outside of the left thigh, the rear of the pants between the waistline and the base of the spine or the rear of the helmet;

(3) does not exceed 32 square inches on the outside of each thigh, 10 square inches on the rear of the pants and six square inches on the rear of the helmet; and

(4) appears in black lettering.

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) and 104(1, 19). 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.

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

3. Needs and benefits: This rule making is needed to permit the limited use of certain advertising materials on the clothing of jockeys.

The current rules provide that jockeys may not wear any advertising or promotional material without the permission of the stewards. As a result, jockeys are required to obtain permission to wear the standard logos of their trade and to display their own names in a limited fashion on their clothing. It would be more sensible to permit such to be displayed without requiring stewards' permission.

The proposal would amend 9 NYCRR § 4041.6(a) to allow a jockey to wear the logos of the Jockeys' Guild and the Permanently Disabled Jockeys Fund, provided that each logo does not exceed 10 square inches in size.

The proposal would add a new subdivision (d) to 9 NYCRR § 4041.6 to allow a jockey to display his or her legal name on the pants and helmet of the jockey. The name must be in black lettering and be limited in location and size. The permissible locations would be the outer thighs, the rear waist area, and the back of helmet. The size limitations would be 32, 10 and six square inches, respectively, for each display of the jockey's name.

The proposal reflects the input and support of Jockeys' Guild, Inc., a trade organization that represents jockeys who compete in New York horse racing.

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. The jockey will not be required to wear the additional materials that are permitted on the jockey's clothing.

(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 requiring the Stewards to grant their permission for these displays. This was rejected as inefficient and unnecessary.

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 permits jockeys to wear their trade organization logos (the Jockeys' Guild and the Permanently Disabled Jockeys Fund) and their own legal names on their clothing without having to gain the permission of the race stewards. The logos and names must be limited in size or location. The amendments will make the wearing of such neutral displays more efficient than under the current rule that requires a jockey obtain advance permission from the stewards.

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

Anti-Stacking of NSAIDs and Diclofenac Made a 48 Hour NSAID

I.D. No. SGC-45-16-00004-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 4043.2(e) and 4120.2(e) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19), 301(1), (2) and 902(1)

Subject: Anti-stacking of NSAIDs and diclofenac made a 48 hour NSAID.

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

Text of proposed rule: Subdivision (e) of section 4043.2 of 9 NYCRR would be amended as follows:

§ 4043.2. Restricted use of drugs, medication and other substances.

* * *

(e) The following substances are permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete:

* * *

(14) *no more than one of* the following nonsteroidal anti-inflammatory drugs ([NSAID's] *NSAIDs*): [Phenylbutazone (e.g., Butazolidin)] *diclofenac,* [Flunixin] *flunixin* (e.g., Banamine), *ketoprofen (e.g., Orudis),* meclofenamic acid (*e.g.,* Arquel), naproxen (e.g., Naprosyn, Equiproxen), [Ketoprofen (e.g., Orudis)] *and phenylbutazone (e.g., Butazolidin)*;

* * *

Subdivision (e) of section 4120.2 of 9 NYCRR would be amended as follows:

§ 4120.2. Restricted use of drugs, medication and other substances.

* * *

(e) The following substances are permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete:

* * *

(9) hormones and*, except for any formulation of methylprednisolone,* non-anabolic steroids, e.g., progesterone, estrogens, chorionic gonadatropin, glucocorticoids, except in joint injections as restricted in subdivision (i) of this section;

* * *

(14) *no more than one of the* following nonsteroidal anti-inflammatory drugs ([NSAID's] *NSAIDs*): [Phenylbutazone (e.g., Butazolidin)] *diclofenac*, [Flunixin] *flunixin* (e.g., Banamine), *ketoprofen (e.g., Orudis),* meclofenamic acid (*e.g.,* Arquel), naproxen (e.g., Naprosyn, Equiproxen), [Ketoprofen (e.g., Orudis)] *and phenylbutazone (e.g., Butazolidin)*;

* * *

(18) sulfonamide drugs (e.g., Sulfa; [and]

(19) . . . [.]*; and*

* * *

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

* * *

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), 301(1, 2) and 902(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 and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions, and is directed to adopt rules to prevent horses from racing under the influence of substances affecting their speed. Section 902(1) authorizes the Commission to promulgate rules and regulations for an equine drug testing program that assures the public's confidence and continues the high degree of integrity in pari-mutuel racing and to impose administrative penalties for racing a drugged horse.

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 rules that permit the use of more than one non-steroidal anti-inflammatory drug ("NSAID") within one week of racing and to adjust the Commission's restricted time period governing the administration of the NSAID diclofenac to be consistent with regulatory thresholds.

The current rules permit the use of various approved NSAIDs to treat a horse until 48 hours before racing, 9 NYCRR §§ 4043.2(e)(14) (thoroughbred) and §§ 4120.2(e)(14) (harness), which is an exception to the general rules that no drugs may be used for one week before racing, 9 NYCRR 4043.2(h) (thoroughbred) and 4120.2(n) (harness). The purpose of the 48-hour restricted time period has been to allow more veterinary care for conditions of mild inflammation, but with treatments that cannot affect a horse's pre-race veterinary examination or race performance. The effect of an NSAID, when administered singly, is known to dissipate by race day.

NSAIDs can be administered in combination, however, to increase the potency and duration of effect of each drug. Two NSAIDs administered in small, sub-clinical doses inside of 48 hours before the race, for example, can have a synergistic effect that makes them efficacious on race day. The testing laboratory cannot distinguish such an impermissible administration from two clinical doses given 48 hours before racing. Also, clinical doses given in combination more than 48 hours before racing can be efficacious for more than two days (i.e., on race day).

The administration of more than one kind of NSAID is not necessary to provide good veterinary care to a horse in active racing.

The proposal would amend the governing rules to allow only one NSAID to be used within one week of racing. As amended, the rules would permit the use of NSAIDs as originally intended, namely, to provide therapeutic relief to a horse while ensuring the administrations are neither efficacious on race day nor endanger the horse, jockey, driver, or race integrity.

The proposal would also amend subdivision (e) of sections 4043.2 and 4120.2 to add diclofenac to the list of permissible NSAIDs. This change will make the restricted time period for diclofenac, which is currently impermissible for one week before racing, consistent with the regulatory threshold that the Commission has adopted for diclofenac. A 48-hour restricted time period will provide an assurance to thoroughbred horsepersons that compliance would protect them from violation of such threshold.

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 mandated costs to the existing rules. There is no cost to the regulated party by administering only one NSAID to a horse, rather than administering a combination of NSAIDs.

(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 the adoption of a complex set of interlocking threshold values for all permissible NSAIDs, whose only advantage would purportedly be to permit more than one NSAID to be administered during the week before a horse races, but rejected this alternative because of its needless complexity and permissiveness.

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.

These proposals would limit the administration of non-steroidal anti-inflammatory drugs ("NSAIDs") to using only one kind of NSAID within one week of racing. The practice of using multiple such drugs is not necessary for good veterinary care and may endanger the horse and jockey or driver, as well as race integrity. The proposal would also approve the use of another NSAID, known as diclofenac. These amendments will serve to enhance the health and safety of racehorses and the drivers or jockeys on race day.

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.

State Liquor Authority

NOTICE OF WITHDRAWAL

Updated Price Posting Rules, License Durations, and Recordkeeping Requirements, and Rescinding of Whiskey Dividend Rules

I.D. No. LQR-17-16-00002-W

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

Action taken: Notice of proposed rule making, I.D. No. LQR-17-16-00002-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on April 27, 2016

Subject: Updated price posting rules, license durations, and recordkeeping requirements, and rescinding of whiskey dividend rules.

Reason(s) for withdrawal of the proposed rule: The authority received an industry objection that the addition of a 30 day cutoff for breakage retention didn't go far enough.

Public Service Commission

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-26-15-00016-A

Filing Date: 2016-10-19

Effective Date: 2016-10-19

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

Action taken: On 10/13/16, the PSC adopted an order approving 39 Plaza Housing Corporation's (39 Plaza) petition to submeter electricity at 39 Plaza Street West, Brooklyn, New York.