

(h) The Department shall maintain and publish a current list of accredited reinsurers on the Department’s website: [www.njdobi.org]
www.dobi.nj.gov.

(i) (No change.)

11:2-28.7B Certification procedure

(a) The Commissioner shall issue a written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with N.J.A.C. 11:2-28.7A. The Department shall publish a list on its website of all certified reinsurers and their ratings.

1. Promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer pursuant to this section, the Department shall post on its website notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting, directed to: Chief [of Reinsurance and Surplus Lines] **Insurance Examiner**, 20 West State St., PO Box 325, Trenton, NJ 08625-0325, or via e-mail at [dobi.reinsurance@dobi.state.nj.us] dobi.reinsurance@dobi.nj.gov. The Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

(b)-(j) (No change.)

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

11:2-29.3 Informational filing withdrawals

(a)-(b) (No change.)

(c) An informational filing shall contain the following:

1.-4. (No change.)

5. The insurer’s market share by line and, in addition, for private passenger automobile insurance, exposures by territory, and for homeowners’ insurance, exposures [by Windstorm Market Survey Report] **as reported pursuant to the reports required by N.J.A.C. 11:2-42.10** and, separately, any additional zip codes that fall within the insurer’s definition of “coastal area”;

6.-7. (No change.)

(d)-(g) (No change.)

(h) The minimum requirements for the Notice of Intent to Withdraw and non-renewal notices referenced [above] **in this section** are set forth below. A sample of the notices shall be posted on the Department’s web site at [www.njdobi.org] www.dobi.nj.gov, as may be modified from time to time.

1. (No change.)

2. The one-year non-renewal notice and final notices of non-renewal shall:

i.-iv. (No change.)

v. Include the following statement: “For information that will assist you in shopping for coverage, you may contact your insurance agent, as well as the New Jersey Department of Banking and Insurance at 1-800-446-SHOP (7467) or visit the Department on the web at [www.njdobi.org] www.dobi.nj.gov”; and

vi. (No change.)

3. (No change.)

(i)-(j) (No change.)

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY HORSE RACING INJURY COMPENSATION BOARD

Workers’ Compensation Insurance Coverage for Horse Racing Industry Employees

Proposed Readoption with Amendments: N.J.A.C. 13:73

Authorized By: New Jersey Horse Racing Injury Compensation Board, Frank Zanzuccki, Chairman.

Authority: N.J.S.A. 34:15-129 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-262.

Submit written comments by February 2, 2018, to:

Frank Zanzuccki, Chairman
Department of Law and Public Safety
New Jersey Horse Racing Injury Compensation Board
PO Box 088
Trenton, NJ 08625-0088
or via e-mail to: NJRCWebinfo@lps.state.nj.us.

The agency proposal follows:

Summary

N.J.A.C. 13:73 sets forth the rules of the New Jersey Horse Racing Injury Compensation Board (Board) relating to the establishment of workers’ compensation insurance coverage for horse racing industry employees, as well as codification of the powers of the Board, whose purpose is to provide said coverage. The Board believes that the rules proposed for readoption with amendments are necessary, reasonable, understandable, and responsive to the purpose for which they were originally promulgated. The chapter was set to expire on November 24, 2017. As the Board submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to May 23, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The following is a summary of the rules proposed for readoption with amendments (which are proposed as a result of statutory changes enacted by the Legislature).

In enacting the New Jersey Horse Racing Injury Compensation Act (the Act), N.J.S.A. 34:15-129 et seq., the Legislature requires the Board to secure workers’ compensation insurance coverage for horse racing industry employees, who were defined as “a jockey, jockey apprentice, exercise personnel, driver, driver/trainer performing services for an owner in connection with the exercising or racing of a horse in New Jersey.” N.J.S.A. 34:15-131.

In doing so, the Legislature authorizes the Board to assess and collect sufficient funds to pay the costs of the workers’ compensation insurance, or provide self-insurance coverage, required by the Act and by the workers’ compensation law of this State, including sufficient funds to pay any additional costs necessary to carry out the Board’s other duties. N.J.S.A. 34:15-134. The Board ascertains the total funding necessary, establishes the sums that are to be paid and establishes, by regulation, the method of assessing and collecting these funds. *Ibid*.

In 1997, the Legislature amended the Act to require the Board to also secure workers’ compensation insurance for horse racing industry employees of trainers. Subsequently, the Board prepared new rules regarding the horse racing industry employees of both owners and trainers that contain, in addition to the method of assessment and collection of funds, rules concerning scope, purpose, definitions, power of the Board, calculation, purchase, penalties, and appeals.

In 2001, the Legislature again amended the Act to eliminate coverage of employees of trainers at the request of the industry that resulted in the definition of horse racing industry employee for the purpose of the Act to be a jockey, jockey apprentice, or driver engaged in performing services for an owner in connection with the racing of a horse in New Jersey.

In 2008, the Legislature amended the Act to include coverage for stable employees of a thoroughbred trainer during the period of time the trainer's horses are stabled at a permitted New Jersey racetrack. This amendment also increased the allowable deduction from thoroughbred overnight purses from three percent to four percent. The cost of workers' compensation insurance coverage premium is based upon the estimated total payroll of horse racing employees of owners. Information regarding the actual salaries of thoroughbred jockeys and standardbred drivers is available through the horsemen's bookkeeper at each racetrack. See N.J.A.C. 13:70-3.46 and 13:71-6.31.

Once the estimated payroll of horse racing industry employees is calculated for the prior calendar year, the Board utilizes procedures established by the Bureau of Risk Management in the Department of the Treasury, pursuant to N.J.S.A. 52:27B-62, to obtain premium quotations from insurers who are interested in providing workers' compensation insurance coverage. The Board also computes the costs of obtaining workers' compensation insurance coverage, as well as any additional costs necessary to carry out all of its other duties. The Board obtains separate quotations for the thoroughbred and standardbred industries. The cost of obtaining workers' compensation insurance coverage for horse racing industry employees employed by owners of horses is assessed upon owners through a percentage deduction from that portion of gross overnight purses paid to owners that shall not exceed three percent of standardbred purses and four percent of thoroughbred purses.

The Act was further amended to require that certain employees of thoroughbred trainers be covered under the group workers' compensation insurance plan established by the Act. As such, the Board is amending the rules to incorporate these legislative changes.

The chapter proposed for readoption contains six subchapters, described as follows:

Subchapter 1, General Rules, contains the chapter's rules of general applicability, including the purpose of the rules.

Subchapter 2, Definitions, provides definitions for the terms used in the chapter including those covered under the rules as "horse racing industry employee."

Subchapter 3, Assessment and Collection, defines the powers of the Board and the methods to be used for assessing and collecting payments for coverage costs.

Subchapter 4, Purchase, provides that the Board review quotations of premiums for insurance coverage and select the type of coverage and the insurer.

Subchapter 5 is reserved.

Subchapter 6, Appeals, details the appeals procedure, including request for hearing process.

The Board proposes the following amendments:

N.J.A.C. 13:73-1.1 is proposed for amendment to clarify the scope of the chapter. As written, the scope is unclear and can lead to multiple interpretations. The amendments will make the language more direct and succinct.

N.J.A.C. 13:73-1.2 is proposed for amendment to better express the intent of the controlling statute, N.J.S.A. 34:15-129 et seq., and to comport with that statute, as amended.

At N.J.A.C. 13:73-2.1, the definitions for "assistant trainer," "driver-trainer," and "horse" are proposed for deletion as they do not appear anywhere in the chapter. The definitions of "exercise personnel" (changed to "exercise rider"), "jockey," and "stable employee" are proposed for amendment to specify that each refer to members of the thoroughbred industry. A definition for "Commission" is proposed, so that when the chapter refers to "Commission," it is referring to the New Jersey Racing Commission. Finally, the definition of "horse racing industry employee" is proposed for amendment to expand and define more clearly those persons who qualify under that definition. The definition is being expanded to include exercise riders, who are employees of thoroughbred owners that conduct workouts of a thoroughbred horse at permitted New Jersey racetracks for the purpose of training. The definition is also being expanded to include certain licensed stable employees of thoroughbred trainers. Those stable employees shall be covered while they are engaged in performing the services for which they are licensed in connection with the racing of a horse in New Jersey.

N.J.A.C. 13:73-3.1(a)1i and ii are proposed for amendment to comport with legislative amendments relating to the chapter. Each subparagraph must be amended to include thoroughbred and standardbred owners, as well as thoroughbred trainers whose horses are stabled at a New Jersey racetrack. There are no other proposed amendments to N.J.A.C. 13:73-3.1.

N.J.A.C. 13:73-3.2(a)1 is proposed for amendment to comport with legislative change and to codify the right of the Board to make additional assessments at its discretion. Specifically, the statute has been amended to create a maximum overnight purse deduction of four percent from thoroughbred purses to fund workers' compensation insurance premiums. The amendment to the rule reflects this legislative change. Also, the rule is proposed for amendment to clarify the existing power of the Board to levy additional assessments upon standardbred owners, thoroughbred owners, and thoroughbred trainers to satisfy the cost of workers' compensation insurance premiums.

The heading of N.J.A.C. 13:73-3.3 is proposed for amendment to eliminate "of owners." As is the case throughout the chapter, the term "horse racing industry employees" is defined at the beginning of the chapter and includes certain employees of owners and trainers. The phrase "of owners" is not appropriate in the context of this section heading.

N.J.A.C. 13:73-3.3 is proposed with technical and grammatical amendments. The phrase "of owners of thoroughbred and standardbred horses" is not necessary as the definition of "horse racing industry employees" sufficiently encompasses those persons affected by the subsection.

N.J.A.C. 13:73-3.4(a) is proposed for amendment to delete language that is largely a repetition of N.J.A.C. 13:73-3.2(a) and, thus, unnecessary. The remaining language is proposed with a grammatical change for purposes of clarity.

N.J.A.C. 13:73-3.5 is proposed for amendment to remove the reference to other rules in Title 13. The reference is not needed. The other changes to the section are being made to conform to the statutory change.

The heading of N.J.A.C. 13:73-4.1 is proposed for amendment to remove "of owners" as the phrase is unnecessary.

N.J.A.C. 13:73-6.1 is proposed for amendment to comport with the statutory change made by the Legislature and to include appeal procedures for owners "and trainers" who wish to contest the amount of any assessment made by the Board. The section is also proposed for amendment to remove the subsection codification "(a)" as the other subsections were deleted effective March 5, 2001, and the subsection designation was inadvertently not deleted at that time.

N.J.A.C. 13:73-6.2 and 6.3 are also proposed for amendment to comport with the statutory change made by the Legislature.

As the Board has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Through the adoption of the Act, the Legislature has determined that it is in the public interest to ensure that workers' compensation insurance or self-insurance is available to persons employed in the thoroughbred and standardbred industries in New Jersey by collectively securing coverage for horse racing industry employees. This determination was made with the urging and support of the racing industry to, first and foremost, eliminate the possibility of lapses in coverage that previously occurred to the detriment of injured employees, and to hopefully allow owners to obtain group insurance coverage at a lower cost than securing comparable insurance on an individual basis.

The readoption of these rules ensures that adequate workers' compensation insurance coverage is in place at all times throughout the calendar year and hopefully at a lower cost to owners. This provides a positive impact on the racing industry, especially racetrack industry employees who have the comfort of knowing that workers' compensation insurance is available when a job-related injury occurs.

The proposed amendments to this chapter are necessary due to statutory amendments enacted by the New Jersey State Legislature. Namely, the Legislature has included coverage for certain employees of

thoroughbred trainers, thus, thoroughbred trainers are responsible for a portion of the workers' compensation insurance premiums for horse racing industry employees.

The amendments will also bring clarity to portions of the chapter that may have been unclear. Implementing these changes will encourage horse racing industry employees to continue to work in the industry.

Economic Impact

It is anticipated that implementation of the rules proposed for readoption will continue to cost less if the Board provides insurance coverage rather than owners and trainers providing individual coverage. The Board is an unfunded body created to procure workers' compensation insurance for horse racing industry employees. The rules proposed for readoption ensure that horse racing industry employees, whether full-time or part-time, are covered and are no longer in a situation where they may have to pay for costs associated with injuries on their own.

The proposed amendments codify statutory language, which is already being utilized in practice. Due to the nature of the proposed amendments, enforcement of the rules will come at no additional cost to the Board, industry, or State. There are no other economic impacts envisioned at this time.

Federal Standards Statement

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the rules proposed for readoption with amendments. The Board proposes the rulemaking pursuant to the rulemaking authority set forth at N.J.S.A. 34:15-129 et seq.

Jobs Impact

There is no direct impact upon the number of persons employed in the racing industry as a result of the rules proposed for readoption with amendments. However, there could be an indirect result of an increase in jobs by virtue of having low cost group workers' compensation insurance coverage available to horse owners who employ horse racing industry employees who are racing in New Jersey since other states have experienced a problem with job retention in their jurisdiction as a result of the high cost of workers' compensation insurance.

Agriculture Industry Impact

The availability of horse racing in this State, and the advantageous impact of the Board's rules that ensure that horse racing industry employees are covered under workers' compensation insurance in a cost-effective manner, indirectly benefits the agriculture industry in that it encourages the establishment of and maintenance of horse farms, as well as horse breeding facilities in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments continue to affect owners licensed in the State of New Jersey. Some of these owners may be "a business ... independently owned and operated and not dominant in its field, and which employees fewer than 100 full-time employees." N.J.S.A. 52:14B-17. While some owners may be incorporated and may meet the definition of "small business," the Board has no access to such information to determine the extent that those "small business(es)" exist. However, any small business, including those operated by owners, as well as horse owners, that do not operate as small businesses, is currently required to ensure that its horse racing employees are covered by workers' compensation insurance. It is anticipated that the cost of assessment under this program will continue to be less than the aggregate cost of individual policies and, therefore, have little, if any, impact upon businesses of any size. Finally, these rules proposed for readoption with amendments do not impose any reporting or recordkeeping requirements on small businesses nor do they require the use of additional outside professional services.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey, and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules ensure that workers' compensation insurance coverage is available to persons

employed in the thoroughbred and standardbred horse racing industries in New Jersey.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules ensure that workers' compensation insurance coverage is available to persons employed in the thoroughbred and standardbred horse racing industries in New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:73.

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

SUBCHAPTER 1. GENERAL RULES

13:73-1.1 Scope

This chapter applies to [all owners licensed or required to be licensed by the New Jersey Racing Commission who employ horse racing industry employees as well as their horse racing industry employees. These rules shall not apply to employees of an owner who are not horse racing industry employees.] **horse racing industry employees while they are engaged in the activities for which they are licensed.** To the extent that a horse racing industry employee is also covered by duplicate coverage within this State procured pursuant to another policy of workers' compensation insurance, the coverage procured by the Board shall be considered primary.

13:73-1.2 Purpose

The Legislature has determined that it is in the public interest to ensure that workers' compensation insurance or self-insurance coverage is available to [persons employed by owners of horses in the thoroughbred and standardbred horse racing industries in New Jersey by collectively securing coverage for their horse racing industry employees.] **horse racing industry employees.** Pursuant to N.J.S.A. 34:15-129 et seq., [the purpose of this chapter is to effectuate that legislative objective.] **this chapter exists to provide workers' compensation insurance for horse racing industry employees while they are engaged in the activities for which they are licensed and to create a mechanism to make assessments to pay the premiums of such coverage.**

SUBCHAPTER 2. DEFINITIONS

13:73-2.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

... ["Assistant trainer" means a person who assumes the duties and responsibilities of a trainer while assisting the trainer or acting on behalf of the trainer in the training of the horses under his or her charge.]

"Board" means the New Jersey Horse Racing Injury Compensation Board established by the New Jersey Horse Racing Injury Compensation Board [act] **Act**, N.J.S.A. 34:15-129 et seq.

"Commission" means the New Jersey Racing Commission.

... ["Driver-trainer" means a person who is licensed as a trainer of horses who also drives horses in any race at a track, matinee fair or other non-extended pari-mutuel meeting.]

"Exercise [personnel] **rider**" means any person who is conducting a jogging or a work-out of a **thoroughbred horse at a racetrack** for the purposes of conditioning during training hours.

["Horse" means a filly, mare, colt, horse and gelding.]

"Horse racing industry employee" means a jockey, jockey apprentice, [or] driver, **exercise rider, or stable employee** engaged in performing services **for which they are licensed** for an owner **or thoroughbred trainer** in connection with the racing of a horse in New Jersey. ["Horse racing industry employee" also means an exercise rider of a

thoroughbred horse for the period of time during which he or she is employed as an exercise rider of a thoroughbred horse at a horse racetrack in this State who is] **All such persons must be** licensed by the Commission. [and from whose wages deductions and withholdings as required or authorized by State or Federal law are taken and a] **The definition also includes a** trainer who otherwise would be considered an employee of [the] **an** owner pursuant to N.J.S.A. 34:15-1 et seq., as well as any person assisting such trainer who is required to be licensed by the Commission.

“Jockey” means a **thoroughbred** race rider, whether jockey or apprentice.

“Stable employee” means a person who is employed by [the] **a thoroughbred** trainer to perform duties, such as hot walker or groom.

SUBCHAPTER 3. ASSESSMENT AND COLLECTION

13:73-3.1 Powers of the Board

(a) The Board shall secure workers’ compensation insurance or self-insurance coverage for horse racing industry employees. Pursuant to N.J.S.A. 34:15-133, the Board shall have the power to:

1. Purchase and serve as the master policyholder for any insurance or self-insurance coverage pursuant to N.J.S.A. 34:15-77[;].

i. Pursuant to N.J.S.A. 34:15-135 [and 34:15-36], a horse racing industry employee shall be deemed to be in the employment of the Board and in the employment of all **standardbred** owners, **thoroughbred owners, or thoroughbred trainers whose horses are stabled at a permitted New Jersey racetrack, as the case may be,** who are licensed or **are** required to be licensed by the [New Jersey Racing] Commission at the time of any occurrence for which workers’ compensation benefits are payable[, pursuant]. **Pursuant to N.J.S.A. 34:15-1 et seq., as supplemented by the Act, [and] such horse racing industry employees are not considered** solely in the employment of a particular owner [and a] **or trainer. A** horse racing industry employee shall not be deemed to be in the employment of the Board for any other purpose; and

ii. Pursuant to N.J.S.A. 34:15-135 [and 34:15-36], the Board and all **standardbred** owners, **thoroughbred owners, or thoroughbred trainers** who are licensed or **are** required to be licensed by the [New Jersey Racing] Commission and **whose horses are stabled at a permitted New Jersey racetrack** shall be deemed the employer of a horse racing industry employee at the time of any event for which workers’ compensation benefits are payable, pursuant to N.J.S.A. 34:15-1 et seq. as supplemented by the Act[, and the]. **The** Board shall not be deemed the employer of a horse racing industry employee for any other purpose[;].

2.-7. (No change.)

13:73-3.2 Assessment; general

(a) Pursuant to N.J.S.A. 34:15-134, the Board shall assess and collect sufficient funds to pay the costs of the workers’ compensation insurance or self-insurance coverage required by the Act and by the workers’ compensation laws of this State. This assessment may also include sufficient funds to pay any additional costs necessary to carry out the Board’s other duties. The Board shall ascertain the total funding necessary, establish the sums that are to be paid, and determine the method of assessing and collecting these funds.

1. Assessments to pay the cost of insurance or self-insurance coverage for horse racing industry employees [employed by owners] may include, but shall not be limited to, deductions from that portion of gross overnight purses paid to owners, so long as such deductions do not exceed three percent [of the owners’ portion of such] **of standardbred purses or four percent of thoroughbred purses, as applicable.** Additional assessments may be collected from **standardbred** owners [as needed.], **thoroughbred owners, and thoroughbred trainers who are licensed or required to be licensed by the Commission. Any such additional assessments shall be made at the discretion of the Board.**

2. (No change.)

(b)-(c) (No change.)

13:73-3.3 Calculation of cost of workers’ compensation insurance or self-insurance coverage for horse racing industry employees [of owners]

(a) The cost of workers’ compensation insurance or self-insurance coverage is based upon the total payroll of the horse racing industry employees [of owners of thoroughbred and standardbred horses] plus all additional costs necessary for the Board to carry out its duties pursuant to this chapter.

(b) In calculating the total payroll of horse racing industry employees [of owners], the Board shall ascertain, to the extent possible, the number of horse racing industry employees [of owners] and the total salaries of these employees. The Board shall use information regarding the number of horse racing industry employees [of owners] and the total of their salaries from the 12 months prior to the date on which the assessment is being calculated.

1. In ascertaining the number of horse racing industry employees [of owners], the Board may collect and utilize information from:

i. Information submitted to the Board by the [New Jersey Racing] Commission, including information regarding the number of licensed [thoroughbred jockeys and standardbred drivers] **horse racing industry employees;** and

ii. Any other information relevant to the number [or salaries or] of horse racing industry employees [of owners] **or their salaries.**

2. In estimating the salaries of [owner] employees, the Board may utilize, to the extent necessary, information regarding the average or actual annual salaries of [thoroughbred] jockeys, jockey apprentices, exercise riders, [and standardbred] drivers [within the meaning of the definition of “horse racing industry employee” set forth in N.J.S.A. 34:15-131 and N.J.A.C. 13:73-2.1.], **and other horse racing industry employees.**

i. In estimating the average or actual annual salaries, the Board may utilize information obtained from the horsemen’s bookkeeper at each racetrack concerning the actual payroll earned by jockeys[, jockey apprentices] and drivers pursuant to N.J.A.C. 13:70-3.46 and 13:71-6.31.

ii. In estimating the average or actual annual salaries, the Board may utilize information provided to the Board by the representative of the thoroughbred industry serving on the Board and by the representative of the standardbred industry serving on the Board regarding the thoroughbred and standardbred industry pay scales for horse racing industry employees [of owners].

iii. The representatives of the thoroughbred and [of the] standardbred industries serving on the Board shall collect information regarding the industry pay scale for horse racing industry employees [of owners] from horsemen and horsemen associations within the horse racing industry, including the horsemen associations recognized by the [New Jersey Racing] Commission pursuant to N.J.A.C. 13:70-1.30 and 13:71-1.25.

3. The Board may compel production of any information, including Internal Revenue Service documents, regarding the payroll of [owner] employees from any person[,] licensed or required to be licensed by the [New Jersey Racing] Commission.

4. (No change.)

13:73-3.4 Assessment of cost for horse racing industry employees [of owners]

(a) [The cost of workers’ compensation insurance or self-insurance coverage for horse racing industry employees employed by owners of horses shall be assessed upon owners through a percentage deduction from that portion of gross overnight purses paid to owners which shall not exceed three percent. In calculating the amount of money which must be deducted from that portion of gross overnight purses paid to owners in order to ensure the collection of sufficient funds to pay the total cost of workers’ compensation insurance or self-insurance coverage as well as any additional costs necessary to carry out the Board’s duties pursuant to the Act, the] **The** Board shall base the assessment upon the amount of gross overnight purses paid to owners for any race[, which falls under the jurisdiction and authority of the New Jersey Racing Commission, during] **occurring in** the 12 months preceding the date on which the assessment is being calculated.

(b) Information regarding the actual gross overnight purses paid to owners shall be obtained from the [New Jersey Racing] Commission.

(c) (No change.)

13:73-3.5 Collection of assessment of cost for horse racing industry employees [of owners]

(a) [Pursuant to N.J.A.C. 13:70-3.29 and 13:71-6.1, every] **Every** owner **and trainer** of horses shall establish a horsemen’s bookkeeper account at each track association where horses owned **or trained** by him or her have been or will be entered to race.

(b) (No change.)

(c) Pursuant to N.J.A.C. 13:70-3.29 and 13:71-21.8, the horsemen’s bookkeepers shall transmit on a weekly basis all monies collected pursuant to this chapter for the cost of workers’ compensation insurance or self-insurance coverage to the [New Jersey Racing] Commission, which shall [then] deposit those monies in a separate account for the use of the Board.

SUBCHAPTER 4. PURCHASE

13:73-4.1 Purchase of workers’ compensation insurance for horse racing industry employees [of owners]

The Board shall review the quotations of premiums provided through the Department of Treasury for workers’ compensation insurance coverage submitted by insurers and shall, within its discretion, select the type of coverage and insurer, pursuant to applicable State law.

SUBCHAPTER 6. APPEALS

13:73-6.1 Appeal procedure

[(a)] Any owner **or trainer** who has paid the cost of assessment pursuant to N.J.A.C. 13:73-3.5, who contests the calculation of the amount of gross overnight purses **or other assessment** deducted from his or her horsemen’s bookkeeper account, may request information from the Board regarding the calculation of the amount deducted. Within three days after receipt of the requested information, the owner **or trainer** may appeal to the Board and submit written documentation of an error in the calculation of the gross overnight purses **or other assessment**. The Board, which may act through its Director or other designated staff, shall review the written submissions and determine if the calculation was in error and notify the owner **or trainer** of its decision.

13:73-6.2 Hearing

Within 10 days after receipt of the Board’s decision, the owner **or trainer** may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and seek reimbursement for any assessment paid in error.

13:73-6.3 No stay pending appeal

All assessments pursuant to this chapter shall be paid when due. No owner **or trainer** shall be granted a stay of the payment of any assessment.

Submit comments by February 2, 2018, to:

Kate Tasch, Administrative Practice Officer
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 160
Trenton, NJ 08666-0160
or via e-mail to: rulecomments@mvc.nj.gov

Summary

The public comment period for this notice of proposal will be 60 days because the notice is not listed in the agency rulemaking calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (Commission) proposes to readopt with amendments the provisions of N.J.A.C. 13:19, Compliance and Safety, specifically, 13:19-1 through 13:19-9 and 11, in accordance with N.J.S.A. 52:14B-5.1. These rules were scheduled to expire on November 1, 2017, pursuant to N.J.S.A. 52:14B-5.1. As the Commission submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to April 30, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). On August 4, 2017, Governor Chris Christie, pursuant to his authority under P.L. 2011, c. 45, Section 10(d)(1), waived the seven-year sunset provision of P.L. 2011, c. 45, Section 10(b) for Subchapters 10, 12, and 13 of N.J.A.C. 13:19, and extended the expiration date for those subchapters until such time as all bonds secured by the Regulatory Surcharges have been retired, which retirement has not yet occurred. See 49 N.J.R. 2967(a).

The rules contained in N.J.A.C. 13:19 implement various provisions of the Motor Vehicle and Traffic Laws, N.J.S.A. 39:1-1 et seq., including those subject to this readoption with amendments pertaining to driver qualification, administrative hearing procedures, cardiovascular disorders, convulsive seizures, installation and use of ignition interlock devices, reciprocity, out-of-State motor vehicle convictions, and driver license suspension. The Commission has reviewed N.J.A.C. 13:19 in accordance with Executive Order No. 66 (1978) and the Administrative Procedure Act, N.J.S.A. 52:14B-5.1, and has determined that the rules are “necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were promulgated,” but has also determined to propose amendments to various rules contained in N.J.A.C. 13:19 for the reasons set forth below.

Subchapter 1 pertains to administrative hearings, and no changes are proposed thereto.

N.J.A.C. 13:19-1.1 provides that the provisions of the subchapter shall apply to administrative hearings in cases involving revocation, suspension, or refusal to renew licenses, including cases involving imposition of insurance surcharges by the Commission pursuant to N.J.S.A. 17:29A-35. However, the provisions of N.J.A.C. 13:19-1 do not apply to hearings in fatal accident cases in which the Commission has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30; requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30.

N.J.A.C. 13:19-1.2 affords a licensee, or his or her attorney, a period of 25 days from the date of notice of proposed Commission action against such licensee in which to make a written hearing request to the Commission. N.J.A.C. 13:19-1.2 also provides that requests for a hearing must specify all disputed material facts that the licensee, or his or her attorney, intends to raise at such hearing. Additionally, requests for a hearing must set forth all legal issues that the licensee, or his or her attorney, intends to raise, and must present all arguments on those issues that the licensee wishes the Commission to consider.

N.J.A.C. 13:19-1.2 provides that when a hearing request fails to set forth any disputed material fact and fails to set forth any legal issue or any argument on an issue, the request for a hearing shall be denied. The Commission shall notify the licensee of this denial and the grounds thereof, and shall notify the licensee that the proposed action shall become effective on such date as the Commission shall specify. The rule further provides that such notice of denial of a hearing request shall be

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Compliance and Safety

Proposed Readoption with Amendments: N.J.A.C. 13:19-1 through 9 and 11

Authorized By: Raymond P. Martinez, Chairman and Chief Administrator, Motor Vehicle Commission.

Authority: N.J.S.A. 17:29A-35, 39:2-3, 39:2A-28, 39:3-10, 39:3-10.4, 39:3-11, 39:3-15, 39:3-15.1, 39:3-16, 39:4-50, 39:4-50.16 et seq., 39:5-30, 39:5D-4, and 39:5F-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-270.