

the Department anticipates that this rule making will have no impact on jobs and employment opportunities.

Therefore, the Department has determined that a job impact statement is not required.

New York State Gaming Commission

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the New York State Gaming Commission publishes a new notice of proposed rule making in the *NYS Register*.

Qualification Time in Harness Racing

I.D. No.	Proposed	Expiration Date
SGC-34-20-00009-P	August 26, 2020	August 26, 2021

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Discretion to Require a Thoroughbred Jockey to Serve a Suspension for a Riding Violation at Track Where the Violation Occurred

I.D. No. SGC-37-21-00017-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 4035.7 to Title 9 NYCRR.

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

Subject: Discretion to require a Thoroughbred jockey to serve a suspension for a riding violation at track where the violation occurred.

Purpose: To enhance the integrity and safety of thoroughbred horse racing.

Text of proposed rule: Section 4035.7 of 9 NYCRR would be added to read as follows:

§ 4035.7 Penalties to be served.

If a jockey commits a riding infraction and the penalty of a suspension or revocation is not served during the same race meeting, then the commission in its discretion may order that the penalty be served, in whole or in part, at a subsequent race meeting at the same track.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (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.

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 these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104 (1) and (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 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 enable the New York State Gaming Commission to enhance the integrity and safety of Thoroughbred horse racing and generate reasonable revenue for the support of government.

3. Needs and benefits. This rule making proposes to establish discretion to require a Thoroughbred jockey to serve a suspension for a riding violation at the same track at which the violation occurred.

Jockeys requesting a hearing receive an administrative stay of the penalty (which is typically no more than several days) pending Commission decision on the matter. The full adjudication process can be lengthy.

A jockey may request a hearing and then withdraw the request after the conclusion of the meet, serving the suspension during a meet the jockey prefers. In the meantime, Commission staff will have expended significant resources in arranging and preparing for the hearing that never occurs. This apparent tactic affects the Saratoga meet, in particular, where purses are larger than at subsequent meets at different tracks.

The proposed rule could discourage gamesmanship in the agency hearings process that has the effect of delaying a suspension until after the Saratoga meet. The former Racing and Wagering Board, a predecessor agency of the Commission, once had a "Saratoga policy" that allowed the agency to require a suspension for a violation that occurred at Saratoga Race Course to be served at the same track, even if the suspension had to be stayed to allow it to be served at the Saratoga meet the following year. The New York Court of Appeals struck down the policy, however, concluding that it required formal rulemaking to be valid. See *Matter of Cordero v. Corbisiero*, 80 N.Y.2d 771 (1992).

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 Thoroughbred racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: Experience of agency staff.

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

6. Paperwork: There will be no additional paperwork.

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

8. Alternatives. The Commission considered and rejected not adding this proposal to agency rules. There are no alternatives.

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 this proposal will not adversely affect small businesses, local governments, rural areas or jobs.

The proposed amendment is a revision to the Commission's Thoroughbred racing rules with respect to agency discretion to require a jockey to serve a suspension for a riding violation at the same track at which the violation occurred. Such regulation will serve to enhance the integrity of racing by preventing jockeys from attempting to delay serving their penalties until a less lucrative meet begins.

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

Department of Health

EMERGENCY RULE MAKING

Investigation of Communicable Disease; Isolation and Quarantine

I.D. No. HLT-37-21-00002-E

Filing No. 945

Filing Date: 2021-08-26

Effective Date: 2021-08-26

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

Action taken: Amendment of Part 2, section 405.3; addition of section 58-1.14 to Title 10 NYCRR.