

NOTICE OF ADOPTION

To Set Forth the Practices and Procedures for the Conduct and Operation of Table Games**I.D. No.** SGC-28-16-00011-A**Filing No.** 840**Filing Date:** 2016-09-06**Effective Date:** 2016-09-21

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

Action taken: Addition of Part 5323 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(g), 1335(4) and (6)

Subject: To set forth the practices and procedures for the conduct and operation of table games.

Purpose: To regulate the conduct and operation of gaming tables.

Substance of final rule: The addition of Part 5323 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission (“Commission”) to prescribe requirements for the conduct and operation of table games.

Section 5323.1 sets forth the definitions applicable to the Part. Section 5323.2 sets forth the requirement for table game staffing plans, table game equipment schematics and table game layouts to be submitted to the Commission for approval. Section 5323.3 requires a gaming facility licensee to establish a dealer training program as part of its system of internal controls. Sections 5323.4 through 5323.7 set forth the table inventory, opening, shift change and closing requirements for table games. Sections 5323.8 and 5323.9 establish requirements for the distribution and removal of chips and coins. Section 5323.10 sets forth the requirements for the acceptance and exchange of cash and coupons for gaming chips or plaques. Section 5323.11 requires a gaming facility licensee to receive commission approval for minimum and maximum table game wagers. Sections 5323.12 and 5323.13 require a gaming facility licensee to post payout odds and table game rules at a table game. Section 5323.14 requires gaming facility licensees to maintain and make available the complete text of authorized table game rules. Sections 5323.15 and 5323.16 set for the requirements for a progressive table game system and payment of progressive wagers. Section 5323.17 sets forth the requirements for the conduct of table game tournaments. Section 5323.18 requires a gaming facility licensee to submit new table games or new features to the Commission for approval. Section 5323.19 authorizes the temporary operation of a new table game or table game feature.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 5323.13(a).

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

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

The Commission made a nonsubstantive change to section 5323.13 in Part 5323 Table Game Standards. The change does not necessitate a revision to the previously published RIS and consolidated RFA, RAFA and JIS statement.

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 comments from one entity, Fox Rothschild LLP on behalf of Montreign Operating Company, LLC, 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. In particular:

1. Proposed Rule 5323.2(c) through (e). The commentator requested the 30-day review period be shortened to seven days. The Commission disagrees and reserves the right to the 30-day review for more complex matters.

2. Proposed Rule 5323.5(d). The commentator requested that only discrepancies of \$25 or more should be reported to the Commission. The Commission disagrees and believes it is prudent to be notified of all discrepancies.

3. Proposed Rule 5323.10(a)(3). The commentator requested that

supervisor approval not be required before a dealer or boxperson distributes chips to a player. The Commission disagrees because the proposed rule does not prescribe the method of obtaining approval.

4. Proposed Rule 5323.17. The commentator suggested that gaming facilities should be allowed to offer tournaments without providing notice to the Commission. The Commission believes that ongoing and/or recurring tournaments do not require notice to the Commission.

5. Proposed Rule 5323.17(a)(3). The commentator requested that the disclosure requirement should be limited to instances where the number of patrons is known in advance of the tournament. The Commission disagrees and believes that the proposed rule should apply in all circumstances.

NOTICE OF ADOPTION

Registration of Lobbyists**I.D. No.** SGC-28-16-00012-A**Filing No.** 841**Filing Date:** 2016-09-06**Effective Date:** 2016-09-21

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

Action taken: Addition of Part 5309 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1329

Subject: Registration of lobbyists.

Purpose: To govern the registration of lobbyists.

Text or summary was published in the July 13, 2016 issue of the Register, I.D. No. SGC-28-16-00012-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, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (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 agency received no public comment.

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Definition of the “Wire” at the Finish of a Harness Race**I.D. No.** SGC-38-16-00004-P

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

Proposed Action: Amendment of section 4100.1 of Title 9 NYCRR.

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

Subject: Definition of the “wire” at the finish of a harness race.

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

Text of proposed rule: Paragraph 48 of subdivision (a) of section 4100.1 of 9 NYCRR would be amended as follows:

§ 4100.1. Definitions.

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

* * *

(48) Wire means a real or imaginary *finish* line *across the track* from the [center of the judge’s stand] *photo-finish camera* to a point immediately across[,] *from the camera* and at right angles to[,] the track.

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, P.O. 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 Rac-

ing 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 make a technical correction to the definition of “wire” in the harness racing rules.

The current definition of “wire,” at 9 NYCRR § 4000.1(a)(48), includes an unnecessary reference to a structure, the judges’ stand. As a result, in cases of temporary and unavoidable relocation of such stand, the definition is needlessly inaccurate. The proposal would amend such rule to delete this reference. The definition of “wire” will continue to include the location of the photo-finish camera and to designate the finish line of the 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 making the definition of “wire” more accurate.

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 proposed amendment is a technical revision to the Commission’s standardbred racing rules’ current definition of the term “wire” to omit an unnecessary reference to a structure.

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

Action taken: Addition of Subpart 67-4 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 1370-a and 1110

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

Specific reasons underlying the finding of necessity: Lead exposure is associated with impaired cognitive development in children. The known adverse health effects for children from lead exposure include reduced IQ and attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral problems, and impaired growth. Although measures can be taken to help children overcome any potential impairments on cognition, the effects are considered irreversible.

Lead can enter drinking water from the corrosion of plumbing materials. Facilities such as schools, which have intermittent water use patterns, may have elevated lead concentration due to prolonged water contact with plumbing material. This source is increasingly being recognized as an important relative contribution to a child’s overall lead exposure. Recent voluntary testing by school districts in New York State and other jurisdictions demonstrate the need to provide clear direction to schools on the requirements and procedures to sample drinking water for lead.

Every school should supply drinking water to students that meets or exceeds federal and state standards and guidelines. Although the federal Environmental Protection Agency (“EPA”) has established a voluntary testing program—known as the “3Ts for Reducing Lead in Drinking Water in Schools”—there is no federal law that requires schools to test their drinking water for lead or that requires an appropriate response, if lead is determined to be present in school drinking water.

To help ensure that children are protected from lead exposure while in school, the Commissioner of Health has determined it necessary to file these regulations on an emergency basis. State Administrative Procedure Act § 202(6) empowers the Commissioner to adopt emergency regulations when necessary for the preservation of the public health, safety or general welfare and that compliance with routine administrative procedures would be contrary to the public interest.

Subject: Lead testing in school drinking water.

Purpose: Requires lead testing and remediation of potable drinking water in schools.

Text of emergency rule: Pursuant to the authority vested in the Commissioner of Health by Public Health Law sections 1370-a and 1110, Subpart 67-4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, to be effective upon filing with the Secretary of State, to read as follows:

SUBPART 67-4: Lead Testing in School Drinking Water

Section 67-4.1 Purpose.

This Subpart requires all school districts and boards of cooperative educational services, including those already classified as a public water system under 10 NYCRR Subpart 5-1, to test potable water for lead contamination and to develop and implement a lead remediation plan, where applicable.

Section 67-4.2 Definitions.

As used in this Subpart, the following terms shall have the stated meanings:

(a) *Action level means 15 micrograms per liter (µg/L) or parts per billion (ppb). Exceedance of the action level requires a response, as set forth in this Subpart.*

(b) *Building means any structure, facility, addition, or wing of a school that may be occupied by children or students. The terms shall not include any structure, facility, addition, or wing of a school that is lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.*

(c) *Commissioner means the State Commissioner of Health.*

(d) *Department means the New York State Department of Health.*

(e) *Outlet means a potable water fixture currently or potentially used for drinking or cooking purposes, including but not limited to a bubbler, drinking fountain, or faucets.*

(f) *Potable water means water that meets the requirements of 10 NYCRR Subpart 5-1.*

(g) *School means any school district or board of cooperative educational services (BOCES).*

Section 67-4.3 Monitoring.

(a) *All schools shall test potable water for lead contamination as required in this Subpart.*

(b) *First-draw samples shall be collected from all outlets, as defined in this Subpart. A first-draw sample volume shall be 250 milliliters (mL), collected from a cold water outlet before any water is used. The water shall be motionless in the pipes for a minimum of 8 hours, but not more than 18 hours, before sample collection. First-draw samples shall be collected pursuant to such other specifications as the Department may determine appropriate.*

(c) *Initial first-draw samples.*

(1) *For existing buildings in service as of the effective date of this*

Department of Health

EMERGENCY RULE MAKING

Lead Testing in School Drinking Water

I.D. No. HLT-38-16-00007-E

Filing No. 842

Filing Date: 2016-09-06

Effective Date: 2016-09-06

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