all other pools, and is not part of a daily double, exacta or other wagering pool.

(b) [Repealed]

(c) Races in which triple pools shall be conducted shall be approved by the commission and shall be clearly designated in the program.

(d) The design of triple 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 triple tickets may be issued designating such horse, and all triple tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

(f) *Failure to select a winning combination, short finishes*.

(1) If there is a failure to select, in order, the first three horses, payoff shall be made on triple tickets selecting the first two horses in order; failure to select the first two horses, payoff to triple tickets selecting the winner to win; failure to select the winner to win shall cause a refund of all triple tickets.

(2) If less than three horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection.

(g) *Dead heats*. In the event of a dead heat or dead heats, all triple tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead-heated, shall be winning tickets, and distribution shall be made in accordance with established pari-mutuel practice relative to dead heats.

(h) 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.

(i) This rule shall be prominently displayed throughout the betting area of each track conducting the triple and printed copies of this rule shall be distributed by the track to patrons upon request.

(j) At its option, the track conducting a triple pool race may accept nine horses to start in such race. In the event fewer than six horses start, the trifecta shall be declared off and the gross pool refunded. With the approval of the judges, a track may schedule exacta wagering in place of triple wagering, if time permits.

§ 4122.42. 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.

(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.

(f) *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.

(g) *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.

(h) 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.

(i) 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.

(j) 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.

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

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

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

(n) *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.

§ 4122.43. 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 harness 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 duties in the mutuel department of the harness racing association.

§ 4122.44. Payments to the Agriculture and New York State Horse Breeding Development Fund.

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

§ 4122.45. Super exotic pools.

The rules in this section shall govern all super exotic pari-mutuel pools conducted by a licensed harness track operator.

(a) *Wagering tickets*. A super exotic pari-mutuel pool known as the "pick-seven," "pick- eight," "pick-nine," "pick-ten" or such other name as may be approved by the commission, is authorized to be conducted by a harness track operator upon the outcome of seven, eight, nine or 10 consecutive pari-mutuel races to be contested at such operator's track on the same racing program. Such pool shall be separate and distinct from all other pari-mutuel pools conducted at such track. Wagers in such pool shall be represented by pari-mutuel tickets immediately distinguishable from pari-mutuel tickets issued in other pools. A wager, which shall select a winner for each designated race, shall be included on the same pari-mutuel ticket, that shall be issued prior to the start of the first designated super exotic race. Races designated for the super exotic pool shall be clearly described as such in the official program.

(b) *Winners and carry-overs.* In general, after deductions for cancellations, refunds and statutory take-out, the resulting super exotic net pool shall be distributed, less breaks, to the holders of tickets selecting winners of all designated races in the pool. Should there be no wager selecting winners of all designated races, then, at the option of the track operator, established before the first such pool of the meeting is conducted, a stated percentage of not less than 25 percent nor more than 75 percent of the net pool shall be distributed, less breaks, to the holders of tickets selecting the winners of the most super exotic races and the balance of the net pool shall be carried over and added to and distributed with the net pool of the next subsequent super exotic pool in which a wager correctly selects the winners of all designated super exotic races. The number of races designated for the super exotic pool shall not be changed during a meeting until a wager has correctly selected the winner of every designated race of a super exotic pool or until there has been an intermediate distribution.

(c) *Added payments to winners*. In addition to the net pool and any carry-overs distributable when a wager correctly selects winners of all designated races of a super exotic 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.

(d) *Intermediate distributions.* Prior to the last two weeks of a licensed race meeting, a date and program approved by the commission may be announced by the track operator when (provided no one thereafter has correctly selected the winners of all designated races of a super exotic pool through such program) accumulated carry-overs in an amount announced by the track operator will be added to the established percentage of the net pool distributable to wagers selecting the winners of the most races of the super exotic pool conducted on such program. 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 super exotic pools conducted by such track operator. 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.

(e) *Final distribution.* The commission shall select a date and program during the final week of the licensed race meeting of a track operator when there shall be a final distribution of all accumulated carry-overs together with the entire net pool of the super exotic pool conducted during such program to the holders of wagers selecting the winners of the most super exotic races contested during such program. Thereafter no super exotic pools will be conducted at such meeting. In the event that all super exotic races on the program designated for final distribution are cancelled, and no further programs are conducted at the meeting, the commission shall require that a super exotic pool be conducted on the first program of the next subsequent 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.

(f) *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 all winning wagers.

(g) *Scratched horses and nonstarters.* At any time after wagering begins on the pool should an entire betting entry or field be scratched or declared a nonstarter in any super exotic 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 super exotic pool, shall be deemed wagers upon the betting entry or field upon which the most wagers have been registered in the win pool at the track at the close of win pool betting for such race (designated horse). (In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated.) Wagers remaining in the pool upon horses that may have been scratched will, in the case of multiple betting entries or fields be deemed wagers upon the horses remaining in such entries or fields, and in the case of single betting entries 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 section 4122.27 of this Part, 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.

(h) *Race cancellations.* Except for pools in which an intermediate or final distribution is to be made, should one or more super exotic races be cancelled, no carry-overs from prior super exotic pools, advertised guaranteed amounts nor advertised added amounts will be distributed to winners in such super exotic pool and that program's entire net pool only shall be distributed, less breaks, to holders of wagers upon the winners of all super exotic races contested for such pool. Should no wager select the winners of all super exotic races contested, the established percentage of that net pool shall be distributed, less breaks, to the holders of wagers upon the winners of

the most super exotic races contested and the balance shall be carried over as elsewhere provided in this section, for subsequent distribution.

(i) *Seed money or insurance allocation*. Two percent of the total super exotic pool shall be held apart by the track operator from the take-out of each super exotic 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 it expends for added money or guaranteed minimum distributions to winners of such pools. Any accumulation of such two percent 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 year.

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

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

(l) *No reduction in guaranteed distributions.* Added monies or guaranteed minimum distributions advertised by a track operator shall not be reduced for subsequent super exotic pools until a wager correctly selects winners of all designated races of a super exotic pool, or a final distribution occurs, whichever is first. Advertised added monies or minimum distributions shall not apply to intermediate or final distributions unless a wager correctly selects winners of all designated races of the super exotic. 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 super exotic pool for the balance of the meeting.

(m) *Betting information*. Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a super exotic pool shall not be disclosed by the tote operator or otherwise, until all races of a super exotic pool have been contested and declared official. 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.

(n) *Nontransferability.* Super exotic tickets shall be nontransferable and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(o) *Unforeseen circumstances*. Should circumstances occur that are not foreseen in this section, questions arising thereby shall be resolved in accordance with general pari-mutuel practice in the judgment of the presiding judge. Decisions regarding distribution of super exotic pools are final and unappealable.

(p) *Posting of rules*. These rules shall be posted in the public area of the track by the track operator and copies thereof shall be made available to the public by the track operator.

§ 4122.46. Pick four pools.

(a) The pick four (or other approved name) is a form of pari-mutuel wagering conducted on four races specifically designated as pick four races by the commission. Each bettor selects, in order, the first placed horse in each of the four races designated and advertised by the track as pick four races, in the race order so designated by the commission.

(b) The pick four is not a parlay and has no connection with nor 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, triple, 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 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*. 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 betting entry or field (designated horse) 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 upon which the most wagering money has been registered at the track in the place pool at the close of place pool betting for that race shall be designated.) 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; 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 section

4122.27 of this Part, 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 in any pick-four race 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) *Failure to select a winning combination*.

(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 said 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 said 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 said 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.

(5) If any of the designated races are cancelled or declared "no race," the pick four will be determined by the winners of the remaining race or races.

(h) *Dead heats*. In the event of a dead heat for win in any or all pick four races, all pick four tickets designating either horse to win in said race or races 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.

(i) 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, the method of formulation announced by the track, and upon which basis payments have been made, shall be deemed conclusively correct and not subject to review.

(j) 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.

§ 4122.47. [Repealed]

§ 4122.48. Grand Slam wager.

(a) *Commission approval*. An 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 written 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 in a single day. 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 section 318 of the Racing Pari-Mutuel Wagering and Breeding Law (between 20 to 30 percent of total deposits in pools resulting from on-track exotic bets and selected by an association or corporation and approved by the commission).

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

(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, then the pool shall be distributed as a single betting 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 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, then the Grand Slam pool shall be distributed as if no dead heat occurred.

(ii) Official program numbered horses representing two or more betting interests, then 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, then the Grand Slam pool shall be distributed as if no dead heat occurred.

(ii) Horses representing two or more betting interests, then the Grand Slam pool shall be distributed from a single betting pool with a winning wager including the betting interest which 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 that 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) If at least two contests included as part of a Grand Slam wager are canceled or declared “no contest,” then the Grand Slam pool shall be canceled and all Grand Slam wagers for the individual performance shall be refunded.

(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 paragraph (6) of this rule, then 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) 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.

§ 4122.49. 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 at 2343 Alexandria Drive, Suite 200, Lexington, KY 40504-3276. This is available for public inspection at the New York State Gaming Commission located at One Broadway Center, Schenectady, NY 12305-2553 and at the Department of State, 99 Washington Avenue, Albany, NY.

PART 4123

Voluntary Exclusion from Racetracks and Restriction on Telephone Account Wagering

Section
4123.1 General requirements
4123.2 Self-exclusion from racetrack
4123.3 Voluntary restrictions on telephone account wagering

§ 4123.1. General requirements.

(a) Each racing association or corporation shall establish a system by which a person may voluntarily exclude himself or herself from entering the premises of the race track.

(b) Each racing association or corporation that maintains telephone betting accounts for wagering on races shall establish procedures that are designed to permit an account holder to voluntarily place limits on the amount of his or her wagers. This restriction may be calculated on a daily or weekly basis.

(c) A self-excluded person or an account holder who has placed restrictions on his or her account may remove such exclusion or restrictions upon request made to the racing association or corporation. No request, however, from a person to remove any self-exclusion or limit placed on account wagers shall be effective until seven days after it has been received by the racing association or corporation.

§ 4123.2. Self-exclusion from racetrack.

(a) Each racing association or corporation shall create a list of self-excluded persons and shall post information explaining how an individual may add his or her name to the list.

(b) An individual's name may be added to the list of self-excluded persons if the individual has notified the racing association or corporation in writing or in person of his or her pledge not to visit a race track by filing an application for placement on the racing association's or corporation's list of self-excluded persons. The application shall be designed to include a removable label or "tear-off" with information concerning the availability of services to assist compulsive gamblers.

(c) An application for self-exclusion shall include all of the following information about the individual who is applying:

(1) Full name and all aliases;

(2) Physical description including height, weight, hair and eye color, skin color, and any other noticeable physical characteristics;

(3) Current home address;

(4) Social security number;

(5) Date of birth.

(6) Statement that the individual is seeking self-exclusion;

(7) A photograph suitable for the racing association or corporation to use to identify the individual.

(d) An individual's name shall be placed on the list of self-excluded persons after all of the following have occurred:

(1) The individual has submitted an application to be placed on the racing association's or corporation's list of self-excluded persons.

(2) The signature of a racing association or corporation employee authorized to accept such request, indicating that the signature of the person on the request for removal from the self-exclusion list appears to agree with that contained on his or her identification credentials and that any photograph or physical description of the person appears to agree with his or her actual appearance or identification credentials.

(3) The individual has signed an affidavit in which he or she affirms that he or she wishes to be placed on the list of self-excluded persons;

(4) The individual signs a form releasing the State of New York and the racing association or corporation from any injury the individual suffers as a consequence of placing his or her name on the list of self-excluded persons.

(e) Each racing association or corporation shall file with the commission a plan for implementing this section and for disseminating the information contained in the applications for placement on the list of self-excluded persons. The plan shall be designed to safeguard the confidentiality of the information but shall include dissemination to all of the following:

(1) The racing association or corporation managerial employee who has responsibility over the entire wagering operations; and

(2) All security and surveillance personnel.

(f) A racing association or corporation shall not offer coupons, market its services, or send advertisements to, or otherwise solicit the patronage of, those persons whose names are on the list of self-excluded persons.

(g) The racing association or corporation shall keep a record of each individual whose name is on the list of self-excluded persons. If a racing association or corporation identifies a person on the premises of their racetrack, the racing association or corporation shall, after confirming that the individual has filed an affidavit under this section, immediately remove the individual from the race track.

(h) A request for removal from the self-exclusion list shall include:

(1) The identifying information specified in paragraphs (1) through (5) of subdivision (c) of this section;

(2) The signature of the person requesting removal from the self-exclusion list indicating acknowledgment of the following statement: “I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self-exclusion, and I authorize the racing association or corporation to reinstate my wagering privileges at their race track.”; and

(3) The signature of a racing association or corporation employee authorized to accept such request, indicating that the signature of the person on the request for removal from the self-exclusion list appears to agree with that contained on his or her previously filed identification credentials and that any photograph or physical description of the person appears to agree with that information filed previously or actual appearance if the request for removal is made in person.

(4) No request from a person to remove himself or herself from any self-exclusion list shall be effective until seven days after it has been received by the racing association or corporation.

(i) This Part does not create any right or cause of action on behalf of the individual whose name is placed on the list of self-excluded persons against the State of New York, the commission or a racing association or corporation.

§ 4123.3. Voluntary restrictions on telephone account wagering.

(a) Any holder of an account authorized pursuant to section 1012 of the Racing, Pari-Mutuel Wagering and Breeding Law may voluntarily place limits on the amount of his or her wagers. This restriction may be calculated on a daily or weekly basis.

(1) Each racing association or corporation that maintains telephone betting accounts for wagering on races shall establish procedures that are designed to deny wagering privileges beyond a daily or weekly threshold set by the account holder;

(2) Any holder of an account voluntarily restricted may have such restrictions removed or modified upon written or in person request to the racing association or corporation. No request from a person to remove any limit placed on account wagers shall be effective until seven days after it has been received by the racing association or corporation.

(b) Each racing association or corporation that maintains telephone betting accounts for wagering on races shall file with the commission a copy of such association or corporation's procedures established pursuant to this section.