

Purpose: To update Quick Draw lottery game rules in a standardized format for draw-game rules.

Text or summary was published in the December 3, 2025 issue of the Register, I.D. No. SGC-48-25-00029-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 Buckley, New York State Gaming Commission, 354 Broadway, PO Box 7500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Monopoly Millionaires' Club Lottery Game

I.D. No. SGC-48-25-00031-A

Filing No. 106

Filing Date: 2026-02-03

Effective Date: 2026-02-18

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

Action taken: Repeal of section 5007.16 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19); Tax Law, sections 1604(a) and 1617

Subject: Monopoly Millionaires' Club lottery game.

Purpose: To repeal rules governing a disused lottery game.

Text or summary was published in the December 3, 2025 issue of the Register, I.D. No. SGC-48-25-00031-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 Buckley, New York State Gaming Commission, 354 Broadway, PO Box 7500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Powerball Lottery Game

I.D. No. SGC-48-25-00032-A

Filing No. 103

Filing Date: 2026-02-03

Effective Date: 2026-02-18

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

Action taken: Repeal of section 5007.13; addition of Part 5016 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19); Tax Law, sections 1604(a), 1612(a) and 1617

Subject: Powerball lottery game.

Purpose: To update Powerball lottery game rules in a standardized format for draw-game rules.

Text or summary was published in the December 3, 2025 issue of the Register, I.D. No. SGC-48-25-00032-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 Buckley, New York State Gaming Commission, 354 Broadway, PO Box 7500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Pick 10 Lottery Game

I.D. No. SGC-48-25-00033-A

Filing No. 104

Filing Date: 2026-02-03

Effective Date: 2026-02-18

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

Action taken: Repeal of Part 5011 and addition of new Part 5011 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19); Tax Law, sections 1604(a) and 1612(a)

Subject: Pick 10 lottery game.

Purpose: To update Pick 10 lottery game rules in a standardized format for draw-game rules.

Text or summary was published in the December 3, 2025 issue of the Register, I.D. No. SGC-48-25-00033-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 Buckley, New York State Gaming Commission, 354 Broadway, PO Box 7500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Take 5 Lottery Game

I.D. No. SGC-48-25-00034-A

Filing No. 105

Filing Date: 2026-02-03

Effective Date: 2026-02-18

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

Action taken: Repeal of Part 5012 and addition of new Part 5012 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19); Tax Law, sections 1604(a) and 1612(a)

Subject: Take 5 lottery game.

Purpose: To update Take 5 lottery game rules in a standardized format for draw-game rules.

Text or summary was published in the December 3, 2025 issue of the Register, I.D. No. SGC-48-25-00034-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 Buckley, New York State Gaming Commission, 354 Broadway, PO Box 7500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

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

Powerball Game Features

I.D. No. SGC-07-26-00005-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 5016.1; addition of sections 5016.5 and 5016.6 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19); Tax Law, sections 1604(a) and 1617

Subject: Powerball game features.

Purpose: To provide for operation of the Power Play and Double Play game features of the Powerball lottery draw game.

Text of proposed rule: Section 5016.1 of 9 NYCRR would be amended and new sections 5016.5 and 5016.6 would be added, to read as follows:

§ 5016.1. Definitions.
The following [definition] definitions shall apply to the Powerball game, in addition to the general definitions set forth in section 5000.2 of this Title:

(a) *Double Play* means a game feature of the Powerball game that offers purchasers of a Powerball bet ticket with a Double Play play (or plays) a second chance to win a new set of prizes, using the same numbers the player selected (manually or by quick pick) for the Powerball bet ticket purchased.

(b) *Double Play drawing* means the drawing for the selection of the game feature results that determine Double Play winning numbers.

(c) *Double Play play* means a single purchased wager for the Double Play game feature.

(d) *Double Play winning numbers* means the numbers selected in the Double Play drawing, which are selected after selection of the Powerball winning numbers and shall be drawn from the same complete fields of numbers from which Powerball winning numbers are drawn.

(e) *Double Play low-tier prize* means all Double Play prizes other than the Double Play first prize, which shall be equal to the prize amount established for the prize level, except as otherwise provided in section 5016.6 of this Part.

(f) *Power Play* means a game feature of the Powerball game that offers purchasers of a Powerball bet ticket with a Power Play play (or plays) a chance to multiply the amount of any prize level 2 through 9 won in a Powerball drawing by 2, 3, 4, 5 or 10 times, pursuant to the rules set forth in section 5016.5 of this Part.

(g) *Power Play drawing* means the drawing for the selection of the Power Play multiplier.

(h) *Power Play multiplier* means the number selected in the Power Play drawing, which shall be either 2, 3, 4, 5 or 10, pursuant to the rules set forth in section 5016.5 of this Part.

(i) *Power Play play* means a single purchased wager for the Power Play game feature.

(j) *Powerball winning numbers* means the six numbers, the first five from field 1 and the last one from field 2, randomly selected at each Powerball drawing, which shall be used to determine winning Powerball plays shown on a bet ticket.

* * *

§ 5016.5. Power Play game feature.

(a) *Feature description.* A Power Play play must be made, if at all, at the same time a Powerball play is purchased. A Power Play play is in addition to, and does not include, a Powerball play or a play of any other feature of the Powerball game. A Power Play play cannot be cancelled. Power Play plays may be included in a lottery subscription program. A Power Play drawing shall occur in conjunction with a Powerball drawing. During each Power Play drawing for which the associated Powerball drawing has an annuitized jackpot prize initially advertised as \$150 million or less, a single number shall be selected to become the Power Play multiplier from among the following: 2, 3, 4, 5 or 10. During each Power Play drawing for which the associated Powerball drawing has an annuitized jackpot prize initially advertised as more than \$150 million, a single number shall be selected to become the Power Play multiplier from among the following: 2, 3, 4 or 5. A Power Play multiplier shall be selected at random, with the aid of drawing equipment, pursuant to the controls and methods established for the Powerball game. A player who has purchased a Power Play play and wins a Powerball prize at any level 2 through 9 shall win a Powerball prize amount as set forth in subdivision (c) of this section, in lieu of the prize set forth in section 5016.4(a) of this Part. The Powerball jackpot prize (Powerball prize level 1) shall not be increased through the Power play feature. Power Play is not applicable to the Powerball Double Play game feature described in section 5016.6 of this Part.

(b) *Price.* The price for a Power Play play shall be \$1 per Powerball play.

(c) *Prize structure.* Odds and prizes. The prize structure for the Power Play game feature shall be as follows:

Powerball prize level	Prize amount for Power Play number selected				
	10	5	4	3	2
2	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
3	\$500,000	\$250,000	\$200,000	\$150,000	\$100,000
4	\$1,000	\$500	\$400	\$300	\$200

Powerball prize level	Prize amount for Power Play number selected				
5	\$1,000	\$500	\$400	\$300	\$200
6	\$70	\$35	\$28	\$21	\$14
7	\$70	\$35	\$28	\$21	\$14
8	\$40	\$20	\$16	\$12	\$8
9	\$40	\$20	\$16	\$12	\$8

The commission may announce, as a promotion, a higher prize for a Power Play play applicable to a level 2 Powerball prize for a specified drawing, in which case such higher announced prize shall be awarded in lieu of the prize amount set forth in this subdivision. If a liability limit reduces the Powerball prize amounts for levels 2 through 9, as set forth in section 5016.4(d) of this Part, then the prize amounts set forth in this subdivision shall be changed accordingly, to amounts the commission announces after the drawing. By way of illustration, if the Powerball level 3 prize becomes \$25,000 instead of \$50,000 pursuant to section 5016.4(d) of this Part for a drawing, and a Power Play multiplier of 5 is selected in connection with such drawing, then a winning Powerball level 3 play with a Power Play play would win \$125,000.

The odds of a Power Play multiplier being selected are as follows:

(1) When the number 10 is included as a possible Power Play multiplier:

Power Play multiplier	Odds 1 in
10	43.0000
5	21.5000
4	14.3333
3	3.3077
2	1.7917

(2) When the number 10 is not included as a possible Power Play multiplier:

Power Play multiplier	Odds 1 in
5	21.0000
4	14.0000
3	3.2308
2	1.7500

§ 5016.6. Double Play game feature.

(a) *Feature description.* A Double Play play must be made, if at all, at the same time a Powerball play is purchased. A Double Play play is in addition to, and does not include, a Powerball play or a play of any other game feature of the Powerball game. A Double Play play cannot be cancelled. Double Play plays may be included in a lottery subscription program. A Double Play drawing shall occur in conjunction with a Powerball drawing. When a Double Play play is purchased, the player's Powerball play numbers for a drawing shall be compared with the Double Play winning numbers associated with such Powerball drawing. If the player's Powerball play numbers in a single play match the Double Play winning numbers in the manner set forth in this section, the Double Play game feature shall entitle the holder of the Powerball bet ticket for that drawing to a fixed prize as set forth in this section, which prize is different from the Powerball prizes set forth in section 5016.4(a) of this Part.

(b) *Price.* The price for a Double Play play shall be \$1.

(c) *Prize structure.*

(1) Odds and prizes. The prize structure for the Double Play feature shall be as follows:

Matches in field 1	Matches in field 2	Odds 1 in	Prize	% of prize pool	Level
5	1	292,201,338.0000	First prize	9.0707%	1
5	0	11,688,053.5200	\$500,000	7.7780%	2
4	1	913,129.1813	\$50,000	9.9558%	3
4	0	36,525.1673	\$500	2.4889%	4

Matches in field 1	Matches in field 2	Odds 1 in	Prize	% of prize pool	Level
3	1	14,494.1140	\$500	6.2721%	5
3	0	579.7646	\$20	6.2721%	6
2	1	701.3281	\$20	5.1850%	7
1	1	91.9775	\$10	19.7677%	8
0	1	38.3239	\$7	33.2097%	9

Overall odds of winning: 1 in 24,8671.

(2) Prize pool. The prize pool for all prize categories shall consist of up to 55 percent of each drawing period's gross sales.

(3) Prize payment. The first prize shall be \$10 million divided equally by the number of Double Play plays winning the first prize. If in any Double Play drawing there are no Double Play plays that qualify for the first prize, first prize shall remain at \$10 million for the next drawing. Except as otherwise provided in this subdivision, all Double Play prizes other than the first prize are fixed prize amounts. The holder of a winning Double Play play may win only one prize per Double Play play in connection with the winning numbers drawn for the Double Play feature and shall be entitled only to the prize won by those numbers in the highest matching prize category. The holder of a bet ticket may win both a Powerball prize and a Double Play prize for the same related drawings, if the purchaser's selected numbers as shown on the bet ticket for a Powerball play match both sufficient Powerball winning numbers and sufficient Double Play winning numbers.

(4) Pari-mutuel prize determinations. If the total of the Double Play fixed prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the Double Play fixed prizes and the sources of additional funding by the participating lotteries in the game are depleted pursuant to applicable agreements among the participating lotteries, then the highest Double Play fixed prize shall become a pari-mutuel prize. If the amount of the highest Double Play fixed prize, when paid on a pari-mutuel basis, drops to or below the next highest Double Play fixed prize and there are still not sufficient funds to pay the remaining Double Play set prizes awarded, then the next highest Double Play fixed prize shall become a pari-mutuel prize. This procedure shall continue down through all Double Play fixed prize levels, if necessary, until all Double Play fixed prize levels become pari-mutuel prize levels, in which circumstance, the money available from the funding sources agreed to by the participating lotteries shall be divided among the winning Double Play plays in proportion to their respective prize percentages.

(5) Changes for promotional purposes. The number of prize categories and the allocation of the prize fund among the prize categories may be changed for promotional purposes. The commission shall announce publicly any such change.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 354 Broadway Center, PO Box 7500, Schenectady, NY 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.

Regulatory Impact Statement

1. STATUTORY AUTHORITY: The New York State Gaming Commission ("Commission") is authorized to promulgate the proposed rule by Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) and Tax Law sections 1604(a) and 1617.

Racing Law section 104(19) authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

Tax Law section 1604(a) authorizes the Commission to promulgate rules and regulations governing the operation of the State Lottery for Education.

Tax Law section 1617 authorizes the Commission to enter into agreements to offer multi-jurisdiction lottery games.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the Legislature's stated goals to operate in an "evolving and increasingly competitive market place" and ensure that gaming activity will be of the highest quality and that the best interests of the public will be served (Racing, Pari-Mutuel Wagering and Breeding Law section 100) and carry out the mandate of Article I, Section 9(1) of the New York State Constitution to operate the New York State Lottery for Education (Tax Law section 1601).

3. NEEDS AND BENEFITS: This rule making will permit the Commission to offer a new feature to a multi-jurisdiction lottery game to increase lottery revenue for education and to set forth rules governing a current game feature to promote transparency in the regulations.

The proposed amendment will permit the Commission to offer the Double Play game feature, which is a new feature of the multi-jurisdictional Powerball lottery draw game that is expected to raise revenue for education by appealing to players with a potential additional prize structure and ticket price.

The Commission operates and administers joint, multi-jurisdiction, and out-of-state lottery games as a member of the Multi-State Lottery Association ("MUSL"), a group comprising government lotteries from other jurisdictions. MUSL develops concepts for possible new features of interest to MUSL members and other government lotteries that are party to relevant agreements with MUSL. These structures allow jurisdictions to introduce new features to multi-jurisdiction lottery games that appeal to consumer interest and increase lottery sales and revenue.

Powerball is a multi-state lottery game administered by MUSL that New York offers pursuant to an agreement among various state and territorial lotteries, as authorized by Tax Law Sections 1617, 1612(a) and 1604. The consortium of lotteries that participate in Powerball has introduced the Power Play and Double Play game features that offer Powerball ticket purchasers additional opportunity to win prizes. For an additional price of \$1 per play, the Power Play game feature offers purchasers of a Powerball bet ticket a chance to multiply the amount of any prize level 2 through 9 won in a Powerball drawing by 2, 3, 4, 5 or 10 times. The Power Play game feature has been offered in New York State since 2010, pursuant to lottery rules, without play detail customarily found in Commission regulations. For an additional price of \$1 per play, the Double Play game feature will enter a player's Powerball bet ticket numbers into a second drawing for a chance to win additional prizes. The Double Play game feature is currently offered in 27 U.S. lottery jurisdictions, and the Commission anticipates introducing the Double Play game feature for sale on June 2, 2026. This rule amendment provides that the time, place and manner of Power Play and Double Play drawings would be as authorized by MUSL, rather than prescribing a particular frequency and times of drawings. The Commission has determined that this rule making proposal would provide consistency and promote public ease of reference and understanding of the game features.

4. COSTS:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: No additional operating costs are anticipated as a result of the proposed rule. Existing lottery sales agents will be able to sell tickets that include these game features the same as they do for other lottery games.

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 as a result of the proposed rule. The Commission can administer these game features using existing resources.

c. The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience with operating the State Lottery for Education since its inception.

5. LOCAL GOVERNMENT MANDATES: None. The Commission is the only governmental entity authorized to regulate the State Lottery for Education.

6. PAPERWORK: The proposed rule imposes 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: The proposed rules do not duplicate any existing State or federal requirements of the same or similar subject matter.

8. ALTERNATIVES: As an alternative to this rulemaking, the Commission could forego adopting rules implementing the game features and offer the game features pursuant to 9 NYCRR § 5004.17. The Commission determined that this rule making proposal would instead, if promulgated, provide consistency and better promote public ease of reference and understanding of the game features.

9. FEDERAL STANDARDS: There are no federal standards applicable to the sale of State lottery tickets within the State.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with these rules upon publication of the Notice of Adoption in the State Register.

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

The proposed rule making will set forth rules governing two game features of the Powerball multi-jurisdiction lottery game: the Power Play and Double Play game features. These game features will not have any adverse impact on small businesses, local governments, jobs or rural areas.

The proposed rulemaking does not affect local governments and will not harm small businesses in New York State.

When adopted, the rule will apply uniformly throughout the State, and it will impose no adverse impact on rural areas.

This rule making will not limit or decrease job opportunities.

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

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Chemical Analyses of Blood, Urine, Breath or Saliva for Alcoholic Content

I.D. No. HLT-07-26-00004-P

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

Proposed Action: Amendment of Part 59 of Title 10 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 1194(4)(c), 1198(6); Environmental Conservation Law, section 11-1205(6)

Subject: Chemical Analyses of Blood, Urine, Breath or Saliva for Alcoholic Content.

Purpose: To update, clarify, and simplify certain requirements.

Substance of proposed rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/proposed-rule-making>): This proposed amendment to 10 NYCRR Part 59 provides clarification to requirements and standards and addresses the Department's need to approve agency/program changes under the guidance of the Commissioner and in response to updates set forth by the U.S. Department of Transportation/National Highway Traffic Safety Administration (NHTSA).

In Section 59.1, a definition for certified reference standard has been added to clarify the Department's requirements. Definitions for denial, suspension, and revocation have been added. A definition for Breath Alcohol Concentration (BrAC) has been added to distinguish the use of breath as a sample type when determining alcohol concentrations. The title Commissioner is amended and replaced with the title Department, except in regard to ignition interlock devices, clarifying the Department's roles and responsibilities in enforcing this regulation. Section 59.2 is modified to introduce current laboratory reporting practices and allow for flexibility in reporting standards based on laboratory/agency procedures. Section 59.2 is further modified to revise the acceptable range for alcohol reference standards, allowing laboratories to select controls that span the instrument's calibration range. Section 59.2 is further modified to provide clarification regarding which of the two urine samples should be used to calculate BAC when reporting urine samples.

Existing Section 59.3 is repealed, and replaced with two new sections, 59.3 and 59.4. Section 59.3 now provides criteria for developing an analyst proficiency program for the chemical analysis of blood, urine, and saliva. Section 59.4 outlines new requirements to obtain a blood, urine, and saliva permit, describes criteria for voiding or revoking a permit, and extends the permit period from one (1) year to two (2) years.

Section 59.4(a) is now 59.5(a) and has been revised to remove the U.S. Department of Transportation/National Highway Traffic Safety Administration (NHTSA) Conforming Products list and references to specific NHTSA model specifications and the Federal Register. The proposed amendment clarifies the Department's acceptance of breath analysis instruments approved by NHTSA. Section 59.4(b) is now 59.5(b) and is modified to provide additional clarification of calibration requirements if the instrument is out of service for maintenance at the time that calibration would normally be required.

Section 59.5 is now 59.6 and has been revised to clarify that reference standards used in breath alcohol testing must be certified and that breath alcohol analysis results must be truncated. Section 59.6 is now 59.7 and has been amended to change "commissioner" to "department" and to update reference to a re-numbered section of this Part. Section 59.7 is now 59.8 and has been revised to clarify that reference standards used in breath alcohol testing must be certified. Section 59.8 is now 59.9 and has been revised to remove the requirement for analysts to return revoked permits to the commissioner. The program no longer issues physical permits under this Section, making this requirement obsolete.

Section 59.9 is now Section 59.10. Section 59.10(e) is amended to

clarify that a technical supervisor must submit a written application and/or statement from their supervisor in order to renew their technical supervisor certification.

Section 59.10 is now Section 59.11. Section 59.11(b) has been removed to prevent duplication of NHTSA requirements. Section 59.11(c)(1) is now 59.11(b) and is revised to clarify that breath alcohol ignition interlock devices must meet or exceed the model specifications adopted by NHTSA.

Section 59.12 is now 59.13 and has been revised to remove the requirement for manufacturers to provide documentation of current insurance by notifying the department in writing of each renewal of coverage, each change of issuing company and each change in liability limits. This requirement is redundant with other New York State requirements implemented after the current Section 59.12.

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

Statutory Authority:

The New York State (NYS) Vehicle and Traffic Law § 1194(4)(c) and Department of Environment Conservation Law § 11-1205(6), authorize the Department of Health to issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. NYS Vehicle and Traffic Law § 1198(6), authorizes the Commissioner of Health, in consultation with the Commissioner of Motor Vehicles and the Office of Probation and Correctional Alternatives, to promulgate regulations setting standards for the use of ignition interlock devices.

Legislative Objectives:

This amendment is consistent with the legislative objective of ensuring effective enforcement of laws related to driving while intoxicated and hunting while intoxicated (DWI). This proposal is consistent with Chapter 669 of the Laws of 2007, which authorized statewide use of ignition interlock devices, and Chapter 496 of the Laws of 2009 (Leandra's Law), which mandates that every person sentenced for any DWI offense must have an ignition interlock device installed in their vehicle as a requirement for conditional discharge or probation.

Needs and Benefits:

Part 59 of Title 10 of the Official Compilation of New York Codes, Rules and Regulations (NYCRR) establishes standards for chemical tests of blood, urine, breath, and saliva for the presence of alcohol, for purposes of detecting unacceptable levels of alcohol in persons. Courts rely on Part 59 provisions daily in adjudicating alcohol-related offenses and the State's correctional alternatives program relies on effective operation of ignition interlock devices to prevent repeat offenders from driving while impaired by alcohol. The proposed amendments would help align the requirements with current legal and technical practice, clarify the Department's authority and processes, and provide flexibility in certain areas.

This proposal would replace the term "Commissioner" with "Department" throughout Sections 59.2 through 59.10 of the regulation. The current regulation puts sole responsibility on the Commissioner of Health, which is neither necessary nor feasible. Given the importance of Part 59 and the potential for legal issues, placing authority with the Department will minimize legal issues related to the Department's authority.

The addition of the terms "denial", "suspension", and "revocation" are needed to clearly define the authority of the Department regarding potential penalties to manufacturers of ignition interlock systems, as well as to clearly define the terms "revocation" or "suspension" when permit holders are non-compliant with regulatory requirements of breath and blood alcohol operator permits.

Section 59.2 is modified to update reporting standards to match current legal/forensic practice and allow for flexibility in reporting standards based on laboratory/agency procedures. Proposed changes revise the acceptable range for the alcohol reference samples, allowing for controls that span the calibration range, eliminating unnecessary stringency, and update the regulation to current legal/forensic practices. Section 59.2 currently states that two urine samples must be collected when calculating blood alcohol content but does not define which sample should be used for reporting. Section 59.2 is amended to clarify which urine sample is reported per Section 59.2((a)(1)).

Section 59.3 is repealed and replaced with two new Sections 59.3 and 59.4. Section 59.3 replaces the current proficiency test events and grading criteria with a robust and flexible proficiency program. The proposed amendment allows the Department to evaluate analyst proficiency using