MEETING AGENDA
JULY 25, 2016

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

2. CONSIDERATION OF MINUTES, MEETING OF JUNE 27, 2016

3. REPORT OF EXECUTIVE DIRECTOR

4. RULEMAKING

   A. ADOPTION: SGC-39-15-00005-RP THOROUGHBRED RESTRICTED TIME PERIODS FOR VARIOUS DRUGS

   B. ADOPTION: SGC-22-16-00004-P STANDARDBRED USE OF HOPPLES

   C. ADOPTION: SGC-22-16-00005-P DECOUPLING OF HARNESS HORSES IN MAJOR STAKES RACES

   D. ADOPTION: SGC-23-16-00006-P VOIDABLE CLAIMS BASED ON RACE DAY SAMPLES

   E. ADOPTION: SGC-23-16-00014-P CRITERIA FOR THE LICENSING, CONDUCT AND OPERATION OF INDEPENDENT TESTING LABORATORIES

   F. RE-PROPOSED CASINO RULEMAKING: LICENSING AND REGISTRATION OF EMPLOYEES & VENDORS

5. ADJUDICATIONS

   A. IN THE MATTER OF LOOM LODGE

6. OLD BUSINESS/NEW BUSINESS

7. SCHEDULING OF NEXT MEETING

8. ADJOURNMENT

###

NEW YORK STATE
GAMING COMMISSION

MINUTES

MEETING of JUNE 27, 2016

NEW YORK, NEW YORK

A meeting of the Commission was conducted in New York, New York.

1. Call to Order

Executive Director Robert Williams called the meeting to order at 12:36 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Commissioners John Crotty, Peter Moschetti, John Poklemba, Barry Sample and Todd Snyder. Commissioner Snyder was unanimously elected as presiding officer for the meeting.

2. Consideration of the Minutes from May 23, 2016

The Commission considered previously circulated draft minutes of the meeting conducted on May 23, 2016. The minutes were accepted as circulated.

3. Report of the Executive Director

Executive Director Williams provided a brief report on construction status of the three commercial casino licensees. Williams also provided a post-legislative session recap, and discussed both the upcoming National Council on Problem Gambling Annual Conference and meeting of the Franchise Oversight Board.

4. Rulemaking

a. Adoption: SGC-19-16-00014-P Conduct and Operation of a Gaming Facility

The Commission considered adoption of a proposed regulation regarding rules for the conduct and operation of gaming, conditioned on no substantive comment being received by close of business.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

b. Adoption: SGC-19-16-00013-P Surveillance Standards for a Licensed Gaming Facility

The Commission considered adoption of a proposed regulation regarding gaming facility surveillance, conditioned on no substantive comment being received by close of business.

ON A MOTION BY: Commissioner Poklemba
APPROVED: 5-0

c. Proposed Commercial Casino Rulemaking: Definitions

The Commission considered a proposal of regulations regarding amendment to certain casino rule definitions.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

d. Proposed Commercial Casino Rulemaking: Excluded Persons

The Commission considered a proposal regarding excluded persons at casinos.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

e. Proposed Commercial Casino Rulemaking: Junket Operator Licensing

The Commission considered a proposal of regulations regarding the licensing of casino junkets.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

f. Proposed Commercial Casino Rulemaking: Lobbyist Registration

The Commission considered a proposal regarding registration of casino lobbyists.

ON A MOTION BY: Commissioner Moschetti
APPROVED: 5-0

g. Proposed Commercial Casino Rulemaking: Registration of Labor Unions

The Commission considered a proposal of regulations regarding the registration of labor unions.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

h. Proposed Commercial Casino Rulemaking: Table Game Equipment

The Commission considered a proposal regarding rules that set forth requirements for the inspection, use, storage and destruction of table game equipment.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

i. Proposed Commercial Casino Rulemaking: Table Game Standards

The Commission considered a proposal of regulations regarding requirements for the conduct and operation of table games at licensed gaming facilities.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

5. Old Business/New Business

No old or new business was offered for discussion.

7. Scheduling of Next Meeting

It was announced that the next meeting date would be July 25, 2016.

8. Adjournment

The meeting was adjourned at 1:02 p.m.

###

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Adoption of Rulemaking for Thoroughbred Restricted Time Periods for Various Drugs
(9 NYCRR §§ 4043.2(a)(1), 4043.2.(e)(14) and 4043.2(e)(20))

For the Commission's consideration is the adoption of revised proposed regulations that would amend the Thoroughbred racing restricted time periods for the permissible use of two drugs, dimethyl sulphoxide ("DMSO") and diclofenac. The Commission had proposed such amendments at its March 12, 2014 meeting and revised the proposal at its January 26, 2016 meeting. The revised proposal was published in the *State Register* on June 8, 2016. A copy of that notice is attached.

The purpose of the proposed amendments was to make the restricted time periods for DMSO and diclofenac consistent with the *per se* regulatory thresholds for 24 drugs that the Commission adopted and that became effective on December 31, 2014. In response to public comments from the Racing Medication and Testing Consortium ("RMTC") and the New York Thoroughbred Horsemen's Association, Inc. ("NYTHA"), the revised proposal allowed for race-day topical use of DMSO. State Equine Medical Director Scott Palmer and New York Drug Testing and Research Laboratory Director George A. Maylin each opined that race-day use of DMSO does not pose a threat to racing integrity or the safety and health of race horses and supported permitted topical race-day use of DMSO.

The revised proposal reflects the RMTC and NYTHA comments and, following consultation with Dr. Palmer and Dr. Maylin, includes a further revision limiting other methods of DMSO permitted use until 48 hours before racing to only oral and intravenous administration. The Jockey Club submitted a comment during the revised proposal public comment period, expressing support of for the revised proposal.

[redacted]

attachments

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering
Dr. Scott Palmer, Equine Medical Director

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Adoption of Rulemaking for Use or Removal of Hopples
(9 NYCRR §§ 4113.5 and 4117.3)

For Commission consideration is the adoption of a revision to the Commission's horse racing rules in regard to the use or removal of hopples for Standardbred horses. Hopples are leather or plastic straps that go around a horse's body and legs to keep the horse on proper gait, either pacing or trotting. The text of the proposed rule was published in the *State Register* on June 1, 2016. A copy of that notice is attached. The public comment period ended on July 18, 2016. No public comments were received.

This proposal would allow the trainer discretion when entering a horse to race to change whether a horse will use hopples or not, subject to oversight by the Commission judges at the racetrack. The disqualification rule would no longer require the judges' permission for a horse's first use of hopples. Instead, the program would be required to report any changes in a horse's use of hopples. The amendments would also allow a trainer more flexibility to change hopples as appropriate for local track configurations and conditions without incurring the time and expense of requalifying a horse.

[redacted]

attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

29. COMMENT:

Several commenters expressed opposition to allowing undocumented aliens to apply for teaching licenses as they are criminals who have violated immigration laws and should not be rewarded for doing so.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law. Moreover, all teachers are required to have a criminal history record check prior to certification and as a condition of employment in the schools of this State.

30. COMMENT:

Commenter expressed concern regarding the ability to run a background check on an undocumented alien and the consequences of the same.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers because the individuals covered under the proposed amendment are lawfully present in the United States under current immigration law.

Moreover, all teachers are required to have a criminal history record check prior to certification and as a condition of employment in the schools of this State.

31. COMMENT:

Commenter stated that it is not a question of fairness but a question of legality. If you don't like the Federal Immigration Laws work to have them changed at the Federal level, not side step them on the state level. What kind of example does it set for the children to have someone who's breaking a law teaching them? If the state is bent on fairness how about allowing returning veterans and/or their spouses from out of state (all citizens), be licensed in a more expeditious manner?

DEPARTMENT RESPONSE:

The Department believes that the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law.

The Department is also working with the Legislature on proposed legislation to expedite the licensing of military spouses.

32. COMMENT:

Commenter is a retired assistance principal and expressed that we already certify substandard educators and until there is a national database of teachers who lost their licenses in other states, I feel our children deserve the highest caliber personnel to educate them. If military spouses have licenses in states we have reciprocity with, they should be given provisional certification. Not all states are as stringent as we are and we should not lower our standards. Our children deserve the best.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing. The Department is also currently working with the Legislature on proposed legislation to expedite the licensure process for military spouses.

33. COMMENT:

Commenter expressed dismay and disgust for the proposed regulation to let undocumented workers apply for teaching licenses. These people are in the United States ILLEGALLY. They are in this country because the law has been broken. You think it is fair to the legal residents of this state to reward people that have broken the law by letting them teach our children? If they want to come here, they need to follow the legal process for doing so. What kind of a lesson is this to our youth … that breaking the law is acceptable? Why should my hard-earned tax dollars be spent putting people illegally in the United States on the state payroll? You honestly think this is fair to me?

Why should people who are in the United States ILLEGALLY be afforded the same rights and privileges as those in this country legally? THEY BROKE THE LAW! What part of that do people not understand? We now live in a society so politically correct that breaking the law is acceptable because people fall into certain demographics?

The citizens of New York need to FIRE everyone at the State Education Department and start over by hiring people that respect our immigration laws.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law.

NOTICE OF ADOPTION

Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer Tuberculosis Tests

I.D. No. EDU-10-16-00017-A

Filing No. 496

Filing Date: 2016-05-17

Effective Date: 2016-06-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 64.7 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6527(6)(c), 6902(1) and 6909(4)(c); L. 2015, ch. 464

Subject: Execution by registered professional nurses of non-patient specific orders to administer tuberculosis tests.

Purpose: Authorize administration of other tests to detect/screen for tuberculosis in addition to purified protein derivative (PPD) tests.

Text or summary was published in the March 9, 2016 issue of the Register, I.D. No. EDU-10-16-00017-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS.

An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.

Assessment of Public Comment

The agency received no public comment.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Simplifying How a Trainer May Alter the Use of Hopples

I.D. No. SGC-22-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4113.5 and 4117.3 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Simplifying how a trainer may alter the use of hopples.

Purpose: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text of proposed rule: Section 4113.5 of 9 NYCRR would be amended as follows:

§ 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:

* * *

(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].

* * *

Section 4117.3 of 9 NYCRR would be amended as follows:

§ 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.] *The trainer has discretion on the use of hopples, subject to the judges cancelling any change in the use of hopples on a horse in the exercise of the judges' discretion to protect the integrity of racing and the wagering public.*

(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.] *The entry of the horse shall state whether such horse will use hopples or not. Failure to include a change on the entry form disallows any addition or subtraction of hopples for the race. Every change in a horse's use of hopples must be included in the program.*

(c) Any person found culpable of removing or altering a horse's hopples during a race or between races for the purpose of fraud shall be suspended or expelled.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1, 19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301(1), the Commission is authorized to supervise generally all harness race meetings and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions.

2. Legislative objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making would allow the trainer discretion when entering a harness horse to race to change whether the horse will use hopples, subject to oversight by the Commission judges at the track.

Hopples are straps that help to keep a harness horse on a proper gait, either pacing or trotting, by connecting the front and rear legs on the same side of the horse. The consensus in the industry is that harness horses are able to race well regardless of a change in such equipment and that the wagering public can properly handicap such changes.

Under the current rules, a trainer must get the permission of the presiding judge for any change in the use of hopples (9 NYCRR § 4117.3) and a horse must race satisfactorily in a qualifying race before hopples may be worn or removed for the first time (9 NYCRR § 4113.5).

The proposal would amend these rules to allow the trainer to change whether a horse will use hopples or not, and to change a horse's use of hopples without having to qualify the horse. The proposal instead would require that the race program report any changes in a horse's use of hopples and authorize the judges to disallow any change in the use of hopples when necessary to protect the integrity of racing and the wagering public. This will allow a trainer more flexibility to change hopples as appropriate for local track configurations and conditions without always incurring the time and expense of getting permission from the presiding judge and requalifying the horse to race.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not changing this rule, but decided to propose changes that are less burdensome and are consistent with the capabilities of harness horses and the wagering public.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The proposal seeks to revise the Commission's horse racing rules in regard to the use or removal of hopples for standardbred horses. The proposal would no longer require a harness horse trainer to obtain permission and have the horse participate in a qualifying race before making this minor equipment change. The trainer would be able to indicate the change on the entry form. The change would appear in the race program, and the judges could prevent such a change in the use of hopples when necessary to protect race integrity and wagering public.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Decoupling of Harness Horses in Major Stakes Races

I.D. No. SGC-22-16-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4111.15 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Decoupling of harness horses in major stakes races.

Purpose: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text of proposed rule: Section 4111.15 of 9 NYCRR would be amended as follows:

§ 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] *then on the basis of training. 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.

(1) Except for stakes races with a purse of $25,000 or more, horses trained by the same trainer but owned by different, separate owners may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public. Trainers with an ownership interest in more than one horse must have their horses coupled.

(2) Except for stakes races with a purse of $100,000 or more, horses with common ownership may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public.

(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.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Adoption of Rulemaking for Standardbred Coupling of Entries
(9 NYCRR § 4111.15)

For Commission consideration is the adoption of a revision to the Commission's coupled entries rule Standardbred races. The text of the proposed rule was published in the *State Register* on June 1, 2016. A copy of that notice is attached. Two public comments were received, one from Tioga and Vernon Downs racetracks and one from the director of operations and publicity at The Hambletonian Society. Both comments favored adoption.

This proposal provides that for stakes races of $25,000 or more, separately owned horses having the same trainer may be uncoupled, although horses owned and trained by the same trainer would continue to be coupled entries. For stakes races of $100,000 or more, all horses with common ownership may be uncoupled. In both cases, the uncoupling of horses would be subject to the discretion of the presiding judge to couple the entries in the interest of the wagering public. Adoption would make the Standardbred rule consistent with the Thoroughbred rule.

[redacted]

attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

§ 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.] *The trainer has discretion on the use of hopples, subject to the judges cancelling any change in the use of hopples on a horse in the exercise of the judges' discretion to protect the integrity of racing and the wagering public.*

(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.] *The entry of the horse shall state whether such horse will use hopples or not. Failure to include a change on the entry form disallows any addition or subtraction of hopples for the race. Every change in a horse's use of hopples must be included in the program.*

(c) Any person found culpable of removing or altering a horse's hopples during a race or between races for the purpose of fraud shall be suspended or expelled.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1, 19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301(1), the Commission is authorized to supervise generally all harness race meetings and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions.

2. Legislative objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making would allow the trainer discretion when entering a harness horse to race to change whether the horse will use hopples, subject to oversight by the Commission judges at the track.

Hopples are straps that help to keep a harness horse on a proper gait, either pacing or trotting, by connecting the front and rear legs on the same side of the horse. The consensus in the industry is that harness horses are able to race well regardless of a change in such equipment and that the wagering public can properly handicap such changes.

Under the current rules, a trainer must get the permission of the presiding judge for any change in the use of hopples (9 NYCRR § 4117.3) and a horse must race satisfactorily in a qualifying race before hopples may be worn or removed for the first time (9 NYCRR § 4113.5).

The proposal would amend these rules to allow the trainer to change whether a horse will use hopples or not, and to change a horse's use of hopples without having to qualify the horse. The proposal instead would require that the race program report any changes in a horse's use of hopples and authorize the judges to disallow any change in the use of hopples when necessary to protect the integrity of racing and the wagering public. This will allow a trainer more flexibility to change hopples as appropriate for local track configurations and conditions without always incurring the time and expense of getting permission from the presiding judge and requalifying the horse to race.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not changing this rule, but decided to propose changes that are less burdensome and are consistent with the capabilities of harness horses and the wagering public.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The proposal seeks to revise the Commission's horse racing rules in regard to the use or removal of hopples for standardbred horses. The proposal would no longer require a harness horse trainer to obtain permission and have the horse participate in a qualifying race before making this minor equipment change. The trainer would be able to indicate the change on the entry form. The change would appear in the race program, and the judges could prevent such a change in the use of hopples when necessary to protect race integrity and wagering public.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Decoupling of Harness Horses in Major Stakes Races

I.D. No. SGC-22-16-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4111.15 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Decoupling of harness horses in major stakes races.

Purpose: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text of proposed rule: Section 4111.15 of 9 NYCRR would be amended as follows:

§ 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] *then on the basis of training. 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.

(1) Except for stakes races with a purse of $25,000 or more, horses trained by the same trainer but owned by different, separate owners may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public. Trainers with an ownership interest in more than one horse must have their horses coupled.

(2) Except for stakes races with a purse of $100,000 or more, horses with common ownership may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public.

(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.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1, 19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301(1), the Commission is authorized to supervise generally all harness race meetings and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions.

2. Legislative objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making is needed to increase the wagering opportunities and improve field size in major stakes races in New York by permitting horses with a common trainer or owner to participate in major stakes races without being coupled for betting purposes.

The current rule, 9 NYCRR § 4111.15, provides that horses with a common trainer or owner shall be coupled as a single betting interest in a race. When horses are coupled, it reduces the number of options that are available for a bettor to select in a race. As a result, there is less betting interest and handle on the race, which in turn reduces the amount of take-out for funding the racetrack operations and the support of government. In addition, when horses would be coupled, the trainer and owner are less interested in entering the horses to race. As a result, there are fewer horses in the race, less betting interest and handle, and a reduction in revenue for the track, purses and government.

The proposal would permit not coupling such horses in major stakes races. In a stakes race with a purse or $25,000 or more, horses with different owners but a common trainer will not be coupled. In a stakes race with a purse of $100,000 or more, horses with the same owner will not be coupled. The larger purse amount for horses with a common owner is because the risk of collusion during a race is higher when both horses are owned by the same owner, rather than the horses owned by owners who, despite hiring the same trainer, are competing against each other. At a certain purse amount, which the Commission estimates as $100,000 in such stakes races, the value of winning the purse, and potentially advancing to another stage of the stakes racing program, outweighs the risk of collusion. In addition, bettors have access to information that identifies common trainers or owners of each horse. Finally, the proposal retains the provision that the judges may require any horses to be coupled when it is necessary to protect the public interest.

The proposal also clarifies subdivision (a) of section 4111.15 by having horse ownership and a horse's stable be equivalent.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not changing this rule, but decided to propose changes that are congruent with the approach of other racing jurisdictions and recent amendments to thoroughbred rules.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This proposal only authorizes the standardbred racetrack operators in New York not to couple the entries of horses with common ownership or trainers as a single betting interest in major pari-mutuel stakes races. The proposal will increase the wagering opportunities for those who are interested in wagering on the race. No regulated party will need a period to cure a pending matter because there is no penalty enhancement.

Such regulation will serve the best interests of standardbred racing by increasing the wagering opportunities that racetrack operators may offer to the wagering public. This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

Department of Health

EMERGENCY RULE MAKING

Protection Against Legionella

I.D. No. HLT-22-16-00001-E

Filing No. 481

Filing Date: 2016-05-11

Effective Date: 2016-05-11

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of Part 4 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 225(5)(a)

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: Improper maintenance of cooling towers can contribute to the growth and dissemination of Legionella bacteria, the causative agent of legionellosis. Legionellosis causes cough, shortness of breath, high fever, muscle aches, headaches and can result in pneumonia. Hospitalization is often required, and between 5-30% of cases are fatal. People at highest risk are those 50 years of age or older, current or former smokers, those with chronic lung diseases, those with weakened immune systems from diseases like cancer, diabetes, or kidney failure, and those who take drugs to suppress the immune system during chemotherapy or after an organ transplant. The number of cases of legionellosis reported in New York State between 2005-2014 increased 323% when compared to those reported in the previous ten year period.

Outbreaks of legionellosis have been associated with cooling towers. A cooling tower is an evaporative device that is part of a recirculated water system incorporated into a building's cooling, industrial process, refrigeration, or energy production system. Because water is part of the process of removing heat from a building, these devices require biocides—chemicals that kill or inhibit bacteria (including Legionella)—as means of controlling bacterial overgrowth. Overgrowth may result in the normal mists ejected from the tower having droplets containing Legionella.

For example, in 2005, a cooling tower located at ground level adjacent to a hospital in New Rochelle, Westchester County resulted in a cluster of 19 cases of legionellosis and multiple fatalities. Most of the individuals were dialysis patients or companions escorting the patients to their dialysis session. One fatality was in the local neighborhood. The cooling tower was found to have insufficient chemical treatment. The entire tower was ultimately replaced by the manufacturer in order to maintain cooling for the hospital and to protect public health. In June and July of 2008, 12 cases of legionellosis including one fatality were attributed to a small evaporative condenser on Onondaga Hill in Syracuse, Onondaga County. An investigation found that the unit was not operating properly and this resulted in the growth of microorganisms in the unit. Emergency biocide treatment was initiated and proper treatment was maintained. No new cases were then detected thereafter.

Recent work has shown that sporadic cases of community legionellosis are often associated with extended periods of wet weather with overcast skies. A study conducted by the New York State Department of Health that included data from 13 states and one United States municipality noted a dramatic increase in sporadic, community acquired legionellosis cases in May through August 2013. Large municipal sites such as Buffalo, Erie County reported 2- to 3-fold increases in cases without identifying com-

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Adoption of Rulemaking for Voidable Claims
(9 NYCRR §§ 4038.19(a) and 4109.7(a))

For Commission consideration is the adoption of a revision to the Commission's claiming rules to permit a claimant to void a claim when samples collected the day of the claiming race test positive for an impermissible drug administration. The Commission authorized the proposal of these rules at its April 25, 2016 meeting. The text of the proposed rules was published in the *State Register* on June 8, 2016. A copy of that notice is attached. The public comment period expires on July 25, 2016. No public comments have been received to date. Staff will advise the Commission if any comment is received before the comment period expires.

The current rules recognize positive tests performed on post-race (Rules 4038.19(a) and 4109.7(a)) and TCO_2 samples (Rules 4038.19(g) and 4109.7(f)) as bases to void a claim. With the recent adoption of per se regulatory thresholds, which apply to all samples collected on race day, even before the race, these proposed rules on allowable voiding claims would contemplate drug positives from samples collected before a race, as well as after.

In addition, adoption of the proposal would conform the Standardbred to the Thoroughbred rule, which permits a claimant to void a claim based on an equine drug positive in the race preceding the claiming race (whose result influences claimants), when the positive drug test result is revealed only after the claiming race.

[redacted]

attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

NOTICE OF ADOPTION

Consequences for Commission Licensees, Agents, and Other Regulated Parties Who Violate Prohibition on Underage Wagering

I.D. No. SGC-12-16-00009-A
Filing No. 509
Filing Date: 2016-05-24
Effective Date: 2016-06-08

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 4003.39, 4122.6, 4404.10, 4602.1, 4622.2, 4622.3, 5001.27, 5007.5, 5007.13, 5013.3 and 5117.1 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104, 108 and 116; Tax Law, sections 1601, 1604, 1610 and 1612; General Municipal Law, sections 195-a and 486

Subject: Consequences for Commission licensees, agents, and other regulated parties who violate prohibition on underage wagering.

Purpose: To further enforce the age restriction laws for gambling by imposing fines, suspensions and/or license revocation.

Text or summary was published in the March 23, 2016 issue of the Register, I.D. No. SGC-12-16-00009-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, Schenectady, NY 12305, (518) 388-3407, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The Gaming Commission received two comments, one from the New York Gaming Association (NYGA) and one from six collaborating trade associations representing convenience stores, grocery stores, gas stations, taverns and other retail establishments that are licensed to sell New York Lottery products in regard to this proposed rulemaking. The Commission has considered each of the comments received and decided that no changes were appropriate at this time.

NYGA stated that the proposed regulations are not necessary, inadvisably remove Commission discretion to determine penalties, are unduly harsh in not allowing consideration of mitigating circumstances and impose unreasonable new burdens on operators. In general, NYGA opposed fixed penalties for violations that do not allow for the exercise of Commission discretion. NYGA asserted that facts and circumstances can vary significantly and that "unintentional" violations should not be punished as severely as violations involving "genuine misconduct or fault." NYGA suggested that the importance of advance notice of possible penalties could be addressed through suggested, rather than mandated, penalties. In particular, NYGA stated that the proposed fines for allowing underage wagering at race tracks are excessive, especially with no provision for circumstances in which a minor produces false identification. NYGA noted that with respect to underage violations at video lottery facilities, the proposed penalties would be unduly harsh in circumstances in which apparent violations are remedied quickly (for example, within minutes, or when a minor crosses the gaming floor to use a restroom). NYGA also stated that it would be unfair for multiple violations to accrue from a single incident.

The Commission considered NYGA's comments and did not make any amendments to the proposed rulemaking in response. The Commission is considering whether affirmative defenses similar to those existing in regard to video lottery would be appropriate in other regulated forms of gaming and, if so, will suggest a proposed rulemaking to address those concerns. With regard to the examples of minors on video lottery gaming floors, the Commission would retain discretion to determine whether a violation occurred. Only when it is determined that a violation occurred would the prescribed sanctions apply. For example, in the event the proposed rules were adopted, a minor quickly entering and exiting a gaming floor to use a restroom might, under the circumstances, not be charged as a violation at all. Similarly, an incident in which two minors accompany an adult on a gaming floor might, under the circumstances, be charged as one violation, which would result in one level of fine, not two levels concurrently, as NYGA suggests might be possible.

The second public comment was submitted jointly by the Food Industry Alliance of New York State, the Empire State Restaurant & Tavern Association, the Bodega Association of the United States, the New York State Association of Service Station and Repair Shops, the New York Association of Convenience Stores and the Long Island Gasoline Retailers Association (the "Joint Comment"). The Joint Comment stated that the proposed penalty structure for selling lottery tickets to minors seems to be reasonable. The Joint Comment opposed enforcement of the proposed penalties in regard to lottery vending machines until the Commission retrofits each lottery vending machine with an identification-card reader. The writers of the Joint Comment believed that it is too difficult to monitor a vending machine. The Joint Comment urges that a hearing process should afford lottery retailers an opportunity to defend themselves. The Joint Comment recommends that it be made unlawful for a person over the age of 18 to provide a lottery ticket to an underage customer. The Joint Comment states that language clarifying the meaning of the multiple-violation penalty structure would be beneficial. The Joint Comment states that the regulations should set forth which agency or agencies will be authorized to carry out underage lottery sale enforcement, that retailers should "know up-front what the rules of engagement are" and that an enforcement plan should be detailed and published for comment before put into practice.

The Commission considered the Joint Comment and did not make any amendments to the proposed rulemaking.

Improved technology would be useful to promote compliance in regard to lottery ticket vending machines, but is not necessary. Furthermore, the Commission would retain discretion to determine whether a violation had occurred at all in regard to a violation involving a lottery ticket vending machine.

With regard to hearings for lottery retailers, the Commission is considering whether affirmative defenses similar to those existing in regard to video lottery would be appropriate in other regulated forms of gaming and, if so, will suggest a proposed rulemaking to address that concern, which would include hearing procedures.

With regard to the provision of lottery tickets by purchasers who are over the age of 18 to underage persons, the legislature has made the policy choice that persons under the age of 18 may receive lottery tickets and be entitled to lottery prizes, see Tax Law § 1613(b) (providing for procedures for paying prizes to minors), even though lottery tickets may not be sold to persons under the age of 18. See Tax Law § 1610(a).

With regard to the multiple-violation penalty structure, the Commission believes that the intent is clear to measure the potential penalty for a subsequent violation from the time of the initial violation from which the time period is measured. For example, if violations occur on January 1, 2017, June 1, 2017 and April 1, 2018, to use the example in the Joint Comment, the January 1, 2017 violation would result in a written warning, the June 1, 2017 violation would result in a $500 fine (as a second violation within one year of January 1, 2017) and the April 1, 2018 violation would result in a $500 fine (as a second violation within one year of June 1, 2017). The Commission will consider the advisability of providing examples in written direction to retailers.

With regard to enforcement implementation, the Commission does not believe that the description of enforcement methods is an appropriate matter for regulation.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Voidable Claims Based on Race Day Samples

I.D. No. SGC-23-16-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4038.19(a) and 4109.7(a) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Voidable claims based on race day samples.

Purpose: To enhance the safety and integrity of horse racing while generating a reasonable return for government.

Text of proposed rule: Subdivision (a) of Section 4038.19 of 9 NYCRR would be amended as follows:

§ 4038.19. Certain voidable claims.

(a) [Post race] *Race-day* positive. Should the analysis of a [post-race] *race-day* blood or urine sample taken from a claimed horse result in a [post-race] positive test, or if the *race-day* test results of a previous race have not been cleared by the date of the claim and result in a [post-race]

positive test, the claimant's trainer shall be promptly notified by the stewards and the claimant shall have the option to void said claim within five days of such notice by [the claimant's] *such* trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or the claimant's trainer. In the event the claim is voided, the horse shall be returned to the owner of the horse who subjected the horse to claiming in the race from which the positive test resulted.

* * *

Subdivision (a) of Section 4109.7 of 9 NYCRR would be amended as follows:

§ 4109.7. Certain voidable claims.

(a) [Post-race] *Race-day* positive. Should the analysis of a [post-race] *race-day* blood or urine sample taken from a claimed horse result in a [post-race] positive test, *or if the race-day test results of a previous race have not been cleared by the date of the claim and result in a positive test,* the claimant's trainer shall be promptly notified 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.

* * *

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1), (19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301, which applies to only harness racing, the Commission is authorized to supervise generally all harness race meetings.

2. Legislative objectives: To enable the Commission to preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making is necessary to amend the Commission's claiming rules to permit a claimant of any horse to void the claim when samples collected the day of the claiming race test positive for an impermissible drug administration. The rule making will also permit a claimant of a Standardbred horse to void the claim based on an equine drug positive in the race before the claiming race, when such positive test result is revealed only after the claiming race, as already permitted by the Commission's rules for Thoroughbred racing.

The current rules permit a claimant of a Thoroughbred or Standardbred horse to void a claim when samples collected from the horse after racing, called post-race samples, show in later laboratory testing that the claimed horse was raced in the claiming race in violation of Commission rules restricting the use of drugs and certain other substances in race horses. 9 NYCRR §§ 4038.19(a) and 4109.7(a). This permits a claimant to avoid owning a horse that was illegally drugged while under the care and control of the previous owner and trainer. Such illegal drugging can contribute to a false impression of the health and racing ability of the horse, key considerations that a prospective claimant considers before entering a claim for a horse. Allowing the claimant to void a claim when laboratory tests later reveal such impermissible drug use ensures greater fairness in the claiming transactions. It also serves as a disincentive to owners or trainers who might attempt to secure a higher price for a claiming horse by manipulating its health and performance with drugs. Such misconduct not only misrepresents the horse's condition, it sometimes endangers the health of the horse and other participants in the claiming race.

The Commission has adopted per se regulatory thresholds this year that apply to all samples collected on race day, even before the race. The positive test results based on such race-day samples should also permit a claimant to void a claim because of impermissible drug administrations to the claimed horse.

The proposal would amend the governing rules to allow a claimant to void a claim when any sample collected on race day, not just post-race samples, are later tested and demonstrate that the claimed horse was impermissibly drugged.

The proposal would also amend subdivision (a) of section 4109.7 to permit the claimant of a Standardbred horse to void a claim based on an equine drug positive from the race preceding the claiming race, when such positive drug test result is revealed only after the claiming race. The race before a claiming race is influential to prospective claimants, who should be able to void a claim, entered before the start of the next (claiming) race, upon learning only later that the prior race was misleading because of impermissible drug administrations to the horse.

This protection was extended to the claimants of Thoroughbred horses in 2006, and has worked well to provide additional protection to claimants and a further disincentive to those who might seek to manipulate horses with drugs.

Finally, the proposal makes various changes in style to clarify the rules.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives. The Commission considered no alternatives to the adoption of this rule.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The amendments would permit a claimant, who currently can void a claim when post-race samples test positive after the claiming race, to void a claim when any race-day sample tests positive after the claiming race. The Commission recently adopted regulatory thresholds that apply to any sample collected on race day. The proposal will ensure that a claimant may void the claim of a drugged horse when such drugging is revealed by any test of the Commission.

The amendments would also update the Standardbred rule to correspond to the rule for Thoroughbred claims, by allowing a claimant to void a claim upon learning after the claiming race that the claimed horse in its preceding race was raced while drugged.

These amendments will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Criteria for the Licensing, Conduct and Operation of Independent Testing Laboratories

I.D. No. SGC-23-16-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of Part 5318; and amendment of sections 5100.2 and 5118.6 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), 1303, 1326(1) and 1335(8); Lottery for Education Law (Tax Law, art. 34), section 1617-a(c)

Subject: Criteria for the licensing, conduct and operation of independent testing laboratories.

Purpose: To govern the licensing, conduct and operation, testing and reporting requirements of independent testing laboratories.

NEW YORK STATE OF OPPORTUNITY.
Gaming Commission
One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Adoption of Rulemaking for Independent Testing Laboratories
(9 NYCRR Part 5318 and §§ 5100.2 and 5118.6)

For Commission consideration is the adoption of rules that require a gaming facility licensee to test and certify slot machines and other gaming equipment by licensed independent testing laboratories prior to operation. The Commission authorized the proposal of these rules at its May 23, 2016 meeting. The text of the proposed rules was published in the *State Register* on June 8, 2016. A copy of that notice and a copy of the proposed text are attached. The public comment period expires on July 25, 2016. No public comments have been received to date. Staff will advise the Commission if any comment is received before the comment period expires.

The proposed Part addresses the following topics: the standards for licensing and operating independent testing laboratories, notification and reporting requirements and the recording and reporting of equipment inspection and certification results. The proposed Part also makes the proposed rules applicable to the systems and equipment used in the conduct of video lottery gaming.

[redacted]

attachment

cc: Robert Williams, Executive Director
Chris Palmer, Deputy Director, Division of Gaming

positive test, the claimant's trainer shall be promptly notified by the stewards and the claimant shall have the option to void said claim within five days of such notice by [the claimant's] *such* trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or the claimant's trainer. In the event the claim is voided, the horse shall be returned to the owner of the horse who subjected the horse to claiming in the race from which the positive test resulted.

* * *

Subdivision (a) of Section 4109.7 of 9 NYCRR would be amended as follows:

§ 4109.7. Certain voidable claims.

(a) [Post-race] *Race-day* positive. Should the analysis of a [post-race] *race-day* blood or urine sample taken from a claimed horse result in a [post-race] positive test, *or if the race-day test results of a previous race have not been cleared by the date of the claim and result in a positive test,* the claimant's trainer shall be promptly notified 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.

* * *

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1), (19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301, which applies to only harness racing, the Commission is authorized to supervise generally all harness race meetings.

2. Legislative objectives: To enable the Commission to preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making is necessary to amend the Commission's claiming rules to permit a claimant of any horse to void the claim when samples collected the day of the claiming race test positive for an impermissible drug administration. The rule making will also permit a claimant of a Standardbred horse to void the claim based on an equine drug positive in the race before the claiming race, when such positive test result is revealed only after the claiming race, as already permitted by the Commission's rules for Thoroughbred racing.

The current rules permit a claimant of a Thoroughbred or Standardbred horse to void a claim when samples collected from the horse after racing, called post-race samples, show in later laboratory testing that the claimed horse was raced in the claiming race in violation of Commission rules restricting the use of drugs and certain other substances in race horses. 9 NYCRR §§ 4038.19(a) and 4109.7(a). This permits a claimant to avoid owning a horse that was illegally drugged while under the care and control of the previous owner and trainer. Such illegal drugging can contribute to a false impression of the health and racing ability of the horse, key considerations that a prospective claimant considers before entering a claim for a horse. Allowing the claimant to void a claim when laboratory tests later reveal such impermissible drug use ensures greater fairness in the claiming transactions. It also serves as a disincentive to owners or trainers who might attempt to secure a higher price for a claiming horse by manipulating its health and performance with drugs. Such misconduct not only misrepresents the horse's condition, it sometimes endangers the health of the horse and other participants in the claiming race.

The Commission has adopted per se regulatory thresholds this year that apply to all samples collected on race day, even before the race. The positive test results based on such race-day samples should also permit a claimant to void a claim because of impermissible drug administrations to the claimed horse.

The proposal would amend the governing rules to allow a claimant to void a claim when any sample collected on race day, not just post-race samples, are later tested and demonstrate that the claimed horse was impermissibly drugged.

The proposal would also amend subdivision (a) of section 4109.7 to permit the claimant of a Standardbred horse to void a claim based on an equine drug positive from the race preceding the claiming race, when such positive drug test result is revealed only after the claiming race. The race before a claiming race is influential to prospective claimants, who should be able to void a claim, entered before the start of the next (claiming) race, upon learning only later that the prior race was misleading because of impermissible drug administrations to the horse.

This protection was extended to the claimants of Thoroughbred horses in 2006, and has worked well to provide additional protection to claimants and a further disincentive to those who might seek to manipulate horses with drugs.

Finally, the proposal makes various changes in style to clarify the rules.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives. The Commission considered no alternatives to the adoption of this rule.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The amendments would permit a claimant, who currently can void a claim when post-race samples test positive after the claiming race, to void a claim when any race-day sample tests positive after the claiming race. The Commission recently adopted regulatory thresholds that apply to any sample collected on race day. The proposal will ensure that a claimant may void the claim of a drugged horse when such drugging is revealed by any test of the Commission.

The amendments would also update the Standardbred rule to correspond to the rule for Thoroughbred claims, by allowing a claimant to void a claim upon learning after the claiming race that the claimed horse in its preceding race was raced while drugged.

These amendments will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Criteria for the Licensing, Conduct and Operation of Independent Testing Laboratories

I.D. No. SGC-23-16-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of Part 5318; and amendment of sections 5100.2 and 5118.6 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), 1303, 1326(1) and 1335(8); Lottery for Education Law (Tax Law, art. 34), section 1617-a(c)

Subject: Criteria for the licensing, conduct and operation of independent testing laboratories.

Purpose: To govern the licensing, conduct and operation, testing and reporting requirements of independent testing laboratories.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov): The addition of Part 5318 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe rules requiring that gaming facility and video lottery facility licensees not operate any slot machine, video lottery gaming system or other gaming equipment unless such have been certified by a licensed independent testing laboratory. These rules also establish the standards for licensing and operating an independent testing laboratory as well as the required notification and reporting of inspection and certification results.

Section 5318.1 sets forth the requirement that a gaming facility licensee not operate any slot machine or other gaming equipment unless such has been certified by a licensed independent testing laboratory. Section 5318.2 sets forth licensing requirements for an independent testing laboratory. Section 5318.3 sets forth additional standards for the issuance of a license to an independent testing laboratory. Section 5318.4 sets forth notification and reporting requirements. Section 5318.5 sets forth requirements for the conduct and operation of a licensed independent testing laboratory. Section 5318.6 sets forth the reporting of inspection and certification results.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, Schenectady, NY 12305, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1303 authorizes the Commission to utilize the services of an independent testing laboratory that has been qualified and approved by the Commission to perform the testing of slot machines and other gaming equipment and to utilize applicable data.

Racing Law section 1326(1) requires the Commission to regulate the method and form of vendor licensing including the licensing of independent testing laboratories.

Racing Law section 1335(8) mandates the testing of all slot machines and other gaming equipment prior to being used to conduct gaming.

Lottery for Education Law (Article 34 of the Tax Law) section 1617-a(c) authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out the implementation of video lottery gaming.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the utilization of independent testing laboratories that are qualified and approved by the Commission to perform the testing of slot machines, video lottery gaming systems and other gaming equipment. The rules provide specificity with respect to the above listed statutory directives to assure a credible, independent and secure testing process for all games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems, mobile gaming systems and interactive gaming systems and any components thereof or modifications thereto. The rules represent best practices in the testing of slot machines, video lottery gaming systems and other gaming equipment and are the result of input from stakeholders and other gambling jurisdiction best practices and regulation. Best practices addressed in the proposed rules include the payment of independent testing laboratory service fees, licensing criteria, the conduct and operation of independent testing laboratories, notification and reporting requirements and inspection and certification results.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: Gaming facility and video lottery facility licensees are responsible for the payment of any fees imposed by an independent testing laboratory for services performed. Those fees will be approximately $3 to $4 million annually. Gaming facility and video lottery facility licensees or licensed independent testing laboratories are responsible for the payment of any costs associated with the Commission's review or approval of (i) slot machine, video lottery gaming system and other gaming equipment testing, and (ii) independent testing laboratory inspection, certification or review. Those fees will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility and video lottery facility licensees or licensed independent testing laboratories. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT MANDATES: There are no local government mandates associated with these rules.

6. PAPERWORK: These rules impose paperwork burdens on independent testing laboratories to apply for licensure, perform slot machine, video lottery gaming system and other gaming equipment testing and report on results. Examples of paperwork burdens on the independent testing laboratories include the drafting and maintenance of audits and reviews as well as inspection and certification results.

7. DUPLICATION: These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. These included the definition of associated equipment; the allocation and payment of independent testing laboratory fees; the best practices concerning conduct and operation of an independent testing laboratory; the appropriate entity to receive testing and certification results; the appropriate criteria included in the testing and certification results; and the best practices concerning reciprocity of independent testing laboratory results from other jurisdictions. The Commission is also required to promulgate these rules pursuant to Racing Law sections 1303 and 1335(8).

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

These rules will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rules set forth the requirement that gaming facility and video lottery facility licensees not operate slot machines, video lottery gaming systems or any other gaming equipment unless such have been certified by a licensed independent testing laboratory. These rules also establish the standards for licensing and operating an independent testing laboratory as well as the required notification and reporting of inspection and certification results. These rules apply only to licensed gaming facilities and video lottery facilities.

These rules do not impact local governments or small businesses as it is not expected that any local government or small business will hold a gaming facility or video lottery facility license.

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state and solely apply to licensed gaming facilities and video lottery facilities.

These rules will have no adverse impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

REVISED RULE MAKING
NO HEARING(S) SCHEDULED

Thoroughbred Restricted Time Periods for Various Drugs

I.D. No. SGC-39-15-00005-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

Proposed Action: Amendment of section 4043.2(a) and (e) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 122

Subject: Thoroughbred restricted time periods for various drugs.

PART 5318

Independent Testing Laboratories

Section
5318.1 Use of independent testing laboratories
5318.2 Licensing of independent testing laboratories
5318.3 Additional standards for issuance of a casino vendor enterprise license to an independent testing laboratory
5318.4 Required notification and reporting
5318.5 Operation and conduct
5318.6 Testing and certification results

§ 5318.1. Use of independent testing laboratories.

(a) Testing, certification and approval of games and gaming equipment, including gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, shall comply with Racing, Pari-Mutuel Wagering and Breeding Law section 1335(8).

(b) A licensed manufacturer, a distributor or operator of games or gaming devices or a gaming facility licensee shall be solely responsible for the payment of any fees imposed by the independent testing laboratory for the services of such laboratory.

(c) A licensed manufacturer, distributor or operator of games or gaming devices or gaming facility licensee shall pay any and all costs associated with any review or approval the commission performs of a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any components thereof or modification thereto, including any costs associated with the commission's review of the licensed independent testing laboratory's testing and certification as described in subdivision (a) of this section.

§ 5318.2. Licensing of independent testing laboratories.

(a) An independent testing laboratory that intends to test and certify games, gaming devices, gaming-associated equipment, cashless-wagering systems, inter-casino linked systems, mobile-gaming systems or interactive-gaming systems or any components thereof or modifications thereto, for use in a licensed gaming facility shall be licensed by the commission as a casino vendor enterprise pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this Subchapter.

(b) The commission may require each testing facility at which an independent testing laboratory conducts testing and certification procedures to be licensed as a casino vendor enterprise pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this Subchapter.

(c) An independent testing laboratory shall be certified to perform testing for each of the following categories:

(1) games and game variations;

(2) gaming devices and gaming device modifications;

(3) gaming-associated equipment and gaming-associated equipment modifications;

(4) cashless-wagering systems and cashless-wagering system modifications;

(5) inter-casino linked systems and inter-casino linked system modifications;

(6) mobile-gaming systems and mobile-gaming system modifications;

(7) interactive-gaming systems and interactive-gaming-system modifications; and

(8) any other category of testing and certification that the commission may deem appropriate.

§ 5318.3. Additional standards for issuance of a casino vendor enterprise license to an independent testing laboratory.

(a) Each applicant for an independent testing laboratory license shall:

(1) be independent from any licensed manufacturer, distributor or operator of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;

(2) be accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement; and

(3) demonstrate it is technically competent in testing the category of game, device or system for which a license is sought.

(b) An independent testing laboratory and its owners, managers, supervisory personnel and employees:

(1) shall not have a financial or other interest, direct or otherwise, in a licensed manufacturer, distributor, or operator of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;

(2) shall not participate, consult or otherwise be involved in the design, development, programming or manufacture of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;

(3) shall not have any other interest in or involvement with a licensed manufacturer, distributor or operator of games or gaming devices that could cause the independent testing laboratory to act in a manner that is not impartial; and

The restrictions set forth in paragraphs (1) and (2) of this subdivision do not limit an independent testing laboratory or its owners, managers, supervisory personnel and employees from providing consulting services to a licensed manufacturer, distributor or operator of games or gaming devices, provided that such services do not directly or indirectly indicate, suggest or imply how to design, develop, program or manufacture a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any components thereof or modification thereto.

(c) Each applicant for an independent testing laboratory license and its owners, managers, supervisory personnel and employees shall produce such information, documentation and assurances as the commission may request concerning the criteria set forth in this section.

(d) The commission shall maintain a list of licensed independent testing laboratories on the commission's website, along with the categories of testing each is certified to perform.

§ 5318.4. Notification and reporting requirements.

(a) A licensed independent testing laboratory shall notify the commission immediately if a licensed manufacturer, distributor or operator of games or gaming devices:

(1) attempts, directly or indirectly, to influence improperly a licensed independent testing laboratory or its owners, managers, supervisory personnel and employees, in regard to a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, that it, or another person or entity, has submitted for testing or certification for use in a licensed gaming facility; or

(2) engages in any transaction with a licensed independent testing laboratory that such manufacturer, distributor or operator is using, has used or intends to use to inspect or certify a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, for use by a

licensed gaming facility, in which the licensed independent testing laboratory is required to participate, consult or otherwise be involved in the design, development, programming or manufacture of such items. This restriction does not limit a licensed manufacturer, distributor or operator of games or gaming devices from engaging such licensed independent testing laboratory to provide consulting services, provided that such services do not directly or indirectly indicate, suggest or imply how to design, develop, program or manufacture such items.

(b) Licensed independent testing laboratories shall maintain copies of the results of any ISO/IEC 17025 audits or reviews and shall notify the commission in writing of the availability of such results within 15 days of when such results become available to the licensed independent testing laboratory. Such copies shall be provided to the commission upon request.

§ 5318.5. Conduct and operation.

(a) In the interest of preserving a competitive gaming industry, a licensed independent testing laboratory shall not implement or maintain any procedure or policy or take any action that would:

(1) inhibit or prevent a licensed manufacturer, distributor or operator of games or gaming devices from submitting a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto, for testing and certification for use in a licensed gaming facility; or

(2) call into question or tend to erode the independence of the licensed independent testing laboratory from any clients that use the services of such laboratory.

(b) A licensed independent testing laboratory shall maintain a version-controlled system of testing documentation and methodologies that such laboratory uses to provide certification and such materials shall be made available to the commission upon request. Original testing documentation, methodologies and any revisions to the testing documentation or methodologies must be approved in writing by the commission prior to being used.

(c) All testing shall be conducted in accordance with this Subchapter and all technical standards, control standards, control procedures, policies and industry notices that the commission may implement or issue.

(d) All testing shall be performed by a licensed or registered employee of the licensed independent testing laboratory. The commission may permit a licensed independent testing laboratory to use the services of a third party other than a licensed or registered employee of the independent testing laboratory to perform certain specific functions associated with the testing and certification procedures to be performed. Any such

request shall be made in writing subject to the review and approval of the commission in advance of using the services of a third party.

(e) A licensed independent testing laboratory shall not use, rely on or otherwise refer to any testing, results or work product performed by another licensed testing laboratory for any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto that has not previously been approved in writing by the commission.

(f) A licensed independent testing laboratory shall implement and maintain a system of peer review to monitor the quality of the testing and certification procedures performed by such laboratory.

(g) A licensed independent testing laboratory shall consult with the commission prior to testing, evaluating, analyzing, certifying, verifying or rendering opinions for or on behalf of the commission relating to any new technology or concept.

(h) A licensed independent testing laboratory shall consult the commission on any questions relating to the testing and certification of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked systems, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto.

(i) A licensed independent testing laboratory shall keep confidential all information and data prepared or obtained as part of the testing and certification process.

(j) A licensed independent testing laboratory shall implement and maintain security and access control systems designed to secure and protect the confidentiality of all equipment, software and other information entrusted to it as part of the testing and certification process.

(k) A licensed independent testing laboratory shall maintain all test equipment in accordance with the manufacturer's specifications and recommendations and shall provide the commission with evidence of such upon demand.

(*l*) A licensed independent testing laboratory shall retain all submission and testing-related documentation. Such records may be maintained in electronic form. The obligation to maintain such records continues even if the independent testing laboratory ceases to be licensed with the commission or otherwise ceases its business operation. The independent testing laboratory may turn all such records over to the commission in electronic form as an alternative to having to maintain such records after such laboratory is no longer licensed or after such laboratory ceases business operation.

(m)The commission may conduct periodically an onsite evaluation and review of each licensed independent testing laboratory to evaluate certification results and to verify continued compliance with all licensing requirements and protocols.

(n) The commission shall, at all times, have immediate and unfettered access to the licensed independent testing laboratory's place of business.

(*o*) The commission may establish a system to evaluate the continued quality of the testing and certification performed by a licensed independent testing laboratory.

(p) A licensed independent testing laboratory, its employees, management and owners shall remain independent of any licensed manufacturer, distributor or operator of games or gaming devices.

(q) no independent testing laboratory employee who was employed by, or performed any work for, a licensed manufacturer, distributor or operator of games or gaming devices within one year prior to such person's date of employment with such independent testing laboratory shall be permitted to inspect or certify any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto for use in a licensed gaming facility, with which such person had any involvement whatsoever while employed by such licensed manufacturer, distributor or operator of games or gaming devices.

(r) Violation of the provisions set forth in this section shall constitute an unsuitable method of operation.

§ 5318.6. Testing and certification results.

(a) Each licensed independent testing laboratory shall provide the commission with the results of the testing and certification process for the commission’s approval. The results shall include, at a minimum, the following:

(1) a statement, signed under penalty of perjury, that the certification process was conducted in accordance with this Subchapter and that the product being certified to the best of the licensed independent testing laboratory's knowledge and belief, meets the requirements of this Subchapter and all technical standards, control standards, control procedures, policies and industry notices implemented or issued by the commission;

(2) the name of the licensed independent testing laboratory that performed the testing;

(3) the license number of the licensed independent testing laboratory that performed the testing;

(4) the location or locations of the facility or facilities the licensed independent testing laboratory used to perform the testing;

(5) the date the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-

gaming system or any component thereof or modification thereto was submitted to the licensed independent testing laboratory for certification;

(6) the start and end dates of the testing performed;

(7) an attestation statement that the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto source code was reproduced;

(8) the part and version number or numbers of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto submitted for certification;

(9) the unseeded HMAC-SHA1 signature of all applicable files, or other method as approved in writing by the commission;

(10) a description of the configuration of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto as tested;

(11) a description of the scope of testing performed;

(12) identification of the State of New York-approved testing document or documents by name and version number;

(13) a description of any issues found during the testing process and the resolution thereof, made available upon request by the commission;

(14) identification of any modification that was not identified by the manufacturer, made available upon request by the commission;

(15) a complete description of the testing conducted as part of the certification of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto that was not covered by the requirements of this Subchapter and all technical standards, control standards, control procedures, policies and industry notices that the commission implements or issues;

(16) a list of all jurisdictions in which the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto has been granted or denied licensure, registration, or similar approval; and

(17) any additional information regarding the testing and certification that the licensed independent testing laboratory considers appropriate for the commission to consider as part of the approval process.

(b) The commission shall approve or reject the results as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1335(8)(b).

(c) The commission may add, modify or remove conditions following the initial gaming device approval as necessary to ensure the integrity of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto and the effective administration of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law.

§ 5100.2. Definitions.

(a) Unless the context indicates otherwise, the following definitions are applicable throughout this subchapter.

*** * ***

(58) *Independent [gaming] testing laboratory* means a laboratory, [selected] licensed by the commission, that shall be used by vendors of the commission to ensure that the central system, site controllers, terminals and associated equipment used in the conduct of video lottery gaming operate in the manner set forth by these regulations.

*** * ***

§ 5118.6. Testing and certification of video lottery gaming systems.

The central system, video lottery terminals and associated equipment used in the conduct of video lottery gaming, or a prototype thereof, shall be tested and approved [as the commission shall require] in a manner consistent with Part 5318 of this Chapter as if a video lottery gaming agent were a gaming facility licensee and as if a vendor were a licensed casino vendor enterprise.

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: July 18, 2016

Re: Proposed Amendments for Licensing and Registration of Employees and Vendors (9 NYCRR Parts 5303 through 5307)

For Commission consideration are proposed amendments to the rules for the licensing and registration of gaming facility employees and vendors. As you may recall, the Commission previously authorized the proposal of Parts 5303 through 5307 on July 6, 2015 and authorized the adoption of such proposed rules on September 10, 2015. During the licensing process, staff had several conversations, both within the agency and with prospective licensees, about clarifying aspects of the regulations and believes several amendments are warranted. These include:

- Amendments to section 5303.9 clarify Commission expectations in regard to updating a submitted application;
- Amendments to section 5303.15 (to be renumber section 5303.14) specify the process and circumstances under which an applicant denied a license or registration, or a licensee or registrant whose license or registration has been revoked, may re-apply;
- Amendments to section 5306.2(b) apply the statutory disqualification criteria to applicants for a non-gaming employee registration;
- An amendment to section 5306.4 sets the term for a non-gaming employee registration at five years, to match the statutory five-year duration for a casino key employee and gaming employee license;
- Amendment to section 5307.2 revises language to allow for more enterprises to be categorized as vendor registrants rather than ancillary casino vendor enterprises;
- Amendments to section 5307.3 designate groups of vendors who are not required to be licensed or registered;

- Amendments to section 5307.5 clarify the forms required for licensing of casino vendor enterprises or ancillary casino vendor enterprises, the standards applicable to such licensing, the forms required for registration of employees of vendor registrants and the standards applicable to such employee registrants.

A copy of the full text of the proposed amendments to Part 5303 through Part 5307 is attached.

[redacted]

attachment

cc: Robert Williams, Executive Director
Chris Palmer, Deputy Director of Gaming

PART 5303

General Provisions [in Regard to] <u>for</u> Licensing and Registration

Section
5303.1 General
5303.2 Identification
5303.3 Fingerprinting
5303.4 Photographing
5303.5 Minimum age
5303.6 Eligibility to work in the United States
5303.7 Filing
5303.8 Processing
5303.9 Amendment
5303.10 Withdrawal
5303.11 Investigations
5303.12 Issuance of license
[5303.13 Disqualifying criteria]
[5303.14] <u>5303.13</u> Fees
[5303.15] <u>5303.14</u> Application and employment after denial or revocation
[5303.16 Disciplinary action]
[5303.17] <u>5303.15</u> Restrictions on wagering

§ 5303.1. General.

(a) The terms *application*, *applicant*, *license*, *licensee*, *registration* and *registrant*, as used in Parts 5303 through 5307 of this Subchapter, relate to occupational licensing and enterprise and vendor licensing and registration as set forth in Titles 3 and 4 of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law.

(b) It shall be the affirmative responsibility of each applicant, licensee and registrant to establish by clear and convincing evidence its qualifications for licensure or registration.

[(c) All licensees and registrants shall have a duty to inform the commission of any action that they believe would constitute a violation of the Racing, Pari-Mutuel Wagering and Breeding Law. No person who so informs the commission shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.]

§ 5303.2. Identification.

(a) Every natural person applying for a license or registration pursuant to [this Part] <u>Parts 5303 through 5307</u> shall establish such person's identity to the satisfaction of the commission pursuant to the requirements of the license or registration application. For the purposes of this Part, applicants for licenses and registrations shall submit to the commission the information as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1323(2) or 1324(4), respectively.

(b) Any natural person may request that the commission change the name designated on such person's application, license or registration by establishing appropriate identity information as may be required by the commission, including, without limitation, as the case may be, a certificate of marriage, a certified copy of a divorce decree or other appropriate court order.

§ 5303.3. Fingerprinting.

(a) Each applicant, licensee or registrant, including each gaming facility principal, casino vendor enterprise principal, casino key employee and other employees, shall, at the time of application and upon renewal, be fingerprinted under the supervision of the commission or a duly authorized representative approved by the commission. In the alternative, the commission may permit a person to submit sets of classifiable fingerprints on fingerprint impression cards provided by the commission.

(b) In the event that the commission cannot obtain usable fingerprints for processing after two good-faith attempts, the commission shall undertake a search of a person's background via other means available to the commission.

(c) Nothing in this [part] Part shall relieve a person who submits fingerprint sets pursuant to subdivision (a) of this section from the duty to disclose any criminal arrests as required by this Part.

(d) Each gaming facility licensee shall remit fingerprinting fees directly to the fingerprinting service provider approved by the commission. However, if the applicant is submitting fingerprints via fingerprint impression cards, the gaming facility licensee shall remit the fee to the commission, payable to the fingerprinting service provider approved by the commission.

* * *

§ 5303.7. Filing.

No application for a license or registration shall be deemed filed with the commission pursuant to this [part] Part until:

(a) all papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification, if applicable, and copies, as the commission may require;

(b) all appropriate application, registration, business disclosure and personal history disclosure forms have been properly completed and submitted;

(c) all required consents, waivers, fingerprint impressions, photographs and handwriting exemplars have been properly submitted;

(d) all other information, documentation, assurances and other materials required or requested at the filing stage pertaining to qualifications have been submitted properly; and

(e) all required fees have been [properly and all required surety has been properly furnished] paid.

§ 5303.8. Processing.

The commission shall process only complete applications. The processing of any application shall not constitute any agreement or acceptance by the commission that the requirements of [the] article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and Parts 5303 through 5307 of this Title have been satisfied.

§ 5303.9. Amendment.

(a) [All applicants, licensees and registrants shall have a duty to ensure that information, documentation and assurances submitted to the commission:] Information contained in an application submitted by an applicant, licensee or registrant shall be updated on a form prescribed by the commission. Each applicant, licensee and registrant shall file promptly with the commission an update explaining any new or changed facts or circumstances whenever any material or significant new or changed fact or circumstance occurs with respect to any matter set forth in the application.

[(1)remains current; and]

[(2)] (b) All applicants, licensees and registrants shall have an obligation to ensure that information, documentation and assurances are submitted to the commission are not misleading in light of the circumstances in which such information, documentation and assurances were submitted.

[(b)] (c) The commission may permit any applicant, licensee or registrant to file an amendment to its application at any time prior to final action thereon by the commission.

[(c)] (d) The failure of an applicant, licensee or registrant to comply with this [part] Part shall be grounds for rejection of the application or for suspension or revocation of a license or registration.

§ 5303.10. Withdrawal.

(a) Prior to [a final] the commission [action on any application] granting or denying any application pursuant to this Part, without regard to whether a temporary license has been issued, an applicant or the associated gaming facility licensee may withdraw a filed application by filing with the commission a written notice of such withdrawal. Upon the receipt of such notice, the commission will cease the processing of such application, but will retain such application and materials in accordance with applicable law and commission policy.

(b) If an applicant has previously withdrawn an application, the commission may refrain from processing any application submitted by such applicant within one year from the date of such withdrawal.

(c) No fee or other payment relating to an application shall become refundable by reason of withdrawal of the application, unless the commission determines otherwise for good cause shown. In no event, however, shall a fee for fingerprinting be refundable.

§ 5303.11. Investigations.

The commission, or its designee, shall make or cause to be made an inquiry or investigation concerning an applicant, licensee or registrant, or any affiliate, intermediary, subsidiary or holding company of an applicant, licensee or registrant, as the commission may deem appropriate, and in accordance with [the] article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law, either at the time of the initial application or at any time thereafter.

§ 5303.12. Issuance of a license or registration.

(a) The commission shall notify [the applicant or] the human resource department or other applicable department of the gaming facility licensee in writing or via electronic communications when a license or registration is granted.

(b) Licenses and registrations issued by the commission are nontransferable.

[§ 5303.13. Disqualifying criteria.]

[Subject to notice and an opportunity for hearing, the commission shall deny a license or registration to any applicant who the commission determines is disqualified on the basis of the criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1318.]

§ [5303.14] 5303.13. Fees.

All fees payable to the commission pursuant to Parts 5303 through 5307 of this Subchapter shall be paid by electronic funds transfer and shall be deposited into the commercial gaming revenue fund.

(a) *Application fee*. Upon submission of an application for a license or registration the New York State Police will charge the gaming facility licensee an amount that reflects the anticipated costs of the investigation of such applicant.

(b) *License fee*. Upon approval of an application for a license or registration the commission [will] may charge the gaming facility licensee a license fee as set forth in the applicable license application.

(c) *Renewal application fee*. Upon submission of a renewal application for a license or registration, the New York State Police will charge the gaming facility licensee an amount that reflects the anticipated costs of the investigation of such applicant.

(d) *Renewal license fee*. Upon approval of a renewal application for a license or registration the commission [will] may charge the gaming facility licensee a renewal fee as set forth in the applicable renewal license application.

§ [5303.15] 5303.14. Application and employment after denial or revocation.

[(a) Any natural person whose application for a license or registration is denied, or whose license or registration is suspended or revoked by reason of a failure to satisfy the affirmative qualification criteria required by this Part, or due to a finding by the commission that such person is disqualified, or both, may re-apply for such license or registration at any time after the failure or disqualification is cured.]

[(b)] (a) Any natural person whose license, [or] registration or application was denied, [or whose license or registration was] suspended or revoked by the commission on the basis of any of [the statutory or regulatory] the following provisions [in paragraphs (1) through (4) of this subdivision, may reapply for a license or registration upon satisfaction of the relevant requirements set forth in in this subdivision. If the denial, suspension or revocation is based upon two or more such regulatory provisions, the commission shall permit reapplication only upon compliance with the requirements of this subdivision as to each such provision. Any person seeking to reapply pursuant to this subdivision shall file a certified petition stating with particularity how the specified requirements have been satisfied. The bases that require such certified petition are:] may reapply at any time after the failure or disqualification is cured:

(1) failure to demonstrate financial stability, after which reapplication is permitted only upon achieving financial stability;

(2) failure to satisfy the age requirement, after which reapplication is permitted only upon attaining the requisite age [or upon a commission finding that such age will be attained before the processing and approval of such reapplication has been completed];

(3) [pending disposition of a charge of any criminal offense,] if the commission has determined to deny a license or registration application or suspend or revoke a license or registration [while such charge is pending, after which] based upon a pending disposition of a criminal offense, reapplication is permitted [only] upon disposition of the pending charge; and

(4) any statutory or regulatory provision that is subsequently repealed or modified, after which reapplication is permitted only upon a showing that the subsequent repeal or modification of the statutory or regulatory provision obviates the grounds for denial or revocation and justifies the conclusion that the prior determination should not be a basis for denying a license or registration application.

(b) Any person seeking to reapply pursuant to subdivision (a) of this section shall file with the commission a petition stating with particularity how the failure or basis for disqualification has been cured.

(c) Except as otherwise set forth in this Part, any person whose application has been denied or whose license or registration has been revoked may reapply after one year. The reapplication [must] shall include submission of sufficient evidence demonstrating that the factual circumstances upon which the denial or revocation was based have been cured to the satisfaction of the commission.

§ [5303.16. Disciplinary action.]

[If the commission determines, after investigation, that any licensee or registrant has violated any provision of the Racing, Pari-Mutuel Wagering and Breeding Law or this Subchapter, the commission is permitted to levy and collect penalties as provided in Racing, Pari-Mutuel Wagering and Breeding Law section 116 and article 13 and may suspend, limit, restrict or revoke any license or registration.]

§ [5303.17] 5303.15. Restrictions on wagering.

Wagering by casino key employees and gaming employees is restricted as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1336.

PART 5304

Casino Key Employee Licensing

Section
[5304.1 Persons required to obtain a casino key employee license]
[5304.2] 5304.1 Standards for issuance of a casino key employee license
[5304.3] 5304.2 Casino key employee license application and disclosure forms
[5304.4 Temporary license for casino key employee]
[5304.5] 5304.3 Duration of license

[§ 5304.1. Persons required to obtain a casino key employee license.]

[A person, as defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1301(8), is required to obtain a casino key employee license prior to being involved in any gaming licensed activities, unless the commission has granted such casino key employee applicant a temporary license pursuant to 5304.4 of this Part.]

§ [5304.2] 5304.1. Standards for issuance of a casino key employee license.

[(a) Each applicant for a casino key employee license shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1323(2)(a) through (c).]

[(b) The commission shall provide an applicant for a casino key employee license with a copy of criminal history information as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1323(4).]

The specific criteria and standards for casino key employee licensing are set forth in Racing, Pari-mutuel Wagering and Breeding Law sections 1301(8) and 1323(1) through (6).

§ [5304.3] 5304.2. Casino key employee license application and disclosure forms.

[A] An applicant for a casino key employee license [applicant] shall [be required to] file a [casino key employee application] multi-jurisdictional personal history disclosure form and other disclosure forms as [determined] required by the commission.

[§ 5304.4. Temporary license for casino key employee.]

[The commission may issue a temporary license to an applicant for a casino key employee license in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 1323(5) and (6).]

§ [5304.5] 5304.3. Duration of license.

[(a)] Casino key employee licenses shall remain valid [as set forth in] for five years, pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6).

[(b) Each casino key employee license shall indicate an expiration date.]

PART 5305

Gaming Employee Registration

Section
[5305.1 Persons required to register as a gaming employee]
[5305.2] 5305.1 Standards for issuance of a gaming employee registration
[5305.3] 5305.2 Gaming employee registration forms
[5305.4] 5305.3 Duration of registration

[§ 5305.1. Persons required to register as a gaming employee.]

[(a) A person, as defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1301(22), is required to obtain a gaming employee registration prior to being involved in any gaming licensed activities.]

§ [5305.2] 5305.1. Standards for issuance of a gaming employee registration.

[(a) Each applicant for a gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Title.]

(a) The specific criteria and standards for casino key employee licensing are set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1301(22) and 1324(1) through (5).

[(b) The commission shall provide an applicant for a gaming employee registration with a copy of criminal history information as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1324(5).]

[(c) Subsequent to the registration of a gaming employee, the executive director of the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Notwithstanding, a gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.]

(b) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1324(3), a Gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to Article 23-A of the Correction Law.

§ [5305.3] 5305.2. Gaming [Employee] employee [Registration] registration form.

A gaming employee registrant shall file a gaming employee registration form the commission supplies and may amend from time to time.

§ [5305. 4] 5305.3. Duration of registration.

[(a) Gaming] Except as otherwise provided in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6) a gaming employee [registrations] registration shall remain valid [as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6)] for five years.

[(b) Each gaming employee registration shall indicate an expiration date.]

PART 5306

Non-Gaming Employee Registration

Section
5306.1 Persons required to register as a non-gaming employee
5306.2 Standards for issuance of a non-gaming employee registration
5306.3 Non-gaming employee registration forms
5306.4 Duration of registration

* * *

§ 5306.2. Standards for issuance of a non-gaming employee registration.

(a) Each applicant for a non-gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Title.

(b) Subject to notice and an opportunity for a hearing, the commission shall deny a registration to an applicant for a non-gaming employee registration who the commission determines is disqualified on the basis of the criteria contained in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Subsequent to the registration of a non-gaming employee, the executive director of the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Notwithstanding, a non-gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.

§ 5306.3. Non-gaming employee registration forms.

A non-gaming [employee registration applicant] employee registrant shall be required to file a non-gaming employee registration form that the commission supplies and may amend from time to time.

§ 5306.4. Duration of registration.

[(a) Non-gaming registrations shall remain valid as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6).]

[(b) Each non-gaming registration shall indicate an expiration date on the registration.]

A non-gaming employee registration shall remain valid for five years.

PART 5307

Vendor Licensing and Registration

Section

5307.1 [Persons] Entities required to obtain a casino vendor enterprise license
5307.2 [Persons] Entities required to obtain an ancillary casino vendor enterprise license
5307.3 Registration of other vendors
5307.4 Standards for issuance of vendor [license] licenses and registrations
5307.5 Vendor application and disclosure forms
5307.6 Temporary service providers; badges
5307.7 Duration of license and registration

§ 5307.1. [Persons] Entities required to obtain a casino vendor enterprise license.

(a) Any vendor offering goods or services that directly relate to casino or gaming activity, as described in Racing, Pari-Mutuel Wagering and Breeding Law section 1326(1) and (2), shall be required to be licensed as a casino vendor enterprise. In addition, the executive director of the commission may permit an applicant for a casino vendor enterprise license to conduct business transactions with the gaming facility applicant or licensee prior to the licensure of such casino vendor enterprise applicant, effective only for the transaction for which such permission is requested.

(b) In addition to any vendor required to be licensed by this Part, the commission may require a license for any person if the issuance of such license would be consistent with this Part and consistent with the protection of commercial gaming in the State of New York.

§ 5307.2. [Persons] Entities required to obtain an ancillary casino vendor enterprise license.

[Any vendor offering goods and services ancillary to gaming activity shall be required to be licensed as an ancillary casino vendor, as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1326(3). Goods and services ancillary to gaming activity include, without limitation, licensors of games, non-casino alcoholic beverage operators, lessors of casino property not required to hold a casino license, trash haulers, limousine operators and food suppliers.]

(a) Junket enterprises.

(b) Any vendor providing goods or services to the gaming facility, not otherwise licensed pursuant to section 5307.1 of this Part, that the commission determines to be supporting gaming activities directly enough that registration pursuant to section 5307.3 of this Part would be insufficient to protect the integrity of gaming.

§ 5307.3. Registration of other vendors.

(a) Any vendor offering goods and services to a gaming facility applicant or licensee that is not a casino vendor enterprise or an ancillary casino vendor enterprise shall be required to be registered as a vendor registrant, as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1326(5).

(b) Notwithstanding the requirements set forth in this Part, entities engaged in the following fields of commerce that provide goods or services to a gaming facility applicant or licensee, shall not be required to be licensed or registered as a vendor:

(1) insurance companies and insurance agencies;

(2) television, radio newspaper, internet or other similar media outlets used for advertising purposes;

(3) governmental entities performing traditional governmental functions;

(4) professional legal, accounting and financial services;

(5) physicians;

(6) utility companies;

(7) telecommunication companies;

(8) training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;

(9) non-profit charitable corporations or organizations, provided that no consideration is received for the contribution;

(10) professional entertainers and/or celebrity appearances; and

(11) any other person who, by submission of a written petition, demonstrates to the commission that registration as a non-gaming vendor is not necessary to protect the public interest.

§ 5307.4. Standards for issuance of vendor licenses and registrations.

(a) Each applicant for a casino vendor enterprise license, ancillary casino vendor enterprise license or vendor registration shall meet the qualification criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1326.

§ 5307.5. Vendor application and disclosure forms.

(a) Each applicant for a casino vendor enterprise license, ancillary casino vendor enterprise license, or vendor registration shall file a vendor application and registration form and other disclosure forms as determined by the commission.

(b) Owners, managers and supervisory personnel [and employees of a casino vendor licensee or ancillary casino vendor licensee who provide services to the gaming area of a gaming facility] are required to fill out a casino key employee application form and comply with the standards for issuance of a casino key employee license as set forth in section 5304.2 of this Title.

(c) Employees of a casino vendor enterprise licensee or ancillary casino vendor enterprise licensee who provide services to the gaming area of a gaming facility are required to complete a vendor employee license application form and comply with the standards of a casino key employee as set forth in Part 5304 of this Subchapter.

(d) Employees of vendor registrants are required to fill out a non-gaming employee application form and comply with the standards of a non-gaming employee as set forth in Part 5306 of this Subchapter.

* * *

§ 5307.7. Duration of license and registration.

Casino vendor enterprise licenses, ancillary casino vendor enterprise licenses and vendor registrations shall remain valid as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1327.