

RULE REVIEW

New York State Gaming Commission

As required by section 207 of the State Administrative Procedure Act, the following is a list of rules adopted by the New York State Gaming Commission (including rulemaking of its legacy agencies, the Division of Lottery and the Racing and Wagering Board) in the calendar years 2013, 2008, 2003 and 1998, which must be reviewed in calendar year 2018. This list does not include rules that were adopted as consensus or emergency rules, or rules that have been largely amended or repealed. Public comment on the continuation or modification of these rules is invited and will be accepted until December 3, 2018. Comments may be submitted to Kristen M. Buckley, Acting Secretary of the New York State Gaming Commission, One Broadway Center, Suite 600, Schenectady, New York 12301-7500 or by electronic mail at gamingrules@gaming.ny.gov.

RULES ADOPTED IN 2013

SGC-30-13-00009 Mega Millions and Raffle Game

This rulemaking added a new rule, 9 NYCRR § 5007.14, to add a raffle game to the mix of multistate Lottery draw games, because innovative games generate more revenue. The legal basis for the rule is Racing, Pari-Mutuel Wagering and Breeding Law (“RWL”) §§ 103 and 104 and Tax Law §§ 1601, 1604, 1612 and 1617.

SGC-35-13-00002 Video Lottery Gaming Advertising

This rulemaking added a new rule, paragraph 3 of 9 NYCRR § 5116.6(b), to conform with the Memorandum of Understanding with the Seneca Nation of Indians. The legal basis for the rule is RWL §§ 103 and 104 and Tax Law §§ 1604 and 1617-a.

SGC-30-13-00010 Establishment of Rules of New York State Gaming Commission

This rulemaking combined the rules of two separate agencies, the Division of Lottery and the Racing and Wagering Board, to effectuate their merger and integrate their rules into 9 NYCRR, Parts 4000 – 5500, as the New York State Gaming Commission, as required by statute. The legal basis for the rules is L. 2012, c. 60, Part A (RWL §§ 101-129).

Rules proposed initially by the Racing and Wagering Board:

RWB-08-13-00003 Restricting anabolic steroids in horse racing

This rulemaking amended 9 NYCRR §§ 4043.15 and 4120.12 to replace urine with plasma thresholds for detecting an improper administration of anabolic steroids to a race horse, because plasma thresholds more closely indicate time of administration. The legal basis for the rule is RWL §§ 103, 104 and 301.

RWB-08-13-00005 Claims voidable if horse is vanned off the track

This rulemaking added a new rule, paragraph (3) of 9 NYCRR § 4038.5(a), to deter the entry in claiming races of horses susceptible to breakdowns by allowing a claimant one hour to void the claim if the horse is vanned off the track after the race began. The legal basis for the rule is RWL §§ 103 and 104.

RWB-08-13-00006 Clenbuterol and corticosteroid use in thoroughbred horse racing

This rulemaking amended 9 NYCRR § 4043.2(e)(9), (g) and (i) and

added a new rule, 9 NYCRR § 4043.4(b), to increase the waiting period before a thoroughbred horse may race after an administration of clenbuterol, because a race horse otherwise may be drugged to modify muscle mass artificially, or a corticosteroid, because a longer time period permits better evaluation of whether the veterinary treatment has healed the horse before it races. This rulemaking also requires corticosteroid joint injection reports to the Commission and claimants of a horse because this information helps limit the debilitating effects of repetitive corticosteroid treatments. The legal basis for the rule is RWL §§ 103 and 104.

RULES ADOPTED IN 2008

Rules adopted by the Division of Lottery:

LTR-44-07-00002 Lucky Sum promotional game feature

This rulemaking added new subdivisions (h) and (g) to 21 NYCRR § 2828.3 to add Lucky Sum to the New York Numbers and Win-4 games, because innovative games generate more revenue. These rules are now 9 NYCRR §§ 5009.2(h) and 5010.2(g). The legal basis for the rules is RWL § 104 and Tax Law § 1604(a).

LTR-44-07-00003 Lotto Extra promotional game feature

This rulemaking added a new section 2817.12 to 21 NYCRR to add Lotto Extra to the New York Lotto game, because innovative games generate more revenue. This rule is now 9 NYCRR § 5008.9. The legal basis for the rules is RWL § 104 and Tax Law § 1604(a).

Rules adopted by the Racing and Wagering Board:

RWB-32-07-00013 Licensing and standards for totalisator companies

This rulemaking added Part 5100 of 9 NYCRR to regulate wagering pools and totalisator companies with licensing, reporting, equipment and operating-procedure requirements to address the increasingly interstate nature of wagering tabulation. These rules are now Part 4300 of 9 NYCRR. The legal basis for the rules is RWL §§ 103, 104, 235, 301, 305, 401, 405, 520 and 1002.

RWB-33-07-00005 Internet and telephone account wagering on horse racing

This rulemaking added Part 5300 of 9 NYCRR to authorized telephone and internet wagering and impose reporting, recordkeeping, operational and license application requirements for racetracks and off-track betting corporations in New York. These rules are now Part 4500 of 9 NYCRR. (These rules were amended in July 2017 to encompass multi-jurisdictional account wagering providers.) The legal basis for the rules is RWL §§ 103, 104, 231, 301, 401, 518, 1002 and 1012.

RWB-43-07-00011 Disqualification of horse for interference

This rulemaking amended 9 NYCRR § 4035.2(d) to explicitly authorize the stewards to disqualify a horse for careless riding, such as the jockey striking another horse with the padded riding crop by mistake. The legal basis for the rules is RWL §§ 103, 104, 205 and 218.

RWB-34-08-00004 Harness racing claiming procedure

This rulemaking amended subdivisions (a), (b), (d), (e) and (p) of 9

NYCRR § 4109.3 to clarify the procedures for harness horse claims, including ability to withdraw claim before race, procedures that ensure confidentiality and honoring claims despite minor errors. The legal basis for the rules is RWL §§ 103, 104 and 301.

RWB-44-08-00008 Use of anabolic steroids in race horses

This rulemaking amended 9 NYCRR §§ 4043.2(e)(9) and 4120.2(e)(9) and added new rules 9 NYCRR §§ 4043.15 and 4120.12, to restrict the use of anabolic steroids on race horses to only four, subject to strict race-day thresholds and used for only therapeutic purposes, because of concern that anabolic steroids may artificially increase horses' muscle mass. The legal basis for the rules is RWL §§ 103, 104 and 301.

RULES ADOPTED IN 2003

The Division of Lottery and the Racing and Wagering Board adopted no rules in 2003 for which a rule review is required.

RULES ADOPTED IN 1998

No rules were adopted by the Division of Lottery

Rules adopted by the Racing and Wagering Board:

RWB-24-98-00006 Use of whips

This rulemaking amended 9 NYCRR § 4117.8 to provide more criteria for harness judges to apply to limit use of the whip during races and to conform to other racing jurisdictions. (The last sentence of this rule was amended in 2007 to permit the whip to be used in the final one-quarter mile.) The legal basis for the rule is RWL §§ 103, 104 and 301.

RWB-22-98-00013 Apprentice weight allowances

This rulemaking amended 9 NYCRR §§ 4032.1 and 4032.4 to increase the weight standards of apprentice jockeys to modern standards and to conform to other racing jurisdictions. The legal basis for the rules is RWL §§ 103, 104 and 205.

RWB-23-98-00005 Games of chance regulations

This rulemaking amended 9 NYCRR §§ 5603.7, 5607.15, 5607.28, 5608.1, 5608.13, 5609.1, 5610.1, 5610.2, 5611.1, 5611.2, 5620.19, 5622.12, 5622.13, 5622.22, 5623.1, 5624.1, 5624.3, 5624.5 and 5624.21 to codify bell-jar-related statutory amendments to the General Municipal Law. Part 5600 of 9 NYCRR has been renumbered Part 4608. Some of these provisions have been amended to conform to subsequent statutory changes. The legal basis for the rules is RWL §§ 103 and 104 and General Municipal Law article 9-A (General Municipal Law §§ 185 – 195-r).