



September 9, 2013 Meeting Book

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

Agenda

New York State Gaming Commission

September 9, 2013

New York, New York

1. Call to Order
2. Designation of Presiding Officer
3. Approval of Commission Meeting Minutes for August 1, 2013
4. Report of Acting Executive Director
5. Rulemaking
 - a. Permanent adoption of Recognition of Establishment of the Gaming Commission Rules
 - b. Permanent adoption of Lottery Rulemaking for Mega Millions and Raffle Games
 - c. Proposed Rulemaking on Lottery Subscriptions
 - d. Proposed Rulemaking on Notice of Corticosteroid Injections in Claimed Thoroughbred Horses
 - e. Proposed Lottery Prize Payment Manner
6. New Business/Old Business
7. Scheduling of Next Meeting
8. Adjourn

ITEM 5a

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

To: John A. Crotty, Commissioner
John J. Poklemba, Commissioner
Barry C. Sample, Commissioner
Todd R. Snyder, Commissioner

From: Edmund C. Burns, General Counsel

Date: August 27, 2013

Re: Adoption of Proposed Rulemaking—Recognition of Establishment of the Gaming Commission

For Commission consideration is permanent adoption of the comprehensive reorganization of rules the Commission proposed on June 26, 2013. These amendments have been in effect since then as emergency rules.

Please recall that the proposal does not implement any substantive changes. The amendments change references from the Racing and Wagering Board, Chairman of the Board, the Lottery, and the Director of the Lottery to the Commission; reflect the Commission's four divisions; modernize or omit obsolete language; and standardize style and usage. For further details, see the attached June 25, 2013 memorandum.

These rule amendments were proposed as permanent rules in the July 24, 2013 edition of the *New York State Register*. For your reference, the published materials are attached. The full text of the initially proposed rules can be found at <http://www.gaming.ny.gov/amendments.php>.

No public comment has been received in regard to the proposed amendments during the proposed permanent rulemaking comment period, which will end on September 9. Further review has identified several non-substantive style and usage changes to be added to the proposed rules, consistent with the amendments already proposed. An attached chart describes those further changes, which will be added to the text in the final adoption of the amendments, should the Commission approve final adoption.



attachments

cc: Robert Williams, Acting Executive Director
Gardner Gurney, Acting Director, Division of Lottery
Stacy Harvey, Acting Director, Division of Charitable Gaming
James Nielsen, Acting Director, Division of Gaming
Ronald Ochrym, Acting Director, Division of Horse Racing and Pari-Mutuel Wagering

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When New Yorkers Play Responsibly, We All Win.

derivatives. However, under DFA Section 611, failure to adopt a regulation applicable to these banks would have the effect of prohibiting them from engaging in derivative transactions, which would have a severe adverse effect on their ability to manage the risks embedded in their existing balance sheets, as well as the risks arising out of their ongoing business. Such banks would also be left at a substantial competitive disadvantage relative to federally chartered banking organizations, which will be able to continue to enter into derivative transactions so long as they do so in compliance with applicable federal regulations.

2. Compliance Requirements

It is believed that most banks which are located in rural areas and which use derivatives to manage the risk exposures arising out of their activities engage in a relatively limited number of non-complex derivatives transactions. For those banks, it is anticipated that the credit exposure computation required by the regulation will be relatively simple and straightforward. The regulation does not require that banks, including banks that are located in rural areas, produce any additional reports.

3. Professional Services

Banks which are located in rural areas and engage in derivative transactions will already have the information necessary to make the computation regarding the regulation from their existing risk management systems.

4. Compliance Costs

To the extent banks located in rural areas use derivatives, they generally engage in a relatively limited number of non-complex derivative transactions. For such banks, it is anticipated that the credit exposure computation required by the regulation will be relatively simple and straightforward, and the information necessary to make the computation will be readily available from their existing risk management systems. Compliance costs for such banks are expected to be minimal.

While new Part 117 is effective immediately, it is recognized that some banks may require a period of time to ensure that their systems for calculating credit exposure from derivative transactions are consistent with the method of calculation required by the new rule, or to apply for and receive approval from the Superintendent to use an alternative calculation method. Therefore, the rule provides that until July 1, 2013, a bank may use any reasonable methodology to calculate its credit exposure from derivative transactions, subject to the Superintendent's Section 117.8 authority to require use of a different methodology. This provision should further serve to minimize compliance costs for banks that are located in rural areas.

5. Economic and Technological Feasibility

The regulation will provide an economic benefit to banks, including banks that are located in rural areas, since they will be able to continue using derivatives to manage the risk exposures resulting from their normal business activities.

Compliance with the regulation should not present a technological challenge, since banks that use derivatives, including banks that are located in rural areas, already have in place systems to measure and manage their exposures from derivative transactions. Moreover, the provision of the rule effectively giving banks until July 1, 2013 to start using the credit exposure calculation methodology set forth in the regulation, or to get the Superintendent's approval to use an alternative calculation methodology, will facilitate the resolution of any remaining economic or technological issues facing individual banks, including banks that are located in rural areas.

6. Minimizing Adverse Impacts

If the state's lending limit did not take account of credit exposure from derivatives transactions, DFA Section 611 would prohibit insured state banks from engaging in derivatives transactions starting January 21, 2013.

Such a prohibition would have a severely adverse effect on the ability of banks, including banks that are located in rural areas, to manage the exposures embedded in their balance sheets. The inability to manage such risks using derivatives would have the effect of limiting the banks' ability to conduct their usual business in a safe and sound manner. It would also leave banks, including banks which are located in rural areas, at a substantial competitive disadvantage relative to federally chartered banking organizations, which will be able to continue to enter into derivatives transactions so long as they do so in compliance with applicable federal regulations.

7. Rural Area Participation

The Department has had informal discussions regarding preliminary versions of the regulation with industry associations representing banks which engage in derivatives activities, including banks that engage in significant derivatives activities as well as banks that are located in rural areas. The regulation takes account of the comments received in the course of this process.

Job Impact Statement

The regulation will not have an adverse impact on employment in the state. Banking organizations that engage in derivative transactions already have systems and staff in place to manage the credit and other risks associated with those transactions.

Conversely, failing to adopt the regulation could have an adverse impact on employment. Under DFA Section 611, state banks would be prohibited from engaging in derivative transactions and therefore would need to find other uses for staff currently involved in derivatives activity. Moreover, if state banks were no longer able to use derivatives to manage the risks resulting from their current types and levels of business, they might be forced to reduce or restructure the banking services they provide, which could have a further adverse impact on employment levels for both the banks and their customers.

New York State Gaming Commission

EMERGENCY/PROPOSED

RULE MAKING

NO HEARING(S) SCHEDULED

Recognition of Establishment of the Gaming Commission

I.D. No. SGC-30-13-00010-EP

Filing No. 750

Filing Date: 2013-07-09

Effective Date: 2013-07-09

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

Proposed Action: Amendment of Parts 4000/5831 and addition of Parts 5000-5013 and 5100-5122 to Title 9 NYCRR; and repeal of Parts 2800-2836 of Title 21 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 102, 103, 104 and 128

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: (1) The nature and location of the general welfare need:

Effective February 1, 2013, Part A of Chapter 60 of the Laws of 2012 consolidated the New York State Division of the Lottery and the New York State Racing and Wagering Board into a new Gaming Commission. Such Chapter of law was codified as Article 1 of the Racing, Pari-Mutuel Wagering and Breeding Law. The New York State Gaming Commission is authorized by Section 128 of the Racing, Pari-Mutuel Wagering and Breeding Law to promulgate regulations on an emergency basis to ensure the implementation of Article 1 of the Racing, Pari-Mutuel Wagering and Breeding law that established the Gaming Commission.

Pursuant to Section 100 of the Racing, Pari-Mutuel Wagering and Breeding Law, the Legislature found and determined that the gaming industries constitute a vital sector of New York State's overall economy. The Legislature also found and determined that responsive, effective, innovative, state gaming regulation is necessary to operate in a global, evolving and increasingly competitive market place. The Legislature additionally found and determined that establishment of the Gaming Commission was necessary to modernize and transform the present State gaming agencies into a new integrated state gaming commission.

This emergency rulemaking is in the interest of the public welfare to continue growth of the gaming industry which will contribute to economic development and job creation in this State. Further, it is essential to maintain the public confidence and trust in the credibility and integrity of legalized gaming activities. This emergency rulemaking memorializes the consolidation of various regulatory functions into a single oversight body with broad powers.

(2) Description of the cause, consequences, and expected duration of the need to file emergency rules:

The cause of the need is set forth in paragraph #1 above. The consequence of filing this emergency rulemaking is the memorialization of the establishment of the Gaming Commission and its four divisions: Charitable Gaming, Gaming, Lottery and Racing. The Gaming Commission filed this emergency rulemaking with a Notice of Proposed Rulemaking to continue the normal rulemaking procedures relative to these regulations. The Gaming Commission expects this emergency rulemaking to be in effect for ninety days. The Gaming Commission then expects to file a Notice of Adoption after consideration of any comments received during the comment period associated with the Notice of Proposed Rulemaking.

(3) Compliance with the requirements of § 202(1) of the State Adminis-

trative Procedure Act would be contrary to the public interest because it would delay memorialization of the consolidation of the Gaming Commission in applicable regulations. Furthermore, the Gaming Commission has the express statutory authority to promulgate this rulemaking on an emergency basis pursuant to Section 128 of the Racing, Pari-Mutuel Wagering and Breeding Law without regard to the provisions of the State Administrative Procedure Act.

(4) Circumstances necessitate that the public and interested parties be given less than the minimum period for notice and comment because the Legislature determined the urgent need for this rulemaking when it authorized the Gaming Commission to promulgate these rules on an emergency basis as provided in Section 128 of the Racing, Pari-Mutuel Wagering and Breeding Law. The Gaming Commission recognizes the value and importance of public comment and is therefore also filing this emergency rulemaking with a Notice of Proposed Rulemaking to allow for a public comment period and further public review.

Subject: Recognition of establishment of the Gaming Commission.

Purpose: Technical changes to references to the Racing and Wagering Board and Lottery to Gaming Commission.

Substance of emergency/proposed rule (Full text is posted at the following State website:www.gaming.ny.gov):

NEW YORK STATE GAMING COMMISSION TITLE 9 NYCRR
SUBTITLE T

Effective February 1, 2013, Part A of Chapter 60 of the Laws of 2012 consolidated the New York State Division of the Lottery and the New York State Racing and Wagering Board into a new Gaming Commission. Such Chapter of law was codified as Article 1 of the Racing, Pari-Mutuel Wagering and Breeding Law. Pursuant to Sections 123 and 129 of the Racing, Pari-Mutuel Wagering and Breeding Law, unless the context shall otherwise require, whenever the "Racing and Wagering Board" or "Division of Lottery" are referred to or designated in any law or rule pertaining to the functions, powers, obligations and duties transferred and assigned to the Gaming Commission, such reference or designation shall be deemed to refer to the Gaming Commission.

Technical amendments were made throughout the former agencies' regulations to change references from the Racing and Wagering Board, Chairman of the Board, the Lottery and the Director of the Lottery to the Gaming Commission to reflect the Gaming Commission's four divisions: Charitable Gaming, Gaming, Lottery and Racing and to effect other stylistic changes.

In addition to the technical references in the regulations, the Division of the Lottery's regulations are being re-codified into Subtitle T of Title 9 of New York Codes, Rules and Regulations so that the Gaming Commission's regulations are within the same Subtitle for ease of reference. A chart is attached for ease of reference.

REORGANIZATION CHART FOR GAMING COMMISSION RULES
SUBTITLE T. New York State Gaming Commission

Division of NYCRR	Title	Recodified Parts	Former Parts
CHAPTER I	Division of Horse Racing and Pari-Mutuel Wagering	Parts 4000-4550	Parts 4000-4500, 5100-5300 and 5402
Subchapter A	Thoroughbred Racing		
Article 1	Rules of Racing	Parts 4000-4044	Parts 4000-4044
Article 2	Steeplechases, Hurdle Races and Hunt Meetings	Parts 4050-4066	Parts 4050-4066
Article 3	New York-Bred Thoroughbreds	Parts 4080-4081	Parts 4080-4081
Subchapter B	Harness Racing	Parts 4100-4123	Parts 4100-4123
Subchapter C	Quarter Horse Racing	Parts 4200-4237	Parts 4200-4237
Subchapter D	Promotion of Equine Research	Part 4250	Part 4500
Subchapter E	Totalisator Systems	Part 4300	Part 5100
Subchapter F	Off-Track Pari-Mutuel Betting	Parts 4400-4412	Parts 5200-5212

Subchapter G	Internet and Telephone Account Wagering	Part 4500	Part 5300
Subchapter H	Adjudicatory Proceedings for Racing	Part 4550	Part 5402
CHAPTER II	Division of Charitable Gaming	Parts 4600-4831	Parts 5600-5831
Subchapter A	Games of Chance General Provisions, Identification and Licensing	Parts 4600-4611	Parts 5600-5611
Subchapter B	Authorized Games of Chance, Games of Chance Currency, Conduct of Games and Supplies and Equipment	Parts 4620-4627	Parts 5620-5627
Subchapter C	Bingo General Provisions	Parts 4800-4801	Parts 5800-5802
Subchapter D	Bingo Licensing and Registration	Parts 4810-4815	Parts 5810-5815
Subchapter E	Bingo Conduct of Games, Hearings and Appeals	Parts 4820-4823 and 4830-4831	Parts 5830-5823 and 5830-5831
CHAPTER III	Division of Lottery	Parts 5000-5013	21 NYCRR Parts 2800-2835
CHAPTER IV	Division of Gaming	Parts 5100-5300	21 NYCRR Part 2836
Subchapter A	Video Lottery Gaming	Parts 5100-5300	21 NYCRR Part 2836
Subchapter B	[Reserved]	Part 5200	(new)
Subchapter C	[Reserved]	Part 5300	(new)
CHAPTER V	Administration	Parts 5400-5500	Parts 5400-5401
Subchapter A	Public Access to Records	Parts 5400-5401	Parts 5400-5401
Subchapter B	General Provisions	Part 5402	(new)
Subchapter C	Office of Racing Promotion and Development	Part 5500	(new)

Notes:

Subdivision (l) of Section 4002.1 of Subtitle T, Title 9 is repealed. This subdivision repeated the VLT occupational licensing rules in former NYSRWB horse racing rules and is redundant to Subchapter A, Chapter IV, of Subtitle T, Title 9, as amended.

Former Article 4 (Part 4070) of Subtitle T, Title 9 is repealed. This Article, a breakage experiment during 1978-80, is obsolete.

Sections 4081.2 through 4081.6 and section 4082.2 of Subtitle T, Title 9 are repealed. These rules, governing horses foaled during 1979-92 and the 1993 distribution schedule for breeders awards, are obsolete.

Part 5211 of Subtitle T, Title 9 is repealed. This Part, a repetition of the OTB pool distribution contained in statute in the 1970s, is obsolete.

Part 5802 of Subtitle T, Title 9 is repealed. This Part, FOIL and personal privacy rules for bingo regulation, was duplicated elsewhere in former NYSRWB rules and is redundant to Parts 5400 and 5401 of Subtitle T, Title 9, as amended.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire October 6, 2013.

Text of rule and any required statements and analyses may be obtained from: Rick Goodell, New York State Gaming Commission, One Broadway Center, POB 7500, Schenectady NY 12305, (518) 388-3408, email: nylrules@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: Effective February 1, 2012, Part A of Chapter 60 of the Laws of 2012, codified as Article I of the New York State Racing, Pari-Mutuel Wagering and Breeding Law, established the New York State Gaming Commission to regulate gaming and horse racing within the State. Section 128 of such law authorizes the Gaming Commission to promulgate regulations on an emergency basis to implement the establishment of the Gaming Commission, its four divisions and regulation of gaming and racing within the State. These regulations fulfill that mandate.

2. Legislative Objectives: Pursuant to Section 100 of the Racing, Pari-Mutuel Wagering and Breeding Law, the Legislature found and determined that the gaming industries constitute a vital sector of New York State's overall economy. The Legislature also found and determined that responsive, effective, innovative, state gaming regulation is necessary to operate in a global, evolving and increasingly competitive market place. The Legislature additionally found and determined that establishment of the Gaming Commission was necessary to modernize and transform the present State gaming agencies into a new integrated state gaming commission.

3. Needs and Benefits: The regulations satisfy a legislative mandate directing the Gaming Commission to regulate gaming and racing within the State.

The benefits of this rulemaking are to memorialize the establishment of the Gaming Commission and its four divisions: Charitable Gaming, Gaming, Lottery and Racing and to re-codify the existing gaming and racing regulations into one Subtitle for ease of reference.

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: None.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated, since funds originally appropriated for the expenses of operating the Gaming Commission are expected to be sufficient.

c. Sources of cost evaluations: The foregoing cost evaluations are based on the current operation of the Gaming Commission.

5. Local Government Mandates: No local mandates are imposed by rule upon any county, city, village, etc.

6. Paperwork: There are no changes in paperwork requirements.

7. Duplication: This rule will not duplicate, overlap or conflict with any State or Federal statute or rules.

8. Alternatives: In furtherance of its statutory mandate to regulate gaming and racing within the State, the Gaming Commission is proposing this rulemaking to make technical changes to terminology through its rules to memorialize its establishment and the establishment of its four divisions. The alternative to not promulgating this rulemaking, is to not memorialize the establishment of the Gaming Commission in regulation and to allow the existing regulations to continue which do not accurately reflect the structure of the Gaming Commission.

9. Federal Standards: This rule will not duplicate, overlap or conflict with any State or Federal statute or rules.

10. Compliance Schedule: None.

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

The proposal does not require a Regulatory Flexibility Statement, Rural Flexibility Statement or Job Impact Statement. There will be no adverse impact on jobs, rural areas, small business or local governments.

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

Mega Millions and Raffle Games

I.D. No. SGC-30-13-00009-P

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

Proposed Action: Addition of section 5007.14; and amendment of sections 5007.1, 5007.2 and 5007.7 of Title 9 NYCRR.

Statutory authority: Racing and Pari-Mutuel Wagering and Breeding Law, section 104; and Tax Law, sections 1601, 1604, 1612 and 1617

Subject: Mega Millions and Raffle Games.

Purpose: To provide for a Mega Millions game matrix change and raffle game.

Text of proposed rule: Subdivision (b) of Section 5007.1 is amended as follows:

§ 5007.1. Mega Millions purpose.

(b) During each Mega Millions drawing, [6] six Mega Millions Winning Numbers will be selected from [2] two fields of numbers in the following manner: [5] five winning numbers from a field of [1] one through [56] 75 numbers, and [1] one winning number from a field of [1] one through [46] 15 numbers.

Paragraphs (2), (8), and (11) of Subdivision (a) of Section 5007.2 are amended to read as follows:

§ 5007.2. Mega Millions definitions.

(a) The following definitions shall apply to Mega Millions.

(2) Annuity Option[,] is [The] the manner in which the Mega Millions Jackpot Prize may be paid in [26] 30 annual installments.

(8) Mega Millions Play Area[, For] is, for the on-line Mega Millions game, the [areas] area on a Mega Millions play slip identified by an alpha character, A through E, containing two separate fields—one field of [56] 75 and a second field of [46] 15—both containing [one or two] one- or two-digit numbers each. This is the area where the player, or computer if the player is using the Quick Pick option, will select five [(5) one] one- or two-digit numbers from the first field[,] and will select one [(1) one] one- or two-digit numbers from the second field.

(11) Mega Millions Winning Numbers[, For] are, for the on-line Mega Millions game, five [(5) one] one- or two-digit numbers, from one [(1)] through [fifty-six (56)] 75 and one [(1) one] one- or two-digit number from one [(1)] through [forty-six (46)] 15, randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on Mega Millions tickets.

Subdivision (a), clause (i) of subparagraph (4) of subdivision (b) and subdivision (c) of section 5007.7 are amended to read as follows:

§ 5007.7. Prize structure.

(a) For the [on-line] Mega Millions game—Matrix of 5/[56] 75 and 1/[46] 15 with 50 Percent Anticipated Prize Fund.

[Match	Match	Odds	Prize	Percentage of]
[Field 1	Field 2		Category	Prize Fund]
[5	1	1:175,711,536.00	Grand	63.60 percent]
[5	0	1:3,904,700.80	Second	12.80 percent]
[4	1	1:689,064.85	Third	2.90 percent]
[4	0	1:15,312.55	Fourth	1.96 percent]
[3	1	1:13,781.30	Fifth	2.18 percent]
[2	1	1:843.75	Sixth	2.38 percent]
[3	0	1:306.25	Seventh	4.58 percent]
[1	1	1:140.63	Eighth	4.26 percent]
[0	1	1:74.80	Ninth	5.34 percent]
[Reserve]				[0 percent]
[Totals]		[1:39.89]		[100 percent]

Match Field 1	Match Field 2	Odds 1 in	Prize	% of Sales	Level
5	1	258,890,850	JACKPOT	32.577%	1
5	0	18,492,204	\$1,000,000	5.408%	2
4	1	739,688	\$5,000	0.676%	3
4	0	52,835	\$500	0.946%	4
3	1	10,720	\$50	0.466%	5
3	0	766	\$5	0.653%	6
2	1	473	\$5	1.057%	7

ITEM 5b

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

To: John A. Crotty, Commissioner
John J. Poklemba, Commissioner
Barry C. Sample, Commissioner
Todd R. Snyder, Commissioner

From: Edmund C. Burns, General Counsel

Date: August 26, 2013

Re: Rulemaking on Mega Millions and Raffle Games (amendments to 9 NYCRR §§ 5007.1, 5007.2, 5007.7 and 5007.14).

For Commission consideration is a Notice of Adoption for two rule amendments initially approved at the commission's meeting of June 26, 2013. These rules regard the Mega Millions lottery game and proposed raffle lottery games.

With respect to Mega Millions, recall the rule changes are required to comply with the amendments adopted by the multi-state consortium that administers that game. Specifically, the consortium resolved to modify the Mega Millions game matrix, which sets forth win probabilities and prizes. The proposed rule also changes the annuity prize to a ladder payment structure, similar to that used with Powerball. This rule change will allow the Division of the Lottery to continue its participation in the Mega Millions game. The new matrix for Mega Millions is scheduled for launch on October 19, 2013.

Several state lotteries within the Mega Millions and Powerball consortiums voted to inaugurate a new Halloween Millions Raffle game. This game would operate as a multi-state lottery game, but the proposed rule would afford the Commission flexibility to operate a similar, New York-only game in the future. The adoption of the Raffle Game rules will allow the Lottery to participate in this and future multi-state raffle lottery games. The start date of the multi-state raffle game is September 29, 2013.

These rule amendments were proposed as permanent rules in the July 24, 2013 edition of the *New York State Register*. For your reference, the published materials are attached.

No public comment has been received in regard to either proposed rule during the proposed permanent rulemaking comment period, which will end on September 9.



attachment

Commissioners
August 26, 2013
Page 2

cc: Robert Williams, Acting Executive Director
Gardner Gurney, Acting Director, Division of Lottery

Text of rule and any required statements and analyses may be obtained from: Rick Goodell, New York State Gaming Commission, One Broadway Center, POB 7500, Schenectady NY 12305, (518) 388-3408, email: nylrules@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.

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3. Needs and Benefits: The regulations satisfy a legislative mandate directing the Gaming Commission to regulate gaming and racing within the State.

The benefits of this rulemaking are to memorialize the establishment of the Gaming Commission and its four divisions: Charitable Gaming, Gaming, Lottery and Racing and to re-codify the existing gaming and racing regulations into one Subtitle for ease of reference.

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: None.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated, since funds originally appropriated for the expenses of operating the Gaming Commission are expected to be sufficient.

c. Sources of cost evaluations: The foregoing cost evaluations are based on the current operation of the Gaming Commission.

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7. Duplication: This rule will not duplicate, overlap or conflict with any State or Federal statute or rules.

8. Alternatives: In furtherance of its statutory mandate to regulate gaming and racing within the State, the Gaming Commission is proposing this rulemaking to make technical changes to terminology through its rules to memorialize its establishment and the establishment of its four divisions. The alternative to not promulgating this rulemaking, is to not memorialize the establishment of the Gaming Commission in regulation and to allow the existing regulations to continue which do not accurately reflect the structure of the Gaming Commission.

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

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

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(11) Mega Millions Winning Numbers[, For] are, for the on-line Mega Millions game, five [(5) one] one- or two-digit numbers, from one [(1)] through [fifty-six (56)] 75 and one [(1) one] one- or two-digit number from one [(1)] through [forty-six (46)] 15, randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on Mega Millions tickets.

Subdivision (a), clause (i) of subparagraph (4) of subdivision (b) and subdivision (c) of section 5007.7 are amended to read as follows:

§ 5007.7. Prize structure.

(a) For the [on-line] Mega Millions game—Matrix of 5/[56] 75 and 1/[46] 15 with 50 Percent Anticipated Prize Fund.

[Match	Match	Odds	Prize	Percentage of]
[Field 1	Field 2		Category	Prize Fund]
[5	1	1:175,711,536.00	Grand	63.60 percent]
[5	0	1:3,904,700.80	Second	12.80 percent]
[4	1	1:689,064.85	Third	2.90 percent]
[4	0	1:15,312.55	Fourth	1.96 percent]
[3	1	1:13,781.30	Fifth	2.18 percent]
[2	1	1:843.75	Sixth	2.38 percent]
[3	0	1:306.25	Seventh	4.58 percent]
[1	1	1:140.63	Eighth	4.26 percent]
[0	1	1:74.80	Ninth	5.34 percent]
[Reserve]				[0 percent]
[Totals]		[1:39.89]		[100 percent]

Match Field 1	Match Field 2	Odds 1 in	Prize	% of Sales	Level
5	1	258,890,850	JACKPOT	32.577%	1
5	0	18,492,204	\$1,000,000	5.408%	2
4	1	739,688	\$5,000	0.676%	3
4	0	52,835	\$500	0.946%	4
3	1	10,720	\$50	0.466%	5
3	0	766	\$5	0.653%	6
2	1	473	\$5	1.057%	7

1	1	56	\$2	3.542%	8
0	1	21	\$1	4.675%	9
Total		14.71		50.000%	

(b) Jackpot prize payments. For the Mega Millions game:

(4) (i) Annuity option jackpot prizes shall be paid through a 30-year graduated annuity (five percent escalation per payment) in [26] 30 consecutive annual installments. The initial payment shall be paid upon completion of internal validation procedures. The subsequent [25] 29 payments shall be paid annually to coincide with the month of the federal auction date at which the bonds were purchased to fund the Annuity. All such payments shall be made within seven days of the anniversary of the annual auction date.

(c) Second- through ninth-level prizes.

(1) Mega Millions Panels matching five [(5)] of the five [(5)] Mega Millions Winning Numbers drawn for Field 1, but not matching the Mega Millions Winning Number drawn for Field 2, shall be entitled to receive a [Second Prize] second prize of \$[250,000] 1,000,000.

(2) Mega Millions panels matching four [(4)] of the five [(5)] Mega Millions Winning Numbers drawn for Field 1 and the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a [Third] third prize of \$[10,000] 5,000.

(3) Mega Millions panels matching four [(4)] of the five [(5)] Mega Millions Winning Numbers drawn for Field 1 but not matching the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a fourth prize of \$[150] 500.

(4) Mega Millions panels matching three [(3)] of the five [(5)] Mega Millions Winning Numbers drawn for Field 1 and the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a fifth prize of \$[150] 50.

(5) Mega Millions panels matching [two] three of the five Mega Millions Winning Numbers drawn for Field 1 [and] but not matching the Mega Millions winning Number drawn for Field 2 shall be entitled to receive a sixth prize of \$[10] 5.

(6) Mega Millions Panels matching [three (3)] two of the five [(5)] Mega Millions winning numbers drawn for Field 1 [but not matching] and the Mega Millions winning number drawn for Field 2 shall be entitled to receive a [Seventh] seventh prize of \$[7] 5.

(7) Mega Millions panels matching one of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive an eighth prize of \$[3] 2.

(8) Mega Millions Panels matching no numbers of the five Mega Millions winning numbers drawn for field 1 but matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a ninth prize of \$[2] 1.

Section 5007.14 is added to read as follows:

§ 5007.14, Raffle Game definitions.

(a) The following definitions shall apply to a Raffle Game:

(1) Bet ticket means the ticket generated by the computer terminal containing at a minimum a unique multiple-digit number constituting a single play or chance, the drawing date and validation data.

(2) Commission means the New York State Gaming Commission established pursuant to Article 1 of the Racing, Pari-Mutuel Wagering and Breeding Law.

(3) Computer terminal means the device at the sales agent location authorized by the Gaming Commission for the placing of game bets.

(4) Draw date means the date determined by the commission on which the process used to randomly select the winning game numbers takes place for the game.

(5) Game means a Raffle Game, which is a Lottery game in which a player purchases a number or numbers generated by the Lottery's gaming computer system.

(6) Gross sales means the value of the tickets eligible for the game.

(7) Lottery or State Lottery means the New York State Division of Lottery established and operated pursuant to Article 34 of the Tax Law and Article 1 of the Racing, Pari-Mutuel Wagering and Breeding Law.

(8) Manual entry means the capability of the computer terminal operator to enter the amount of dollars wagered by a player for the game into the terminal in response to verbal or written communication by the player. There is no other method of play at the terminal for the game.

(9) Raffle Game means a game played at any sales agent location by purchasing a ticket that will be sold for a limited sales period, in which a number of chances or plays will be offered.

(10) Prize pool means those funds available from the game sales or other sources to support the payment of prizes for the game.

(11) Sales period means a period of time starting from the initial sales date of the game tickets as specified by the Director and ending:

(i) on the date when all available numbers for such Raffle Game sales period have been sold, or

(ii) a date specified by the Director.

(12) Ticket means a Raffle Game ticket produced by the Lottery and sold by a licensed sales agent in an authorized manner containing at a minimum a unique nine-digit number constituting a single play or chance, the drawing date and validation data.

(13) Winning ticket means the ticket bearing the unique numbers randomly selected in the drawing as a winning play.

(b) Sale of Tickets.

(1) The price for a Raffle Game wager shall be determined by the commission prior to the sales period.

(2) Each number shall constitute a single play or chance.

(3) A player shall not select specific game numbers. Numbers shall be generated in an order based on instruction from the gaming central system.

(c) Ticket Price. The price for each Raffle Game wager shall be the price set by the commission.

(d) Drawing.

(1) A Raffle Game drawing will be conducted at a day, time, frequency and location determined by the commission. Winning game numbers are the numbers randomly selected that entitle the legitimate holder of a winning Raffle Game ticket to a prize for which such numbers were drawn. Such winning numbers shall be:

(i) randomly selected in accordance with existing Lottery draw procedures; and

(ii) announced publicly.

(2) A game number can only be selected once during the draw.

(e) Calculation and payment of prizes.

(1) Prizes levels and amounts for the game shall be determined by the commission prior to the sales period and announced publicly.

(2) The commission may hold a daily drawing for one or more prizes. If the commission chooses to award daily prizes, it will publicly announce such prizes prior to the start of the game. Any number drawn as a daily prize shall remain eligible for the top prize. The holder of a winning bet ticket shall win only one daily prize per winning number.

(3) Prize categories and amounts shall be determined by the commission prior to the sales period.

(f) Probability of Winning. The probability of winning a Raffle Game prize on a single qualifying wager shall be determined by the number of prizes awarded divided by the number of total plays in the drawing. The probability of winning a Raffle Game prize shall be determined by the commission prior to the sales period and announced publicly.

(g) Miscellaneous.

(1) A Raffle Game as described in this section may be, at the discretion of the commission, a multi-state game among other participating government-authorized lotteries or a game sold only by the Lottery. The frequency that a Raffle Game is conducted shall be as determined by the commission. If the Raffle Game is a multi-state game, the commission shall operate such game in compliance with any applicable multi-state agreement.

(2) No claimant will be considered eligible to receive a prize without presentation of a valid winning bet ticket.

(3) The commission reserves the right to change the prize structures, frequency of draws, draw dates or the games themselves.

(4) If, for any reason, a bet ticket is not entirely legible or is misprinted or altered in any way, then the computer record created at the time of sale shall be the sole method of determining whether such ticket is a valid winning ticket.

(5) A bet ticket for a Raffle Game may not be cancelled once issued by the computer terminal. The sales agent, however, may receive credit for any unreadable bet ticket issued, as these tickets (although unreadable) are recorded on the computer file as valid bets. A sales agent's request for credit must be postmarked before the draw date in order to receive credit for any such unreadable bet ticket.

Text of proposed rule and any required statements and analyses may be obtained from: Julie B. Silverstein Barker, New York State Gaming Commission, One Broadway Center, Schenectady, New York 12301, (518) 388-3408, email: nyrules@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: Pursuant to the authority conferred in New York State Tax Law Sections 1601, 1604, 1612 and 1617, Racing, Pari-Mutuel Wagering and Breeding Law Section 104, the following official game rules shall take effect and shall remain in full force and effect throughout the New York Lottery's Raffle game and Mega Millions game. Section 1601 of the Tax Law states the purpose of Article 34 of the Tax is to carry out the constitutional mandate to establish a lottery operated by the State. Section 1604 of the Tax Law provides for the Lottery's authority to

promulgate rules and regulations governing the Lottery. Section 1617 of the Tax Law authorizes the Lottery to participate in multi-jurisdictional lottery games. Subdivision 19 of Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law authorizes the Gaming Commission to promulgate rules and regulations necessary to carry out its responsibilities.

2. Legislative objectives: The purpose of operating Lottery games is to generate revenue for the support of education in the State. Amendment of these regulations forwards the mission of the Lottery to generate revenue for education.

3. Needs and benefits: The regulations govern the Millions game and Raffle Game. The revisions to the Mega Millions game are necessary to comply with the amendments adopted by the Mega Millions game consortium which consists of other state-authorized lotteries. This will allow the New York Lottery to continue participation in the Mega Millions game and generate earnings for education. The new Mega Millions game matrix is accepted to be more attractive to jackpot Lottery game players because it will offer a more robust prize structure (for example, the second prize will be a \$1 million). The success of the new Powerball game matrix shows the popularity that higher jackpots and higher non-jackpot prizes are amongst Lottery players.

The Lottery is adding the Raffle game to its mix of draw games because the game provides a distinctive play format and style from other Lottery games, especially due to the game's limited sales period. The limited sales period provides the Lottery with the opportunity to identify such games with a particular holiday or event (for example, Halloween) to grab players' attention. The relatively easy manner in which a player plays the Raffle game which may encourage occasional Lottery players to purchase a ticket for the game. Ticket numbers will be generated automatically by the Lottery's computer system for the Raffle game to mirror the classic raffle game style. The addition of the Raffle Game will allow the New York Lottery to continue its effort to keep and enlarge its market share of players (from within New York State and those visiting New York State from other states) who participate in jackpot lottery games. The New York Lottery anticipates that the Raffle Game will generate more than \$3.5 million in revenue to benefit education in the State.

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: None.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated, since funds originally appropriated for the expenses of operating the existing Lottery games are expected to be sufficient to support this new game.

c. Sources of cost evaluations: The foregoing cost evaluations are based on the New York State Lottery's experience in operating State Lottery games for more than 40 years.

5. Local government mandates: None.

6. Paperwork: There are no changes in paperwork requirements. New game brochures will be issued by the New York State Lottery for public convenience at retailer locations free of charge.

7. Duplication: None.

8. Alternatives: The alternative to amending the Mega Millions regulations is that the New York Lottery will no longer be able to participate in the Mega Millions game which will result in lost revenue to education within the State. The New York Lottery would then forfeit the investment already made by the New York State Lottery for the Mega Millions games. The alternative to adding a Raffle Game is not to proceed with such game which will also result in lost revenue to education that is anticipated to be earned.

9. Federal standards: None.

10. Compliance schedule: None.

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

The proposal does not require a Regulatory Flexibility Statement, Rural Flexibility Statement or Job Impact Statement. There will be no adverse impact on jobs, rural areas, small business or local governments.

Department of Labor

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Responding to Requests for Information and Employer Relief of Charges

I.D. No. LAB-30-13-00011-P

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

Proposed Action: Repeal of section 472.12; and addition of new section 472.12 to Title 12 NYCRR.

Statutory authority: Labor Law, sections 21(11), 530(1), 575 and 581(e)(3)

Subject: Responding to Requests for Information and Employer Relief of Charges.

Purpose: To provide a procedure for timely and adequate response to requests for information and for relief from charges.

Text of proposed rule: Section 472.12 is repealed and a new Section 472.12 is added to read as follows:

§ 472.12 Responding to Requests for Information and Employer Relief of Charges – Timely and Adequately Requirement for Responding

(a) A response to a notice of potential charges (hereinafter referred to as a claim notice) must be received by the Department of Labor within 10 calendar days of the date on the claim notice.

(b) All other requests for information pertaining to an unemployment insurance claim must be received by the Department of Labor within the number of days specified in the written (including electronic transmission) or verbal request for information.

(c) The Department of Labor may communicate its request for information to employers by letter; electronic communication; fax; telephone; through "SIDES," the State Information Data Exchange System (if agreed to by the employer); or other method of communication approved by the Department of Labor.

(d) The claim notice and all other requests for information referenced in subdivisions (a) and (b) shall be sent to the employer's address, fax number, or email address of record on file with the Department of Labor, or an electronic account authorized by the Department of Labor. The Department of Labor may also request information by calling the employer's business telephone number. Employers must notify the Department of Labor when any of the above contact information changes. Requests for information sent to the employer's last known address, business telephone number, fax number, email address or authorized electronic account shall be deemed to have been sent to the correct address for the purposes of this section.

(e) Employers may respond to a claim notice and/or request for information by fax, electronic communication, SIDES, U.S. Postal Service, private delivery service, telephone (if the request for information required a telephone response), or other method of communication approved by the Department of Labor. An employer's response to the Department of Labor shall be deemed to have been received on the date indicated by the date stamp placed on incoming faxes by the Department of Labor's fax machine, the date stamp on paper documents, or the date the electronic submission is received. If no fax or date stamp exists, the receipt date will be deemed to be two days prior to the date the document is entered in the Department's imaging system. If the employer disputes the date a response was received by the Department of Labor, the burden shall be on the employer to provide proof that the response was timely. Proof may include, but is not limited to, a confirmation of delivery, a stamped receipt by an agent of the Commissioner, or an affidavit of personal service on the Commissioner or his/her agent.

(f) An employer's response to a request for information must contain adequate information. To be considered adequate, the response must:

(1) specify the reason(s) for the separation, or other issue affecting the claimant's eligibility or entitlement for benefits;

(2) answer, in good faith, all questions in detail; and

(3) provide all relevant information and documentation for the Department of Labor to render a correct determination regarding the claimant's eligibility or entitlement for benefits.

(g) If the Commissioner of Labor determines that overpayments of benefits occurred because the employer failed to timely or adequately respond to a claim notice or other request for information, the employer's account shall not be relieved of charges relating to the overpayments, except in accordance with subdivisions (h), (i) and (j). The employer shall not be relieved of charges for each week that an overpayment is made, through the date that the Department of Labor makes a determination that the claimant is no longer eligible for or entitled to benefits or makes a determination that results in a reduction of benefits.

(h) An employer shall be relieved of charges imposed in subdivision (g) for the first instance that the employer or its agent fails to provide timely or adequate information, if the employer provides good cause for such failure. Good cause shall include any significant event that the employer could not reasonably have anticipated which affects the employer's ability to respond timely to requests for information, as determined by the Commissioner. After the first instance of failing to provide timely and adequate information, the employer shall only be relieved of charges for a subsequent failure in accordance with the provisions of subdivisions (i) and (j) below.

(i) An employer may be relieved of charges if the charges were due to an error by the Department of Labor.

ITEM 5c

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

To: John A. Crotty, Commissioner
John J. Poklemba, Commissioner
Barry C. Sample, Commissioner
Todd R. Snyder, Commissioner

From: Edmund C. Burns, General Counsel

Date: August 27, 2013

Re: Proposed Rulemaking on Lottery Subscriptions (amendments to 9 NYCRR §§ 5005.1, 5005.2, 5005.3, 5005.4, 5005.5, 5005.6, 5005.7 and 5005.8).

For Commission consideration is a [REDACTED] in regard to lottery subscriptions. [REDACTED] the proposal of a number of revisions to existing regulations to better serve customer needs and preferences.

The proposals are as follows:

Rule	Subject	Proposed change
5005.1(b)	Subscription application	Allow paper or electronic application; make provision of social security number optional
5005.1(c)	Subscription application	Eliminate requirement that a group application contain the names, addresses and social security numbers of each group member; Make 10-member maximum group size apply only to mail applications.
5005.2(b)	Subscription definitions	Modify definition of group to mean two or more individuals whose combined qualifications meet that of an individual subscriber; other technical and clarifying amendments
5005.3(b)	Subscription costs	Technical amendment
5005.4	Subscription application requirements	Make requirement of New York State address applicable to mail applications only; other technical amendments

5005.5	Subscription entry	Technical amendments
5005.6	Subscription prizes	Make subscription prizes that are less than the threshold amount for Federal tax reporting payable to a credit account, which may be used to purchase additional wagers or may be cashed out; other technical amendments
5005.7	Subscription disputes	Technical amendment
5005.8	Miscellaneous	Eliminate 12-day-lead-time requirement for renewals; other technical amendments

The amendments would update the subscription program by allowing the use of newer technologies and addressing limitations imposed by older, outdated processes.

attachment

cc: Robert Williams, Acting Executive Director
Gardner Gurney, Acting Director, Division of Lottery

**NEW YORK STATE GAMING COMMISSION
AMENDMENT OF SECTIONS 5005.1, 5005.2, 5005.3,
5005.4, 5005.5, 5005.6, 5005.7 and 5005.8 OF
NEW YORK CODES, RULES AND REGULATIONS
TITLE 9, SUBTITLE T, CHAPTER III, SUBCHAPTER A**

Pursuant to the authority granted by Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law and Sections 1601, 1604, 1612 and 1617 of the Tax Law, the New York State Gaming Commission hereby promulgates this amendment of Sections 5005.1, 5005.2, 5005.3, 5005.4, 5005.5, 5005.6, 5005.7 and 5005.8 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to read as follows:

Subdivisions (b) and (c) of section 5005.1 are amended to read as follows:

§ 5005.1. Subscription program.

(b) Entry into a subscription program will require the completion and submission of either a paper or electronic version of

- (1) a subscription application form; or
- (2) a subscription renewal [application] form.

The subscriber may [be required to] provide the subscriber's social security number on the respective application form so that prizes requiring Federal reporting or withholding may be automatically sent to the winning subscriber. An application for a group subscription [may] must contain the names[,] and addresses[, and social security numbers] of each group member.

(c) By providing the social security number, the subscriber is authorizing the commission to retain and use the number for the purpose of tax reporting and any other lawful purpose of the commission. No group may exceed 10 members if such group's application was made by mail.

Subdivisions (b), (e), (g), (h), (i), (k), (l), (n), (p) and (q) of section 5005.2 are amended to read as follows:

§ 5005.2. Subscription definitions.

(b) *Confirmation [letter]* means the paper or electronic correspondence sent to a subscriber from the commission confirming the game(s), game characters for each game panel played, the type of plan, the effective date and the expiration date.

(e) *Game numbers* means the numbers selected for each of the game panels played on an application [form].

(g) *Group* means two or more individuals sharing a game subscription whose [individual] combined qualifications meet that of an individual subscriber.

(h) *Group representative* means the individual designated on a group application [form] as the person selected by the group subscribers to act on behalf of the group in handling any communications and prize payments related to the subscription.

(i) *Plan* means the game(s) played, the number of consecutive [games] drawings played and the duration of the subscription as determined by the number of weeks selected by the subscriber.

(k) *Subscriber* means either the individual or the group identified on an application [form] as the person(s) entitled to [the winning] any prize the individual or group may win.

(l) *Subscriber identifying information* means the name, address, subscription number and, taxpayer identification number (if provided) of the subscriber or each member of a group.

(n) *Subscription file* means a file maintained by the commission or the commission's contractors containing subscription information and used in the [prize] determination [process] of sales and prizes.

(p) *Valid Subscription Entry* means one that includes the following: Subscriber identifying information (as defined herein), [selected payment option,] game characters entered on the appropriate commission or contractor computer [file] system that is the official record of subscription entry.

(q) *Valid Group Subscription Entry* means one that includes the following: Subscriber identifying information for each member of the group, [selected payment option,] game numbers entered on the appropriate commission or contractor computer [file] system, which is the official record of group subscription entry.

Subdivision (b) of section 5005.3 is amended to read as follows:

§ 5005.3. Subscription costs.

(b) A subscription may be for one[, two, or three] or more game panels[, or a greater number of game panels] as may be determined by the commission.

Subdivisions (a) and (b) of section 5005.4 are amended to read as follows:

§ 5005.4. Subscription application requirements.

(a) To be accepted for entry without changes, a subscription application must meet the following requirements:

(1) Each game panel must contain the required amount of unduplicated game numbers selected from the numbers available for the game that the applicant indicates on his or her application [form]. If a game panel submitted by an applicant contains no game numbers or fewer than the required amount of game numbers, the Quick Pick option may be used to randomly select game numbers. If an applicant submits an application with more than the required amount of game numbers circled in a game panel, the commission may select the required number of game numbers consecutively from among such selected numbers. All other numbers may be disregarded.

(b) An application may be rejected for any of the following reasons:

- (1) If the application is illegible in whole or in part;
- (2) If the application includes a form of payment that is not acceptable to the commission;
- (3) If the applicant is under the age of 18; or
- (4) If the applicant does not submit a New York State address for a subscription submitted through the U.S. Mail.

Subdivisions (a) and (b) of section 5005.5 is amended to read as follows:

§ 5005.5. Valid subscription entry.

To be a valid entry, a subscription must meet the following requirements:

- (a) To be eligible to win a prize, an application [form], including the subscriber identification information, [lump sum option (if selected),] and the game numbers must be entered into the Division's subscription file to create the official record of subscription entry.
- (b) A confirmation [letter] (paper or electronic) shall be issued by the commission to the subscriber confirming a valid subscription entry has been received.

Subdivisions (a), (b), (c), (d), and (e) of section 5005.6 are amended to read as follows:

§ 5005.6. Payment of subscription prizes.

- (a) Prizes that [exceed \$1 and] are less than the threshold withholding amount for Federal tax reporting will be [remitted to an] placed into the player account created prior to purchase of the player's first subscription. Such prizes may be used to purchase additional subscriptions or the player may request a cash-out and receive payment for any unpaid prizes. Payment will be made to the individual subscriber or group representative whose name appears on the application.
- (b) Prizes that meet or exceed the threshold amount for Federal withholding for an individual will be remitted to the individual subscriber whose name appears on the application [form] minus the required withholding amount.

[(c) Prizes that are greater than \$1 will be remitted to an individual subscriber whose name appears on the application form. Prizes equal to or less than \$1 will be credited to the subscriber's account to reduce the cost of subscription renewal, or in the event the subscriber chooses not to renew such subscriber's subscription, the prize winning(s) in the account will be remitted to the subscriber.]

[(d) For payment of a prize that does not meet the threshold amount for Federal tax reporting to a group subscriber, payment will be made in one payment in the name of the group and the group representative as indicated on the application form, and remitted to the group representative.]

[(e)(c) For payment of a prize that meets or exceeds the threshold amount for Federal withholding to a group subscriber, a payment representing [an equal] the designated share of the prize will be remitted to each individual member of the group. If the subscription or renewal application does not show the taxpayer identification number (social security number or Federal employer identification number) of each group member, the division will withhold appropriate income taxes in accordance with the applicable back-up withholding rules.

Subdivisions (c) section 5005.7 are amended to read as follows:

§ 5005.7. Subscription disputes.

(c) If there is a discrepancy between the information set forth on an application [form] and the information set forth in a confirmation [letter], the subscriber may ask the commission, by written or electronic communication, to resolve the discrepancy. After such a report is received by the commission, the commission shall resolve the discrepancy as soon as possible and issue a revised confirmation [letter]. Resolution may include, but is not limited to, cancellation of the subscription. No change in the subscription shall be effective until a revised confirmation [letter] is issued. No request to resolve a discrepancy shall be accepted after the effective date in the confirmation [letter] issued.

Subdivisions (a) and (b) of section 5005.8 are amended to read as follows:

§ 5005.8. Subscription miscellaneous.

(a) [Furthermore, the] The commission, pursuant to the commission's statutory authority, may from time to time add games to the commission's subscription program [(including but not limited to Mega-Millions)].

(b) A subscription renewal must be processed [at least 12 business days] prior to the expiration date of a current subscription in order to avoid a lapse in the subscription. A renewal application [form] containing current subscription number, games, game numbers, plan, effective date and expiration date will be sent to the subscriber either electronically or by mail. The commission will make reasonable efforts to process renewal applications to assure no interruptions; however, the commission shall not be responsible for an interruption if a renewal application is not processed in sufficient time.

ITEM 5d

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

To: John A. Crotty, Commissioner
John J. Poklemba, Commissioner
Barry C. Sample, Commissioner
Todd R. Snyder, Commissioner

From: Edmund C. Burns, General Counsel

Date: August 27, 2013

Re: Proposed Rulemaking for Notice of Corticosteroid Injections in Claimed Thoroughbred Horses (9 NYCRR § 4038.5)

For Commission consideration is a [REDACTED] to propose the adoption of an expired emergency rule in regard to claimed thoroughbred horses. The rule would require the previous trainer of a claimed horse to provide the new owner, within 48 hours after the claiming race is made official, with an accurate record of all corticosteroid joint injections administered to the horse within the 30 days prior to the claiming race. This notice requirement would allow the new owner and trainer to make more fully informed decisions about veterinary care.

The new rule would amend section 4038.5 of the Commission's thoroughbred claiming rules to add a new subdivision (c), to read as follows:

(c) The previous trainer of a claimed horse shall, within 48 hours after the race is made official, provide to the new owner an accurate record of all corticosteroid joint injections that were administered to the horse within 30 days before the race.

This rule was recommended by the New York Task Force on Racehorse Health and Safety and was in effect as an emergency rule from December 12, 2012 to March 10, 2013. The Commission permitted the rule to lapse while trainers adapted to another emergency rule, which required them to submit a record of every corticosteroid joint injection to the Commission within 48 hours of injection. Trainers (and their veterinarians) now make such reports through the Commission's online reporting system. That online system now has the capability to allow the previous trainer, when requested by a claiming trainer, to grant access to the last 30 days of reported corticosteroid joint injections for the horse. This provision of information can be done electronically, through e-mails and visiting the Commission's website.

Commission staff requested informal, pre-proposal industry comment regarding this potential rule from major horseperson organizations, state-based racetracks and persons who registered to receive such pre-proposal information. To date, no comments have been received.

Commissioners
August 27, 2013
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A copy of the emergency rule adoption notice published in the November 28, 2012 edition of the *New York State Register* is attached.

attachment

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

Purpose: To repeal an outdated reference and establish consistency with Federal requirements regarding accessibility standards.

Text or summary was published in the September 5, 2012 issue of the Register, I.D. No. OMH-36-12-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Removal of References to Standby Sales Service

I.D. No. PSC-48-12-00005-P

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

Proposed Action: The Commission is considering a filing by Central Hudson Gas & Electric Corporation proposing revisions to the Company's rates, charges, rules and regulations contained in P.S.C. No. 12 - Gas.

Statutory authority: Public Service Law, section 66(12)

Subject: Removal of references to Standby Sales Service.

Purpose: To remove references to Standby Sales Service which is no longer offered to Interruptible Transportation customers.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposal filed by Central Hudson Gas & Electric Corporation to remove references to Standby Sales Service in its gas tariff schedule because it is no longer offered to Interruptible Transportation customers. The filing has a proposed effective date of February 1, 2013. The Commission may resolve related matters and may apply its decision here to other companies.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223-1350, (518) 486-2659, email: deborah.swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(12-G-0498SP1)

Racing and Wagering Board

EMERGENCY RULE MAKING

Implementation of Substantive Changes and Procedures Pertaining to Equine Drugs and Reporting Requirements for Thoroughbreds

I.D. No. RWB-48-12-00006-E

Filing No. 1133

Filing Date: 2012-11-13

Effective Date: 2012-12-12

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

Action taken: Amendment of sections 4038.5, 4043.2, 4043.4 and 4012.5 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 101(1) and 902(1)

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

Specific reasons underlying the finding of necessity: The Board has determined that immediate adoption of these rule amendments is necessary for the preservation of the public safety and general welfare and that compliance with the requirements of subdivision 1 of Section 202 of the State Administrative Procedure Act would be contrary to the public interest.

On September 27, 2012, the New York State Task Force on Racehorse Health and Safety released their report on the investigation of 21 equine fatalities at the 2011-12 fall and winter meet at Aqueduct Racetrack. The Task Force determined that there may have been opportunities to prevent 11 of those 21 fatalities. Among its recommendations were several amendments to the Board's thoroughbred rules to allow an owner to void a claim if the horse is injured during the race and must be transported off the racetrack. The amendments contained in this emergency rulemaking are based upon the findings and recommendations of the Task Force.

Given the danger of a horse breaking down, and the safety threat presented to both the horse and the jockeys racing in close proximity, these rule amendments are necessary to protect the safety of human and equine athletes. Thoroughbred horses travel over the racetrack at an average speed of approximately 40 miles per hour, sometimes exceeding that average as they sprint to the finish or sprint to gain positional advantage. An unsound horse or a horse influenced by the administration of certain medications may be forced to race beyond its limits and result in a fatal breakdown, oftentimes in a sudden or uncontrollable breakdown.

This rule is also necessary to protect the general welfare of the horse racing industry and the thousands of jobs that are created through it. Public confidence in both the process of racing and in pari-mutuel wagering system is necessary for the sport to survive, and with it the jobs and revenue generated in support of government.

Subject: Implementation of substantive changes and procedures pertaining to equine drugs and reporting requirements for thoroughbreds.

Purpose: To protect the health and safety of thoroughbred race horses, jockeys and exercise riders.

Text of emergency rule: Subdivision (a) of Section 4012.5 of 9E NYCRR is amended to read as follows:

(a) Sampling horses

(1) The board may at a reasonable time on any date take a blood, urine, or other biologic sample, from a horse that is on a nomination list or under the care or control of a trainer or owner who is licensed by the board, for the purpose of testing for the impermissible presence or administration of substances prohibited by section 4043.12 and/or restricted by section 4043.2(i). The board shall perform no other forensic tests on a sample.

Subdivision (c) is added to Section 4038.5 of 9 NYCRR to read as follows:

(c) The previous trainer of a claimed horse shall, within 48 hours after the race is made official, provide to the new owner an accurate record of all corticosteroid joint injections that were administered to the horse within 30 days before the race.

Amend Subdivision (g) of Section 4043.2 of 9E NYCRR by repealing paragraph (5) and renumbering paragraphs (6) through (16) as follows:

4043.2 Restricted use of drugs, medication and other substances.

(g) The following substances are permitted to be administered by any means until 96 hours before the scheduled post time of the race in which the horse is to compete:

- (1) acepromazine;
- (2) albuterol;
- (3) atropine;
- (4) butorphanol;
- [(5) clenbuterol;]
- [(6)](5) detomidine;
- [(7)](6) glycopyrrolate;
- [(8)](7) guaifenesin;
- [(9)](8) hydroxyzine;
- [(10)](9) isoxsuprine;
- [(11)](10) lidocaine;
- [(12)](11) mepivacaine;
- [(13)](12) pentoxifylline;
- [(14)](13) phenytoin;
- [(15)](14) pyrilamine;
- [(16)](15) xylazine.

They may not be administered within 96 hours of the scheduled post time of the race in which the horse is to compete. In this regard, substances ingested by a horse shall be deemed administered at the time of eating and

drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such 96 hours.

Paragraph 9 of Subdivision (e) of Section 4043.2 of 9 NYCRR is amended to read as follows:

(9) hormones [and steroids] (e.g., [testosterone, progesterone, estrogens, chorionic gonadotropin, glucocorticoids]), except in conjunction with joint aspiration as restricted in subdivision (i) of this section; the use of anabolic steroids is governed by section 4043.15 of this Part];

Subdivision (i) of Section 4043.2 of 9E NYCRR is amended to read as follows:

(i) In addition, a horse [which has had a joint aspirated (in conjunction with a steroid injection)] may not race for [at least five days following such procedure, and whenever such procedure is performed, the trainer shall notify the stewards of such fact, in writing, before the horse is entered to race] *the following periods of time:*

(1) for at least five days following a systemic administration of a corticosteroid;

(2) for at least seven days following a joint injection of any corticosteroid;

(3) for at least fifteen days following a joint injection of methylprednisolone (e.g., DepoMedrol); and

(4) for at least twenty-one days following an administration of clenbuterol.

In this regard, substances ingested by a horse shall be deemed administered at the time of eating and drinking. It shall be part of the trainer's responsibility to prevent such ingestion within such time periods.

Section 4043.4 of 9E NYCRR is amended to read as follows:

4043.4. Trainer's responsibility.

(a) A trainer shall be responsible at all times for the condition of all horses trained by him. No trainer shall start or permit a horse in his custody, care or control to be started if he knows, or he might have known or have cause to believe, that the horse has received any drug or other restricted substance that could result in a positive test. The trainer shall be held responsible for any positive test unless he can show by substantial evidence that neither he nor any employee nor agent was responsible for the administration of the drug or other restricted substance. Every trainer must guard each horse trained by him in such manner and for such period of time prior to racing the horse so as to prevent any person, whether or not employed by or connected with the owner or trainer, from administering any drug or other restricted substance to such horse contrary to this Part.

(b) Trainers shall maintain accurate records of all corticosteroid joint injections to horses trained by them. The record(s) of every corticosteroid joint injection shall be submitted, in a form and manner approved by the Board, by the trainer to the Board within 48 hours of the treatment. It shall be accessible to the examining veterinarian for the purpose of assisting with pre-race veterinary examinations.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires February 10, 2013.

Text of rule and any required statements and analyses may be obtained from: John Googas, New York State Racing and Wagering Board, One Broadway Center, Suite 600, Schenectady, New York 12305, (518) 395-5400, email:info@racing.ny.gov.

Regulatory Impact Statement

1. Statutory authority and legislative objectives of such authority: The Board is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law sections 101(1) and 902(1). Under section 101, the Board has general jurisdiction over all horse racing activities and all pari-mutuel betting activities in the state, both on track and off-track, and the persons engaged therein, including the authority to regulate the use of drugs that can manipulate race performance. Section 902(1) prescribes that a state college within New York with an approved equine science program shall conduct equine drug testing to assure public confidence in and to continue the high degree of integrity at pari-mutuel race meetings, and authorizes the Board to promulgate any rules and regulations necessary to implement its equine drug testing program and to impose substantial administrative penalties for anyone who races drugged horses.

2. Legislative objectives: To enable the New York State Racing and Wagering Board to preserve the integrity of pari-mutuel racing, while generating reasonable revenue for the support of government.

3. Needs and benefits: These rule amendments have been identified by the New York Task Force on Racehorse Health and Safety as emergency measures required to protect the safety and health of thoroughbred race horses and jockeys in New York State. The New York State Racing and Wagering Board has reviewed these recommendations and has endorsed them for emergency adoption.

The Task Force was formed in 2012 after 21 equine deaths occurred between November 2011 and March 2012. The 21 deaths was more than double the expected frequency rate. The Task Force's investigation re-

vealed troubling aspects as to the way horses are examined and managed in this State, and found that the health and safety of racehorses and jockeys will be improved by reducing the use of legal anti-inflammatory medications in the time after the horse is entered to race.

On September 27, 2012, the Task Force published its report and included recommendations for the adoption of several emergency rules, which are contained in this Emergency Rulemaking. With the exception of Section 4012.5, the emergency rules contained herein are expressly requested by the Task Force. The amendment to Section 4012.5 of 9 NYCRR pertains to out of competition testing, and while it was not expressly included in the Task Force recommendations, it is by implication necessary to give force and effect to the equine drug program to detect the use of certain medications that the Task Force has identified as possible contributing factors to recent equine deaths.

The amendments to Board Rule 4043.2(i) are necessary to control the administration of corticosteroids to thoroughbred horses. These amendments are necessary for the health and safety of both the horse and the jockeys/riders. The withdrawal periods in the rule were prescribed directly by the Task Force and are necessary to provide clear guidance as to when administration should be discontinued for the purposes of testing and for the safety of the horse. In the case of Methylprednisolone acetate (DepoMedrol), the Task Force found that Methylprednisolone acetate has a degradative effect on articular cartilage: "The repetitive use of intra-articular corticosteroids, particularly methylprednisolone, may cause significant damage to the cartilage in the joint. Additionally, the intra-articular use of corticosteroids can mask the inflammatory changes ordinarily associated with joint disease, and can confound the pre-race clinical examination. For these reasons, regulation of intra-articular administration of corticosteroids is appropriate." The term "intra-articular" has been revised to "joint injection" in the rule text to more accurately reflect a more common vernacular of the trade.

The Task Force recommended the amendment to Section 4038.5(c) of 9E NYCRR to require the disclosure to the successful claimant of any intra-articular corticosteroid injection performed within 30 days of the race. The Task Force found that "Currently, there is no way for a claimant to determine if the claimed horse has been recently injected with an intra-(articular) corticosteroid, putting that horse at risk for redundant medical treatment as well as preventing an accurate assessment of the horse's soundness." Four of the fatally injured horses injured horses in this investigation received intra-articular corticosteroid injections within seven days of racing.

The Task Force also identified the need to tighten controls over the use of clenbuterol, which is currently permitted as a 96-hour rule under the Board's rules. It is a potent bronchodilator that is Food and Drug Administration-approved for treatment of lower airway inflammation and upper respiratory infections in the horse. It is used to prevent respiratory infections in horses experiencing exercise-induced pulmonary hemorrhage (respiratory bleeding), while some trainers have indicated that their horses look better and have increased appetites when treated with clenbuterol.

Nevertheless, the report stated that in addition to its pharmacological effect on the respiratory tract, clenbuterol mimics anabolic steroids in that it increases muscle and decreases fat in cattle, pigs, poultry and sheep. The report stated that there is a belief that illegally compounded clenbuterol has been used in thoroughbred horses as an alternative to the prohibited anabolic steroids. The Task Force found that "It was abundantly clear to the Task Force that while the NYSRWB's time limit regarding clenbuterol was being followed, the medication is in common use as a substitute for anabolic steroids and not for the legitimate therapeutic purpose for which it is intended."

Therefore, the amendment to 4043.2(g)(5) is necessary to remove it from the permissible 96-hour drug rule and only permit its administration 21 days before a race by virtue of amendment to Board rule 4043.2(i)(4).

The Board also amended Paragraph (9) of Subdivision (e) of 4043.2 of 9 NYCRR to remove any references to steroids. This was not a recommendation by the Task Force, but in light of the Board's existing rule limiting the administration of anabolic steroids (Rule 4043.15) and the restrictions placed on corticosteroids in this rulemaking, the Board believes that no reference to steroids should be contained in 4043.2(e)(9) in order to avoid confusion.

The Task Force reported that "The failure of trainers to report intra-articular injections as required prevented the NYRA veterinarians from identifying a pattern of redundant...treatments that had the potential to misrepresent the true clinical condition of a horse..." Therefore, in order to ensure proper notification, the Board will amend Section 4043.4 of 9 NYCRR, which is commonly known as the "Trainer's Responsibility Rule," to require that trainers maintain accurate records of all corticosteroid joint injections to horse trained by them. The corticosteroid reporting will require that a trainer submit a corticosteroid joint injection record to the Board within 48 hours of treatment so that examining veterinarians

will have access as part of the pre-race examinations. This amendment will improve the quality of pre-examinations, provide the Board with timely notice of any potential ailments and ensure that a document trail is available in the event the horse's fitness comes into question.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: The costs for the New York Drug Testing and Research Program will be substantial. The cost for conducting administration trials necessary for Cortisone Testing will be \$36,000. The cost of related laboratory testing of samples for corticosteroids is \$18,000. The cost of trial administrations of clenbuterol is \$6,000. The related laboratory testing of clenbuterol samples is \$5,000.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will require the New York State Racing and Wagering Board to develop a filing system for corticosteroid reporting.

There will be no costs to local government because the New York State Racing and Wagering Board 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: The Board relied on its experience in collecting information and based upon its experience in the equine drug testing program. The costs associated with clenbuterol and corticosteroid testing was provided directly from the New York Drug Testing and Research Program.

(d) Where an agency finds that it cannot provide a statement of costs, a statement setting forth the agency's best estimate, which shall indicate the information and methodology upon which the estimate is based and the reason(s) why a complete cost statement cannot be provided. Not applicable.

5. Local government mandates: None. The New York State Racing and Wagering Board is the only governmental entity authorized to regulate pari-mutuel harness racing activities.

6. Paperwork: There will be a need for reporting corticosteroid injections. Trainers will be required submit paperwork to the Board in a manner prescribed by the Board.

7. Duplication: None.

8. Alternatives. These rule amendments are based upon the finding and recommendations of the Task Force and no other alternatives were considered.

9. Federal standards: None.

10. Compliance schedule: The rule will be effective December 12, 2012. The Board intends to submit this rule as a Proposed Rulemaking in the future and the extension of this rule may be necessary pursuant to the provisions of the State Administrative Procedure Act.

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

As is evident by the nature of this rulemaking, this will not have an adverse affect on jobs or rural areas. This proposal concerns the restricted administration of certain drugs to thoroughbred race horses, the testing procedures to ensure compliance with those restrictions, and reporting of the administration of certain drugs. These medications – corticosteroids and clenbuterol – are currently permitted and will continue to be permitted but under different administration schedules. These schedules will have no impact on jobs or rural areas. This amendment is intended to reduce equine deaths in thoroughbred racing, and as such will have a positive effect on horseracing and the revenue generated through pari-mutuel wagering and breeding in New York State. This will not adversely impact rural areas or jobs or local governments and does not require a Rural Area Flexibility Statement or Job Impact Statement.

Department of Taxation and Finance

NOTICE OF ADOPTION

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-37-12-00003-A

Filing No. 1134

Filing Date: 2012-11-13

Effective Date: 2012-11-13

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

Action taken: Amendment of section 492.1(b)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First; 301-h(c); 509(7); 523(b); and 528(a)

Subject: Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period October 1, 2012 through December 31, 2012.

Text or summary was published in the September 12, 2012 issue of the Register, I.D. No. TAF-37-12-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: John W. Bartlett, Tax Regulations Specialist 4, Department of Taxation and Finance, Taxpayer Guidance Division, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 457-2254, email: tax.regulations@tax.ny.gov

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

NOTICE OF ADOPTION

Elimination of the One-week Stay Test to Determine Nontaxable Occupancy of Bungalows and Similar Living Units

I.D. No. TAF-37-12-00004-A

Filing No. 1135

Filing Date: 2012-11-13

Effective Date: 2012-11-28

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

Action taken: Amendment of section 527.9 of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First; 1142(1) and (8); and 1250 (not subdivided)

Subject: Elimination of the one-week stay test to determine nontaxable occupancy of bungalows and similar living units.

Purpose: To conform the regulations to current statutory interpretation concerning sales tax on hotel occupancy.

Text or summary was published in the September 12, 2012 issue of the Register, I.D. No. TAF-37-12-00004-P.

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

Text of rule and any required statements and analyses may be obtained from: John W. Bartlett, Tax Regulations Specialist 4, Department of Taxation and Finance, Taxpayer Guidance Division, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 457-2254, email: tax.regulations@tax.ny.gov

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-48-12-00007-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 492.1(b)(1) of Title 20 NYCRR.
Statutory authority: Tax Law, sections 171, subd. First; 301-h(c); 509(7); 523(b); and 528(a)

Subject: Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period January 1, 2013 through March 31, 2013.

Text of proposed rule: Pursuant to the authority contained in subdivision First of section 171, subdivision (c) of section 301-h, subdivision 7 of section 509, subdivision (b) of section 523, and subdivision (a) of section 528 of the Tax Law, the Commissioner of Taxation and Finance hereby proposes to make and adopt the following amendment to the Fuel Use Tax Regulations, as published in Article 3 of Subchapter C of Chapter III of

ITEM 5e

Andrew M. Cuomo
Governor

John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

To: John A. Crotty, Commissioner
John J. Poklemba, Commissioner
Barry C. Sample, Commissioner
Todd R. Snyder, Commissioner

From: Edmund C. Burns, General Counsel

Date: August 27, 2013

Re: Proposed Rulemaking on Lottery Prize Payment Manner (amendment to 9 NYCRR § 5002.5)

For Commission consideration is a [REDACTED] to propose amendments to add flexibility in the manner in which lottery prize payments are made. Current regulations are inconsistent, differing among ticket formats. This rule proposal would simplify payment and allow the Commission to offer alternative means of payment.

Under the proposal, prizes of \$600 or less would be paid at retailer locations or Commission offices. If those participating in the lottery subscription program win a prize, the prize would be credited to the subscription account if the prize were \$600 or less or would be paid by check or alternative method of payment if the prize exceeded \$600.

[REDACTED]

attachment

cc: Robert Williams, Acting Executive Director
Gardner Gurney, Acting Director, Division of Lottery

**NEW YORK STATE GAMING COMMISSION
AMENDMENT OF SECTION 5002.5 OF
NEW YORK CODES, RULES AND REGULATIONS
TITLE 9, SUBTITLE T, CHAPTER III, SUBCHAPTER A**

Pursuant to the authority granted by Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law and Sections 1601, 1604, 1612 and 1617 of the Tax Law, the New York State Gaming Commission hereby promulgates this amendment of Sections 5002.5 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to read as follows:

Section 5002.5 is amended to read as follows:

§ 5002.5. Manner of payment.

(a) [Cash payment.]

[(1) A prize payable on a winning instant game ticket having a value of \$25 or less may be obtained in cash from the lottery sales agent who sold the ticket.]

[(2) A prize payable on a winning instant game ticket having a value of \$100 may be obtained in cash from any lottery sales agent.]

[(3) A prize payable on a winning computerized game ticket having a value of up to and including \$600 may be obtained in cash from any lottery sales agent participating in the computer network from which such ticket was sold.]

[(b) Check payment.]

[(1) Any prize over \$600 shall be payable only by check.]

[(2)] Any prize may be claimed by mailing a completed prize claim form to the commission at the address announced by the commission for such purpose. [Any prize paid by mail shall be payable only by check.]

(b) [(3)] Any prize paid at an office of the commission shall be [payable only] paid by check or by any alternative method of payment determined by the commission.

(c) Any prize of \$600 or less may be claimed at any lottery retailer location and the prize shall be paid in cash or by any alternative method of payment determined by the commission.

(d) [(4)] Any [lotto subscription] prize won through a subscription shall be payable [only by check] as follows:

(1) by check or alternative method of payment determined by the commission, if the prize is more than \$600; or

(2) the prize amount shall be made available in the subscriber's player account, if the prize is \$600 or less.

ITEM 6



PLAN OF ORGANIZATION

The New York State Legislature created the New York State Gaming Commission, which became effective February on 1, 2013.¹ The Legislature found that the gaming industries constitute a vital sector of New York State's overall economy² and that responsive, effective, innovative State gaming regulation was necessary for the gaming industries to operate in a global, evolving and increasingly competitive marketplace. To accomplish these goals, the previously existing State agencies with responsibility for conducting and regulating gaming activity were transformed into a new, integrated Commission.³ The Legislature directed the Commission to adopt a plan of organization.⁴

By statute, the Commission consists of seven members who shall have the authority and responsibility:

1. To have general jurisdiction over all gaming activities within the state and over the corporations, associations and persons engaged therein.
2. To hear and decide promptly and in reasonable order all license, registration, certificate and permit applications, and causes affecting the granting, suspension, revocation or renewal thereof, of corporations, associations or persons engaged or seeking to engage in gaming activity.
3. To monitor any corporation, association or person engaged in gaming activity for compliance with applicable law and regulation.
4. To, at any time, examine the books, papers, records and accounts of any corporation, association or person engaged in gaming activity pursuant to a license, registration, franchise, certificate or permit issued by the Commission.
5. To conduct investigations and hearings pertaining to violations.
6. To administer oaths and examine witnesses, and to issue subpoenas to compel attendance of witnesses, and the production of all relevant and material reports, books, papers, documents, correspondence and other evidence.

¹ L.2012, c. 60, §§ 1-6, as amended by L.2012, c. 457, §7.

² Racing, Pari-Mutuel Wagering and Breeding Law § 100.

³ Racing, Pari-Mutuel Wagering and Breeding Law §§ 100 and 117.

⁴ Racing, Pari-Mutuel Wagering and Breeding Law § 103(1).

7. To collect all license and registration fees imposed by state law, or rules or regulations promulgated thereunder, and any payments from an Indian nation or tribe under the terms of a tribal-State compact that is in effect pursuant to the federal Indian gaming regulatory act, 25 U.S.C. § 2701, et seq.
8. To levy and collect civil penalties and fines for any violation.
9. To be present through its employees and agents during the operation of any race track, gaming facility, charitable gaming organization, simulcasting facility or video lottery gaming facility for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and simulcast wagering activities, examining records of revenues and procedures, and conducting periodic reviews of operations and facilities for purposes of evaluating any current or suggested provision of law, rule or regulation.
10. To ensure compliance with tribal-state gaming compacts that are in effect pursuant to the federal Indian gaming regulatory act, 25 U.S.C. § 2701, et seq.
11. To cause background investigations to be conducted on any applicant for a license, registration, certificate, permit or approval.
12. To appoint such deputies, secretary, officers, representatives and counsel as the Commission may deem necessary.
13. To annually report to the governor, the speaker of the assembly and the temporary president of the senate, its proceedings for the preceding calendar year and any suggestions and recommendations as it shall deem desirable.
14. To promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

To execute the affairs of the agency, the Commission shall be organized into four divisions, two bureaus, and seven offices, each under the direction of the Executive Director, who is charged with supervising the conduct of the administrative affairs of the Commission.

The divisions of the Commission, each of which shall be supervised by a director who serves at the pleasure of the Governor, shall be:

1. The *Division of Charitable Gaming*, which shall supervise and administer the games of chance licensing law, the bingo licensing law and the bingo control law.⁵
2. The *Division of Gaming*, which shall exercise appropriate administration, regulation or oversight of Indian gaming, and operate and administer video lottery gaming.⁶ If the State Constitution is amended to permit casino gaming, the Division shall also administer, regulate and oversee casino gaming.

⁵ Racing, Pari-Mutuel Wagering and Breeding Law § 103(2)(b).

⁶ Racing, Pari-Mutuel Wagering and Breeding Law § 103(2)(c).

3. The *Division of Horse Racing and Pari-Mutuel Wagering*, which shall supervise, regulate and administer all horse racing and pari-mutuel wagering activities, on and off-track.⁷
4. The *Division of Lottery*, which shall operate and administer the State lottery for education, with the exception of video lottery gaming. The Division of Lottery shall, however, manage and be responsible for all aspects of promotional activities related to video lottery gaming.⁸

The two bureaus and seven offices shall serve the Commission, as follows:

1. The *Bureau of Administration and Finance*, which shall provide all financial and accounting functions for the Commission, including investments and financial reporting, budget, expenditures and purchasing, contracts, facilities, human resources, internal controls, lottery prize payments and lottery subscriptions. A chief financial officer shall supervise the bureau.
2. The *Bureau of Licensing*, which shall administer the licensing functions of the Commission. A director shall supervise the Bureau.
3. The *Executive Office*, which shall consist of the seven-member Commission, the executive director, the commission secretary and support staff. The executive director shall supervise the office.
4. The *Office of Counsel*, which shall provide legal advice to the Commissioners and staff and perform all the legal functions of the Commission. A general counsel shall supervise the office.
5. The *Office of Information Technology Services*, which shall provide information technology services to the Commission. The Office's employees are part of the Statewide Office of Information Technology Services.
6. The *Office of Internal Audit*, which shall conduct appraisal activity for the review of operations as a means of assuring conformance with management policies and the effectiveness of internal control, conducted in conformance with generally accepted standards for internal auditing.⁹ A director shall supervise the office.
7. The *Office of Public Affairs*, which shall be responsible for all communication functions of the Commission. A director shall supervise the office.
8. The *Office of Veterinary Affairs*, which shall administer Commission affairs in regard to equine health and safety. An equine medical director shall supervise the office.
9. The *New York State Office of Racing Promotion and Development*¹⁰ which shall promote the breeding of horses and the conduct of equine research in this State and shall administer the State Thoroughbred Breeding and Development Fund, the Agriculture and New York State Horse

⁷ Racing, Pari-Mutuel Wagering and Breeding Law § 103(2)(d).

⁸ Racing, Pari-Mutuel Wagering and Breeding Law § 103(2)(a).

⁹ Executive Law §§ 950(2), 952(1).

¹⁰ Racing, Pari-Mutuel Wagering and Breeding Law § 1201.

Breeding Development Fund and the New York State Quarter Horse Breeding and Development Fund Corporation. A director shall supervise the office.