

# RULE REVIEW

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## New York State Gaming Commission Five-Year Review of Existing Regulations

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 2014, 2009, 2004 and 1999, which must be reviewed in calendar year 2019. 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does not include rules that were adopted as consensus or emergency rules, or rules that have been largely amended or repealed.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 Monday, March 18, 2019. 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](mailto:gamingrules@gaming.ny.gov).

### RULES ADOPTED IN 2014

#### SGC-40-13-00002 Corticosteroid joint injection disclosure

This rulemaking added a new rule, subdivision (c) of 9 NYCRR § 4038.5, to require a person whose thoroughbred horse is claimed to disclose any corticosteroid joint injection treatments given to the horse in the previous 30 days to the new owner, so the new owner knows about the horse's joint issue and treatment. The legal basis for the rule is Racing, Pari-Mutuel Wagering and Breeding Law ("RWL") §§ 103, 104 and 122.

#### SGC-47-13-000016 Extracorporeal shock wave therapy

This rulemaking added a new rule, 9 NYCRR § 4043.14, to require the registration of shock and pulse wave therapy equipment used to treat thoroughbred racehorses, reporting the use of the equipment, and prohibiting such therapies within 10 days before a horse trains at speed or races. The legal basis for the rule is RWL §§ 103, 104 and 122.

SGC-49-13-00019 Tests required after Depo Medrol administration

This rulemaking added a new rule, subdivision (k) of 9 NYCRR § 4043.2, to require a thoroughbred horse treated with methylprednisolone acetate ("Depo Medrol") to test below a regulatory threshold (9 NYCRR § 4043.3) for the drug and be released by the stewards to race, because the long half-life of the drug makes it difficult to regulate with a restricted time period alone. The legal basis for the rule is RWL §§ 103, 104 and 122.

#### SGC-49-13-00020 Regulatory thresholds for 24 drugs

This rulemaking added a new rule, 9 NYCRR § 4043.3, to supplement the restricted time periods with regulatory thresholds, consistent with national standards, and to control the use of 24 common equine drugs in a thoroughbred horse before it races. The thresholds are designed to keep a horse from racing while a drug is affecting its performance. The legal basis for the rule is RWL §§ 103, 104 and 122.

SGC-49-13-00021 Limiting corticosteroids that may be used systemically

This rulemaking amended paragraph (1) of subdivision (i) of 9 NYCRR § 4043.2 to limit the corticosteroids that may be administered

systemically to a thoroughbred horse within a week of racing, i.e., until five days before the race, to prednisolone and dexamethasone, which are the only ones whose use within five days can be determined accurately by laboratory testing. The legal basis for the rule is RWL §§ 103, 104 and 122.

SGC-49-13-00005 Out-of-competition tests and prohibited substances

This rulemaking amended 9 NYCRR § 4120.17 to modify the procedures to follow when collecting samples from standardbred racehorses that are not entered to race, and to more clearly describe the doping agents that may not be administered at any time. The legal basis for the rule is RWL §§ 103, 104 and 122.

#### SGC-15-14-00022 48-hour restricted time period for flunixin

This rulemaking repealed subdivision (d) and amended subdivision (e) of 9 NYCRR § 4043.2, to no longer permit the non-steroidal anti-inflammatory drug ("NSAID") flunixin to be administered within 48 hours before a thoroughbred horse races, standardize the restricted time period for NSAIDs, and preclude horses from violating a newly adopted flunixin regulatory threshold. The legal basis for the rule is RWL §§ 103, 104 and 122.

#### SGC-37-14-00006 Limiting three corticosteroids to joint injections

This rulemaking amended paragraph (2) of subdivision (i) of 9 NYCRR § 4043.2 to limit three corticosteroids (betamethasone, methylprednisolone and triamcinolone) to use only for joint injections, so that their use in compliance with a newly adopted restricted time period could be determined accurately by laboratory testing. The legal basis for the rule is RWL §§ 103, 104 and 122.

#### SGC-14-14-00011 Cash 4 Life lottery game

This rulemaking added a new rule, 9 NYCRR § 5007.15, to add a new game, Cash 4 Life, to the multi-jurisdictional lottery games offered in New York, because innovative games generate more revenue. The legal basis for the rule is RWL §§ 103 and 104 and Tax Law §§ 1601, 1604, 1612 and 1617.

SGC-24-14-00001 Restriction on using public assistance benefits for gaming

This rulemaking amended 9 NYCRR §§ 4009.3, 4122.3, 4500.9, 5113.1, 5113.5, 5113.7 and 5113.8 and added new rules, 9 NYCRR §§ 4404.18, 4822.25 and 5117.7, to restrict the acceptance of public assistance benefits in racetracks, off-track betting facilities, video lottery facilities and commercial bingo establishments and to comply with new legislation. The legal basis for the rules is L. 2014, ch. 58, part F, § 3; RWL §§ 104, 235, 310 and 520; and Tax Law §§ 1604 and 1617-a.

#### SGC-32-14-00005 Monopoly® Millionaires' Club lottery game

This rulemaking added a new rule, 9 NYCRR § 5007.15, to add a new game, Monopoly® Millionaires' Club, to the multi-jurisdictional lottery games offered in New York, because innovative games generate more revenue. The legal basis for the rule is RWL §§ 103 and 104 and Tax Law §§ 1601, 1604, 1612 and 1617.

### RULES ADOPTED IN 2009

Rules adopted by the Division of Lottery:

## LTR-53-08-00015 Operation of video lottery gaming

This rulemaking amended 21 NYCRR §§ 2836-6, 2836-7, 2836-12, 2836-18, 2836-19, 2836-20, and 2836-34 to clarify and update the Commission rules for licensing and regulating the operation of video lottery gaming (“VLG”). The process to license non-key VLG employees was simplified and the license-denial criteria explicated in § 2836-6 (now Part 5105 of 9 NYCRR). The requirements for renewing a VLG license in § 2836-7, and for a non-gaming vendor license in § 2836-12 (now Part 5110 of 9 NYCRR), were repealed in view of the experience Lottery gained while regulating VLG. The marketing allowance in § 2836-18 (now Part 5116 of 9 NYCRR) was amended to reflect changes in Lottery’s management and amendments to statutory law. Self-exclusion was expanded to longer periods of self-exclusion without the ability to petition for premature reinstatement in § 2836-19 (now Part 5117 of 9 NYCRR). The description of persons prohibited from playing VLG was conformed to industry standards in § 2836-20 (also now Part 5117 of 9 NYCRR). The process to obtain a capital award was added in § 2836-24 (now Part 5122 of 9 NYCRR). The legal basis for the rules is Tax Law §§ 1604, 1612 and 1617-a.

Rules adopted by the Racing and Wagering Board:

## RWB-34-08-00003 Bonus ball bingo

This rulemaking added a new subdivision (af) to 9 NYCRR § 5800.1 and a new 9 NYCRR § 5820.57, to create a new bingo game that features a bonus ball, because innovative games generate more revenue for charitable organizations and their worthy causes. 9 NYCRR §§ 5800.1 and 5820.57 have been renumbered 9 NYCRR §§ 4800.1 and 4820.57. The legal basis for the rules is Executive Law § 435.

## RWB-52-08-00013 Allowing audible alert on electronic bingo aids

This rulemaking amended subdivision (d) and added a new subdivision (e) to 9 NYCRR § 5823.2 to permit the sale of electronic bingo aids that will emit an unobtrusive audio alert when a winning pattern has been obtained, and thereby assist persons who wish to play multiple bingo cards. 9 NYCRR § 5823.2 has been renumbered 9 NYCRR § 4823.2. The legal basis for the rule is Executive Law § 435.

## RWB-43-09-00001 Out-of-competition drug testing of race horses

This rulemaking added a new rule for thoroughbred racing, 9 NYCRR § 4043.12, and for standardbred racing, 9 NYCRR § 4120.17, to delineate the procedures to follow when collecting samples from racehorses that are not entered to race or on the grounds of a licensed racetrack, and to prohibit the administration of certain doping agents to any racehorse at any time. The collection procedures in 9 NYCRR § 4043.12 were amended to incorporate agency protocols, and renumbered 9 NYCRR § 4012.5, on July 18, 2012 (RWB-08-12-00001). Section 4043.12’s substance-prohibitions were repealed and replaced on August 1, 2018 (SGC-19-18-00004). Section 4120.17 was amended in 2014 (SGC-49-13-00005), supra. The legal basis for the rules is RWL §§ 103, 104 and 301.

## RULES ADOPTED IN 2004

No rules were adopted by the Division of Lottery

Rules adopted by the Racing and Wagering Board:

## RWB-50-03-00001 Stewards discretion when placing horse after foul

This rulemaking amended subdivision (b) of 9 NYCRR § 4035.2 to clarify the stewards’ discretion to determine, based on the impact of a horse’s interference with other horses in a thoroughbred race, the placement of the offending horse in the race. The legal basis for the rule is RWL §§ 103, 104 and 218.

## RWB-25-04-00003 Comprehensive bingo amendments

This rulemaking amended 9 NYCRR §§ 5812.9, 5814.15, 5815.11, 5815.14, 5815.20, 5820.8, 5820.12 through 5820.20, 5820.27, 5820.30, 5820.34, 5820.39, 5820.42, 5820.47, 5820.49, 5820.51 through 5820.54, 5820.56, 5821.18, 5822.5, 5822.10 and 5822.11 to revise the bingo rules. The amendments better clarify and instruct, permit new games and prizes, and remove antiquated and unneeded restrictions related to bonus prizes, bookkeeper fees, sales of packages of bingo cards, tiered bingo games, video as a substitute for assistant callers, and multi-colored balls. Part 5800 of 9 NYCRR has been renumbered Part 4800. The legal basis for the rules is Executive Law § 435.

## RWB-33-04-00006 Trifecta wagering with five-entry fields

This rulemaking amended subdivision (i) of 9 NYCRR § 4011.22, to permit trifecta wagering when a thoroughbred field comprises only five horses. The legal basis for the rule is RWL §§ 103, 104 and 235.

## RWB-34-04-00003 Voluntary exclusion from pari-mutuel wagering venues

This rulemaking added new Parts 4044, 4123, 4237, and 5212 to 9 NYCRR, to establish a procedure for persons to exclude themselves from entering the premises of racetracks, off-track betting parlors and simulcast theaters and to place limits on the amount a person may wager by telephone. Part 5212 of 9 NYCRR has been renumbered Part 4412. The legal basis for the rules is RWL §§ 103, 104 and 235.

## RULES ADOPTED IN 1999

Rules adopted by the Division of Lottery

## LTR-20-99-00008

This rulemaking amended Parts 2804 and 2817 of 21 NYCRR to repeal the Take Five subscription program and to revise the prize structure and other features of the Lotto game to make the game easier to play and to adapt to changes in long-term interest rates. Parts 2804 and 2817 have been renumbered Parts 5004 and 5017. The legal basis of the rules is Tax Law § 1604.

Rules adopted by the Racing and Wagering Board:

## RWB-18-99-00001 Internet posting to assist compulsive gamblers

This rulemaking amended §§ 4003.54, 4101.40, 4204.14 and 5204.17 of 9 NYCRR, to require racetracks and off-track betting corporations that maintain a website to post on their homepage a message designed to assist compulsive gamblers. Section 5204.17 has been renumbered 4404.17. The legal basis for the rules is RWL §§ 103, 104, 111, 518 and 520.

## RWB-23-98-00005 Games of chance regulations for veterans’ organizations

This rulemaking amended 9 NYCRR § 5624.21 to remove veterans’ organizations from the Commission’s pre-approval requirement for the expenditure of proceeds from the conduct of games of chance and to remove some of the restrictions on such expenditures. Section 5624.21 had been renumbered § 4624.21. The legal basis for the rule is General Municipal Law §§ 186 and 188-a.