

(b) *The Responsible Party's inability to retrieve, change or reset its password;*

(c) *Any technical failure that is reported after the filing deadline; or*

(d) *A Filing that has been saved in the Commission's Lobbying Application but has not been submitted.*

(g) *Late Fees and Penalties.*

(1) *Failure to file a Statement of Registration, Registration Amendment, Bi-Monthly Report, Client Semi-Annual Report, or Disbursement of Public Monies Report in a timely manner, as required by this Title, may also subject the Lobbyist or Client to civil penalties as prescribed in section 1- o(b)(i) of the Lobbying Act.*

(2) *Any outstanding late filing fees owed to the Commission by a Lobbyist or Client totaling \$500 or more may be referred to the Attorney General's Office for collection.*

Text of proposed rule and any required statements and analyses may be obtained from: Megan Mutolo, Commission on Ethics and Lobbying in Government, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: megan.mutolo@ethics.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:** Executive Law § 94(1)(a) provides the Commission on Ethics and Lobbying in Government ("Commission") with the responsibility to administer, enforce and interpret New York State's ethics and lobbying laws. Subsection 94(5)(a)(i) authorizes the Commission to adopt, amend and rescind any rules and regulations pertaining to the statutes within its jurisdiction. Legislative Law Article 1-A Sections 1-e, 1-h, 1-j and 1-l authorizes the Commission to impose a fee for the late filing of a Statement of Registration, Registration Amendment, Bi-Monthly Report, Client Semi-Annual Report, and Disbursement of Public Monies Report.

2. **Legislative Objectives:** Ethics Commission Reform Act of 2022 ("ECRA") established the Commission on Ethics and Lobbying in Government as the agency responsible for administering, enforcing and interpreting New York State's ethics and lobbying laws, including the Commission's ability to impose late fee fees pursuant to Legislative Law Article 1-A Sections 1-e, 1-h, 1-j and 1-l.

3. **Needs and Benefits:** This Proposed Rule amends 19 NYCRR Part 943 to codify the Commission's late fee program and establish criteria and requirements for requesting a waiver for a late filing fee.

4. **Costs:**

a. **Costs to regulated parties for implementation and compliance:** Minimal.

b. **Costs to the agency, State and local governments for the implementation and continuation of the rule:** No costs to such entities.

c. **Cost information is based on the fact that there will be minimal costs to regulated parties and state and local government for training staff on changes to the requirements.** The cost to the agency is based on the estimated slight increase in staff resources to implement the regulations.

5. **Local Government Mandates:** The Proposed Rule does not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. **Paperwork:** This regulation requires the preparation and submission of an affidavit to accompany a late fee waiver application. This additional paperwork is expected to be minimal and is only required when a filer is seeking the waiver of a late filing fee.

7. **Duplication:** This regulation does not duplicate any existing federal, state or local regulations.

8. **Alternatives:** There are no alternatives to amending the Commission's regulation.

9. **Federal Standards:** This regulation does not exceed any minimum standards of the federal government with regard to a similar subject area.

10. **Compliance Schedule:** The Proposed Rulemaking will take effect upon January 1st, 2025.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Proposed Rulemaking because the rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Commission on Ethics and Lobbying in Government makes this finding based on the fact that the rule implements current law and, therefore, imposes no new requirements on such entities.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Proposed Rulemaking because the rulemaking will not impose any adverse economic impact on rural areas, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Commission on Ethics and Lobbying in Government makes this finding based on the fact that the rule implements current law and, therefore, imposes no new requirements on such entities. Rural areas are not affected.

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will have limited, if any, impact on jobs or employment opportunities. This regulation implements current law and, therefore, imposes no new requirements. This regulation does not relate to job or employment opportunities.

New York State Gaming Commission

NOTICE OF ADOPTION

Lottery Prize Payments and Subscriptions

I.D. No. SGC-52-23-00014-A

Filing No. 264

Filing Date: 2024-03-26

Effective Date: 2024-04-10

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

Action taken: Amendment of sections 5000.2, 5002.1, 5002.3, 5002.4, 5002.5, 5002.7, 5002.10, 5002.11, 5002.13, 5004.5, 5005.1, 5005.2, 5005.3, 5005.4, 5005.5, 5005.6, 5005.7, 5005.8, 5007.2, 5007.5, 5007.15, 5007.16, 5008.2, 5008.11, 5013.3, 5014.3, 5014.14; addition of sections 5005.9 and 5005.10 to Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604; Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Lottery prize payments and subscriptions.

Purpose: To create uniformity in payment processing, limit subscriptions to individuals, and codify existing practices.

Text or summary was published in the December 27, 2023 issue of the Register, I.D. No. SGC-52-23-00014-P.

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

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 354 Broadway, Schenectady, New York 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2029, which is no later than the 5th year after the year in which this rule is being adopted

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Change of Commission Address

I.D. No. SGC-15-24-00011-P

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

Proposed Action: This is a consensus rule making to amend sections 4011.29, 4043.12, 4045.1, 4081.1, 4116.4, 4122.49, 4217.16, 4627.8, 4831.8, 5000.4, 5000.8, 5014.17, 5400.1, 5401.1 and 5401.3 of Title 9 NYCRR.

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

Subject: Change of Commission address.

Purpose: To update the Commission’s address in various rules.

Text of proposed rule: Sections 4011.29, 4043.12, 4045.1, 4081.1, 4116.4, 4122.49, 4217.16, 4627.8, 4831.8, 5000.4, 5000.8, 5014.17, 5400.1, 5401.1 and 5401.3 of 9 NYCRR would be amended to read as follows:

§ 4011.29. Additional authorized wagers.

In addition to the types of wagers authorized by this Part, an association or corporation may, with the prior permission of the commission, offer any type of pari-mutuel wagering as defined by chapter 9, Pari-Mutuel Wagering, Uniform Rules of Racing, as adopted and published in December 1996 by the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at [One] 354 Broadway [Center, Suite 600], Schenectady, NY 12305 and at the Department of State, 99 Washington [Street] Avenue, Albany, NY 12231.

§ 4043.12. Prohibited substances and methods.

(a) The substances and methods listed in the ARCI prohibited list are prohibited, may not be used at any place or time and may not be possessed on the premises of any racing or training facility under the jurisdiction of the commission except as a restricted therapeutic use. ARCI prohibited list means the “Prohibited List” annexed to Model Rule ARCI-011-015 Version 7.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which is hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at [One] 354 Broadway [Center, Suite 600], Schenectady, NY 12305 and at the Department of State, 99 Washington [Street] Avenue, Albany, NY 12231.

§ 4045.1. Definitions.

The following terms, when used in this Part, have the following meanings:

(a) ARCI Penalty Guidelines means the uniform classification guidelines published in “Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule,” Version 13.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which are hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission, [One] 354 Broadway [Center, Suite 600], Schenectady, NY 12305 and at the Department of State, 99 Washington [Street] Avenue, Albany, NY 12231.

§ 4081.1. Definitions.

(b) Inquiries. Questions regarding these rules and regulations, procedures, application forms or other similar matters may be directed to the executive director of the fund at the fund offices, [One] 354 Broadway [Center, 1st floor], Schenectady, [New York] NY 12305. Telephone (518) 388-0174.

§ 4116.4. Safety helmets.

No one will be permitted to jog, train, warm up, or drive a horse at any time on the premises of a harness race track unless such person is properly wearing a protective safety helmet approved by either the Snell Memorial Foundation or the United States Department of Transportation. The United States Department of Transportation standards are reprinted in title 49 of the Code of Federal Regulations, chapter 5, section 571.218 (49 CFR, 571.218). The Snell Memorial Foundation standards are contained in the publication entitled, Snell Memorial 2000 Standard For Protective Gear, available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660 or at www.smf.org/stds. Both standards are on file in the office of the commission, located at [One] 354 Broadway [Center], Schenectady, NY [12305-2553] 12305.

§ 4122.49. Additional authorized wagers.

In addition to the types of wagers authorized by this Part, an association or corporation may, with the prior permission of the commission, offer any type of pari-mutuel wagering as defined by chapter 9, Pari-Mutuel Wagering, Uniform Rules of Racing, as adopted and published in December, 1996 by the Association of Racing Commissioners International at 2343 Alexandria Drive, Suite 200, Lexington, KY 40504-3276. This is available for public inspection at the New York State Gaming Commission located at [One] 354 Broadway [Center], Schenectady, NY [12305-2553] 12305 and at the Department of State, 99 Washington Avenue, Albany, NY 12231.

§ 4217.16. Additional authorized wagers.

In addition to the types of wagers authorized by this part, an association or corporation may, with the prior permission of the board, offer any type of pari-mutuel wagering as defined by Chapter 9, Pari-Mutuel Wagering, Uniform Rules of Racing, as adopted and published in December, 1996, by the Association of Racing Commissioners, International at 2343 Alexandria Drive, Suite 200, Lexington, Kentucky 40504-3276. This is available for public inspection at the New York State [Racing and Wagering Board] Gaming Commission located at [#1 Empire State Plaza, Suite 1201,

Albany, New York 12223 or 1 Penn Plaza, 7th Floor, New York, New York 10119, both addresses] 354 Broadway, Schenectady, NY 12305, and at the Department of State, [41 State Street] 99 Washington Avenue, Albany, New York 12231.

§ 4627.8. How papers may be filed.

Filing of the foregoing papers with the commission at the commission’s office [in] at 354 Broadway, Schenectady, NY 12305, [or in New York City.] may be either by personal service or by certified mail, return receipt requested.

§ 4831.8. How papers may be filed.

Filing of the foregoing papers with the [New York State Gaming Commission] commission at the commission’s office at 354[. One] Broadway [Center], Schenectady, NY 12305, may be either by personal service or by certified mail.

§ 5000.4. Name, official seal and offices.

[(c) The principal office of the commission shall be located at: One Broadway Center, Schenectady, New York 12305. The commission may also operate such other offices and facilities as the commission may deem appropriate to fulfill the responsibilities of the commission under the Acts.]

§ 5000.8. Declaratory rulings.

(b) A petition for a declaratory ruling must be submitted in writing to the commission by certified mail, return receipt requested, addressed to New York State Gaming Commission, [One] 354 Broadway [Center], Schenectady, NY 12305. The returned postal service receipt shall constitute proof of service, which shall be deemed effective on the day the petition is received. The petition shall state that a declaratory ruling is requested, cite the statute, rule, or regulation relied upon, and set forth a complete and precise statement of the state of facts, persons or property with respect to which a ruling is sought, together with a full disclosure of the petitioner’s interest. Any facts alleged in the petition shall be verified under oath by the petitioner.

§ 5014.17. Advertising and marketing.

(e) Advertising restrictions.

(4) Advertisements shall comply with the advertising guidelines issued by the North American Association of State and Provincial Lotteries (approved March 19, 1999), 7757 Auburn Rd. Unit #7, Concord, OH 44077, which is hereby incorporated by reference. Such advertising guidelines are available for public inspection at the [New York State Gaming Commission] commission’s office located at [One] 354 Broadway [Center, Suite 500], Schenectady, NY 12305, and at the Department of State, 99 Washington Avenue, Albany, NY [12210] 12231.

§ 5400.1. Public inspection of records.

In accordance with article 6 of the Public Officers Law, the Freedom of Information Law, the following procedures are prescribed for making available to the public for inspection and copying all of the records and materials mandated by such law for such purposes.

(a) Application shall be made on printed forms prescribed by the commission and submitted either personally or by mail to the New York State Gaming Commission, [One] 354 Broadway [Center], Schenectady, NY 12305, Attention: Records Access Officer.

§ 5401.1. Access to personal information.

In accordance with article 6-A of the Public Officers Law, the Personal Privacy Protection Law, the following procedures are prescribed by which members of the public may assert rights granted by the Personal Privacy Protection Law:

(a) Applications shall be made on printed forms prescribed by the board and submitted either personally or by mail to the New York State Gaming Commission, [One] 354 Broadway [Center], Schenectady, NY 12305, Attention: Privacy Compliance Officer.

(c) Records shall be made available at the main office of the commission, which is located at [One] 354 Broadway [Center], Schenectady, NY 12305.

§ 5401.3. Amendment of records.

(d) Any such denial may be appealed to:

Privacy Compliance Law Appeals Officer
c/o Counsel
New York State Gaming Commission
[One] 354 Broadway [Center]
Schenectady, NY 12305

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 354 Broadway, Schenectady, New York 12305, (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.

Consensus Rule Making Determination

This proposed rulemaking will update the Commission’s address in various rules. Because the Gaming Commission’s principal office has moved

within Schenectady, changes to certain rules are necessary. Additionally, an unnecessary subdivision in the Division of Lottery rules is also proposed to be eliminated. Because this rulemaking simply updates the Commission's address in various rules, the Commission does not anticipate public comment and no person is likely to object to the proposed revisions.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendments will not adversely affect jobs or employment opportunities.

This proposed rulemaking will update the New York State Gaming Commission's address in various rules. Additionally, an unnecessary subdivision in the Division of Lottery rules is also proposed to be eliminated.

The proposed amendments will not have an impact on jobs or employment opportunities.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Ionizing Radiation

I.D. No. HLT-15-24-00003-P

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

Proposed Action: Repeal of Part 16; addition of new Part 16 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 225

Subject: Ionizing Radiation.

Purpose: Compatibility with federal standards and modernization to reflect current technology.

Substance of proposed rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/proposed-rule-making>): The regulatory proposal would repeal and replace all sections within Part 16 of Title 10 of the New York Codes, Rules and Regulations (NYCRR), as described in more detail below:

Section 16.1 is updated to correct references to other agencies and persons exempted under Title 10 of the Code of Federal Regulations (CFR) Part 30.

Section 16.2 is updated to include numerous new definitions used in 10 CFR Part 30, as well as other definitions related to new technologies, updated units and clarification of terms.

Section 16.4 updates appendix references, including changing the reference from 10 NYCRR Part 16 to application sections within 10 CFR Part 30.

Section 16.5 updates responsibilities for radiation safety to include acceptance testing and annual program review requirements.

Section 16.6 makes updates to the requirements for evaluating prior occupational doses and removes provisions on planned special exposures. The term "eye dose" is replaced by "lens dose."

Section 16.7 updates dose limits for members of the public to reflect current Title 10 CFR references and outdated language is removed or updated.

Section 16.10 is amended to update inspection schedules, add Certified Radiation Equipment Safety Officer (CRESO) program requirements, and update requirements for surveys and testing of sealed sources.

Section 16.11 is updated to reflect changes in terminology for personnel monitoring and to clarify dose limits.

Sections 16.12, 16.13 and 16.15 are all updated to reflect 10 CFR Part 30 references instead of references to 10 NYCRR Part 16, as well as to clarify the actual language and phrasing used within these sections.

Section 16.14 is updated to require recording of high patient doses from fluoroscopy and notification of referring physician and instructions to patient.

Sections 16.16 and 16.17 are updated for compatibility with 10 CFR Part 30 requirements.

Section 16.19, concerning limitations on application of radiation to humans, is updated to reflect changes in the use of radioactive materials especially therapeutic sources.

Section 16.22 is updated to remove the requirement for mammography screening programs to teach breast self-examination.

Section 16.23 is updated to require quality assurance (QA) programs for advanced modality dental and podiatry, to require radiation safety policies regarding patient fluoroscopy doses and neonatal imaging, to update specifications for modern imaging modalities, and to update breast imaging QA requirements.

Section 16.24 is updated to reflect updates to QA requirements and verification of radiation therapy treatments.

Section 16.26 is updated to incorporate by reference the current federal regulation from the U.S. Nuclear Regulatory Commission (NRC).

Sections 16.40 and 16.41 are updated to reflect new fee schedules and to incorporate NYS Department of Labor (DOL) fee categories.

Section 16.50 is updated to correctly reference the New York City Department of Health and Mental Hygiene (NYC DOHMH), change registration periods to allow more flexibility, and include commercial requirements previously listed within DOL regulations.

Section 16.51 is updated to include several items in the prohibited uses of radiation equipment, and half-value layer tables were updated to be current with federal manufacturing requirements (21 CFR Part 1020) for equipment listed in sections 16.52 through 16.70 of Title 10 of the NYCRR.

Sections 16.52, 16.54 and 16.55 are updated to include specifications for hand-held units and Cone Beam Computed Tomography (CBCT) as well as updates to filtration requirements. Requirements for gonadal shielding have also been removed.

Section 16.53 is updated to include changes for handheld intra-oral radiographic equipment.

Section 16.58 is updated to include new specifications for display of air kerma and minimum source to skin distance, to be consistent with federal manufacturing requirements (21 CFR Part 1020).

Sections 16.60 and 16.61 are updated to reflect current technologies and therapy equipment operated at potentials over and below 60 kV.

Section 16.65 is a new section regarding CBCT quality assurance, physicist testing, and accreditation requirements.

Section 16.101, concerning licensure, is updated to incorporate references to the CFR. Although no additional requirements are being added, elements of 10 CFR Part 31 and the Appendices to Part 16 are now included herein.

Section 16.102 is updated to add a paragraph on authorizing the Department to inspect a facility prior to the issuance of a license and adds a paragraph requiring an emergency plan for licensees that possess large amounts of dispersible radioactive material. This was previously codified in DOL regulations under 12 NYCRR Part 38. This section also adds conditions for consortiums to share accelerator produced isotopes.

Section 16.103, concerning licensing requirements for radioactive materials, incorporates by reference various provisions within 10 CFR Parts 30, 40, and 70 for licensing requirements. Currently these requirements are only incorporated into license conditions but not NYS regulations.

Section 16.104 adds requirements on portable gauge security, consortiums, and breakthrough limits for generators.

Section 16.109 adds reciprocity agreement provisions with other Agreement States, which were previously codified in DOL regulations within 12 NYCRR Part 38. This new section will also allow a licensee to pay a fee to work in New York for up to 180 days each year, instead of only allowing licensees to work 30 days each year but at no charge.

Section 16.112 is updated to add requirements for increased security for certain amounts of radioactive material, as required by 10 CFR Part 37.

Sections 16.113 and 16.114 add requirements for decommissioning and financial assurance.

Section 16.123 updates medical use requirements for specific licenses for certain medical uses of byproduct materials, to be compatible with Federal regulations.

Section 16.124 is a new section that adds manufacturing requirements for licenses to manufacture or transfer certain items containing radioactive material.

Section 16.125 is a new section that adds additional requirements for the manufacture, preparation or transfer for commercial distribution of medical drugs containing radioactive material.

Section 16.126 adds a new requirement for sealed source and device registration.

Section 16.127 adds a new section governing licenses for industrial radiography as well as radiation safety requirements for industrial radiographic operations.

Section 16.128 adds a new section for well logging.

Section 16.129 adds a new section for panoramic irradiators.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsna@health.ny.gov

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