

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission ("Commission") is authorized to promulgate this rule by Tax Law Sections 1601 and 1604, and Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104(1, 19).

Tax Law Section 1601 describes the purpose of the New York State Lottery for Education Law (Tax Law Article 34) as being to establish a lottery operated by the State, the net proceeds of which are applied exclusively to aid to education. Tax Law Section 1604 authorizes the promulgation of rules governing the establishment and operation of such lottery.

Racing Law Section 103(2) provides that the Commission is responsible to operate and administer the state lottery for education, as prescribed by Article 34 of the Tax Law. Racing Law Section 104(1) provides the Commission with general jurisdiction over all gaming activities within the State and over any person, corporation or association engaged in such activities. Racing Law Section 104(19) authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** To raise additional revenue for education through the offering of lottery games that are attractive to customers.

3. **NEEDS AND BENEFITS:** The proposed rulemaking will add a feature to the Quick Draw lottery game called "Money Dots." The Money Dots feature would allow a player to make a \$1 wager and receive a Money Dots ticket containing eight random numbers from the field of 80 to be played during the same four-minute draw number within which the Quick Draw base wager is determined. This wager would be independent of the Quick Draw base wager. After the 20 winning Quick Draw numbers are revealed, the video display would then dim the 20 winning Quick Draw numbers shown on the display and assign a color and corresponding prize value to each of the remaining 60 numbers in the field. Once all 60 numbers have been assigned a color on the video display, one randomly selected winning Money Dots number would be displayed, and any player whose Money Dots ticket contained the winning Money Dots number would win the prize amount corresponding to the color of the number drawn.

After reviewing several options, the Commission's Division of Lottery believes that the addition of this particular feature will increase player interest in the Quick Draw game, attract new players, and increase revenue to benefit State education.

The proposed rulemaking also includes some reorganization of the Quick Draw rule, so that substantive game-play rules are collected in a new subdivision and do not appear in the definitions section. Other technical and stylistic revisions are proposed as well.

4. COSTS:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to the regulated parties or stakeholders.

b. Costs to the regulated agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated. The Commission can administer this game using existing resources.

5. **LOCAL GOVERNMENT MANDATES:** The proposed rulemaking does not impose any new programs, services, duties or responsibilities upon any country, city, town, village school district, fire district or other special district.

6. **PAPERWORK:** There are no changes in paperwork requirements. Lottery sales agents will be able to report the sales of this game using the same electronic reporting system.

7. **DUPLICATION:** There are no relevant State programs or regulations that duplicate, overlap or conflict with the proposed rulemaking.

8. **ALTERNATIVES:** The Commission's Division of Lottery asked IGT Global Solutions Corporation ("IGT"), the Commission's full-service lottery system operator, to provide solutions to generate additional revenue leveraging features within the existing Quick Draw game. Several options were presented and researched. Money Dots was the concept that showed the greatest opportunity to add incremental sales and increase the player base.

9. **FEDERAL STANDARDS:** The proposed rule does not exceed any minimum standards imposed by the federal government.

10. **COMPLIANCE SCHEDULE:** The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rulemaking.

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

The proposed rulemaking will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed rulemak-

ing allows the New York State Gaming Commission to offer customers a new feature to the Quick Draw lottery game called "Money Dots." Lottery sales agents offer new or different lottery games in order to increase sales and raise additional revenue for education in New York. Customers are not required to play.

The proposed rulemaking does not impact local governments and will not have an adverse impact on small businesses.

The proposed rulemaking imposes no adverse impact on rural areas. The rule applies uniformly throughout the state.

The proposed rulemaking will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Triple Wager in Harness Racing

I.D. No. SGC-35-20-00003-P

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

Proposed Action: Renumbering of section 4122.41 to 4122.40; amendment of new section 4122.40 of Title 9 NYCRR.

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

Subject: Triple wager in harness racing.

Purpose: To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government.

Text of proposed rule: Section 4122.41 of 9 NYCRR would be renumbered as section 4122.40 and amended to read as follows:

§ [4122.41] 4122.40. Triple.

(a) *Definition.* The triple (or other approved name) is a [form of] pari-mutuel [wagering. Each] *wager in which a bettor selects, in order, the [first, second and third placed] first-, second- and third-place horses in [the] a designated triple race. The triple pool shall be held entirely separate from all other pools[,] and is not part of a daily double, exacta or other wagering pool.*

(b) [Repealed]

(c) *Approval required.* Races in which triple pools [shall] *are to be conducted [shall be approved] are subject to approval by the commission and shall be [clearly] designated clearly in the program.*

(d) *Design.* The design of triple tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(e) *Scratch.* If a horse is scratched or declared a nonstarter, no further triple tickets may be issued designating such horse, and all triple tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

(f) *Failure to select a winning combination, short finishes.* *If no wager correctly selects the first three horses in order, including when fewer than three horses finish the race, then those triple wagers selecting the first two placed horses in the correct order of finish shall be winning triple wagers, and if there are no such triple tickets, then triple tickets correctly selecting the winning horse to win shall be winning triple wagers. If no triple tickets select the winning horse to win, then all triple tickets shall be refunded.*

[(1) If there is a failure to select, in order, the first three horses, payoff shall be made on triple tickets selecting the first two horses in order; failure to select the first two horses, payoff to triple tickets selecting the winner to win; failure to select the winner to win shall cause a refund of all triple tickets.

(2) If less than three horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection.]

(g) *Dead heats.* In the event of a dead heat or dead heats, all triple tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead-heated, shall be winning *triple* tickets, and distribution shall be made in accordance with established pari-mutuel practice [relative to] *governing* dead heats.

(h) *Coupled entries and fields.* Coupled entries and fields are permitted in [trifecta] *triple* races. In such races no wagers may be accepted or issued (including "wheel" or "box" type bets) that couple the same coupled entry or the same field in the same combination.

(i) *Display.* This rule shall be prominently displayed throughout the betting area of each track conducting the triple and printed copies of this rule shall be distributed by the track to patrons upon request.

(j) *Optional provisions.* At its option, [the] a track conducting a [triple pool] *triple-pool* race may accept nine horses to start in such race. In the event fewer than [six] *five* horses start, the [trifecta] *triple wager* shall be declared off and the gross pool refunded. With the approval of the judges, a track may schedule exacta wagering in place of triple wagering, if time permits *such a change*.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

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

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

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

2. Legislative objectives: To improve harness wagering and generate reasonable revenue for the support of government.

3. Needs and benefits: This rule making proposes to reduce from six to five the minimum number of entries in a harness race for which the triple wager rule is permitted to be offered.

The current rule requires the cancellation of a triple wager in harness racing when there are not at least six horses in the race. 9 NYCRR § 4122.41.

The proposal would reduce the minimum field size to five horses for a triple wager. A triple wager in harness racing is when the bettor must select the first three finishers in order. Permitting a triple wager to be offered for five-horse races is practical given the increase in resources to ensure the integrity of the triple races, the decline in the number of available horses and the reduction in average horse fields in harness racing since the advent of the triple wager with six or more horses. By permitting the triple wager when there are at least five horses in the race, this wager will maintain its historic levels of integrity and availability to the wagering public.

4. Costs:

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

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

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

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate harness racing activities.

6. Paperwork: There will be no additional paperwork.

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

8. Alternatives: The Commission considered and rejected not adding this wager to the current rules. The proposed rule change was drafted in consultation with wagering officials at harness racetracks.

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

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

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

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

The proposed amendment is a revision to the Commission's harness racing rules to enhance interest in wagering by allowing racetracks to reduce the number of entries for a triple wager in harness racing from six to five, in which the entire pool is only won if the first three finishers in a single race are picked in the correct order of finish.

This rule will not impose an adverse economic impact or reporting, rec-

ord keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Restricting NSAID Use in Thoroughbred Racing

I.D. No. SGC-35-20-00004-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 4043.2(d); repeal of section 4043.2(e)(14); and renumbering of section 4043.2(e)(15) to (20) of Title 9 NYCRR.

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

Subject: Restricting NSAID use in Thoroughbred racing.

Purpose: To improve integrity, health and safety of Thoroughbred horse racing.

Text of proposed rule: Sections 4043.2 and 4043.3 of 9 NYCRR would be amended, as follows:

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

Drugs and medications are permitted to be used only in accordance with the following provisions.

* * *

(d) [[Reserved]] *Nonsteroidal anti-inflammatory drugs (NSAIDs). One clinical dose of either flunixin (e.g., Banamine), ketoprofen (e.g., Orudis) or phenylbutazone (e.g., Butazolidin) is permitted to be administered in a single intravenous injection until 48 hours before the scheduled post time of the race in which the horse is to compete.*

* * *

(e) [(14) no more than one of the following nonsteroidal anti-inflammatory drugs (NSAIDs): diclofenac, flunixin (e.g., Banamine), ketoprofen (e.g., Orudis), meclofenamic acid (e.g., Arquel), naproxen (e.g., Naprosyn, Equiproxen), and phenylbutazone (e.g., Butazolidin). One other such NSAID may be administered within one week of the race in which the horse is to compete, provided that such NSAID is administered at least 96 hours before such race:]

[(15)] (14) orgotein (e.g., Palosein);

[(16)] (15) hydroxychloroquine sulfate (e.g., Rheaform);

[(17)] (16) sarapin;

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

[(19)] (18) biologics (e.g., bacterins, antitoxins except tetanus antitoxin[.]; and

[(20)] (19) an oral or intravenous administration of dimethyl sulfoxide (i.e., DMSO).

* * *

§ 4043.3. Equine drug thresholds; per se.

(a) A horse shall have raced in violation of this section if any of the following substances is found, by the laboratory conducting tests for the commission, to be present in a race-day urine or blood sample taken from such horse at a concentration in excess of a threshold listed below. The test result of such laboratory shall include an assessment of the measurement uncertainty and imprecision of the quantitative threshold for the substance.

* * *

(13) Flunixin: [20] 5 ng/ml in plasma;

* * *

(23) Phenylbutazone: [2] 0.3 mcg/ml in plasma;

* * *

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