

RAFA and JIS statements were not required. In the table of contents, "Method of Notice" was changed to "Method of notice." In 5300.2 header, "Method of Notice" was changed to "Method of notice." In 5300.2 header, added period at the end.

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 2021, 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.

NOTICE OF ADOPTION

To Set Forth the Standards for Electronic Table Game Systems

I.D. No. SGC-42-16-00004-A

Filing No. 1146

Filing Date: 2016-12-13

Effective Date: 2016-12-28

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

Action taken: Addition of sections 5317.41 and 5319.60 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1335(8)

Subject: To set forth the standards for electronic table game systems.

Purpose: To prescribe the technical standards for the testing and certification of electronic table game systems.

Text or summary was published in the October 19, 2016 issue of the Register, I.D. No. SGC-42-16-00004-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, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3407, 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 2021, 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.

Department of Labor

NOTICE OF ADOPTION

Minimum Wage

I.D. No. LAB-42-16-00015-A

Filing No. 1153

Filing Date: 2016-12-14

Effective Date: 2016-12-31

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

Action taken: Amendment of Parts 141, 142, 143 and 146 of Title 12 NYCRR.

Statutory authority: Labor Law, sections 21 and 652

Subject: Minimum Wage.

Purpose: To comply with chapter 54 of the Laws of 2016 that increased the minimum wage.

Text or summary was published in the October 19, 2016 issue of the Register, I.D. No. LAB-42-16-00015-P.

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

Text of rule and any required statements and analyses may be obtained from: Michael Paglialonga, New York State Department of Labor, Building 12, Room 509, State Campus, Albany, NY 12240, (518) 457-4380, email: regulations@labor.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department received comments on the proposed rule published in the October 19, 2016 edition of the NY Register. The following represents a summary and an analysis of such comments, and the reasons why any significant alternatives were not incorporated into the rule.

Comment 1:

Multiple comments concerned the necessity for, and impact of, increases in various amounts, including the salary threshold for exempt executive and administrative employees and the cash wage requirements for tipped employees.

Response 1:

The increased rates are all mandated by state law, and the scope of this rule is limited to those mandated by the Legislature. The minimum wage law requires that all of these rates be increased in proportion to statutory increases in the minimum wage, at Labor Law § 652(2). When the minimum wage was increased as part of the budget in April 2016, those increases triggered the statutory requirement to promulgate this rulemaking to increase other amounts proportionately.

Comment 2:

Multiple comments concerned the relationship between this rulemaking and federal rulemaking under the Fair Labor Standards Act, with respect to salary thresholds for executive and administrative employees and whether the state rulemaking should be delayed or reconsidered based on the status of the federal rulemaking.

Response 2:

This rulemaking is not based on, or related to, the federal rulemaking concerning salary thresholds. As stated above, this rulemaking is required by law and non-discretionary. Its purpose and effect is to maintain the longstanding historical relationship between minimum wage and salary threshold amounts, where the weekly salary threshold is always equal to 75 times the hourly minimum wage rate. For example, when the minimum wage increases to \$10 per hour, this rulemaking increases the weekly salary threshold to \$750.

Comment 3:

Multiple comments concerned the fact that the proposed rulemaking does not rescind the phase-in schedules and minimum wage rates for fast food employees, and does not eliminate distinctions between fast food employees and other employees in the hospitality industry.

Response 3:

The scope and intent of this rulemaking is to implement the mandatory rate adjustments mandated by law, as set forth above. Since the legislature did not rescind the fast food wage order, which drew distinctions between fast food and other hospitality employees, with corresponding differences in rates, phase-in schedules, and provisions for tipped employees, this rulemaking retains those distinctions. While the Department recognizes that the Commissioner has discretionary authority to address such issues, this rulemaking does not exercise that authority.

Comment 4:

Multiple comments sought clarification about how the Department interprets and intends to implement distinctions established in the statute establishing different phase-in schedules for different regions, and for large and small employers within New York City, as well as the impact of those rates on various other requirements within the Wage Orders.

Response 4:

The Department will address such issues through Frequently Asked Questions and other educational and outreach materials prior to the effective date of the rule.

Comment 5:

The overtime examples in Part 146 should be updated to reflect the new Minimum Wage rates.

Response 5:

These examples were updated to identify the relevant historical rates underlying each example. The examples were not updated to reflect further rates because of the fact that there are so many different rates for each region and year during the phase in period.

Comment 6:

The rule should include a funding offset for any increased costs to State or government supported contracts as a result of the rule.

Response 6:

The Department disagrees. Such funding levels are outside of the authority granted to the Commissioner of Labor in the Labor Law.

NOTICE OF ADOPTION

Farm Worker Minimum Wage**I.D. No.** LAB-42-16-00016-A**Filing No.** 1154**Filing Date:** 2016-12-14**Effective Date:** 2016-12-31

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

Action taken: Amendment of Part 190 of Title 12 NYCRR.

Statutory authority: Labor Law, sections 21, 652, 673 and 674

Subject: Farm Worker Minimum Wage.

Purpose: To comply with chapter 54 of the Laws of 2016 that increased the minimum wage.

Text or summary was published in the October 19, 2016 issue of the Register, I.D. No. LAB-42-16-00016-P.

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

Text of rule and any required statements and analyses may be obtained from: Michael Paglialonga, New York State Department of Labor, Building 12, Room 509, State Campus, Albany, NY 12240, (518) 457-4380, email: regulations@labor.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department received comments on the proposed rule published in the October 19, 2016 edition of the NY Register. The following represents a summary and an analysis of such comments, and the reasons why any significant alternatives were not incorporated into the rule.

Comment 1:

Multiple comments concerned the necessity for, and impact of, increases in various amounts, including the salary threshold for exempt executive and administrative employees and the cash wage requirements for tipped employees.

Response 1:

The increased rates are all mandated by state law, and the scope of this rule is limited to those mandated by the Legislature. The minimum wage law requires that all of these rates be increased in proportion to statutory increases in the minimum wage, at Labor Law § 652(2). When the minimum wage was increased as part of the budget in April 2016, those increases triggered the statutory requirement to promulgate this rulemaking to increase other amounts proportionately.

Comment 2:

Multiple comments concerned the relationship between this rulemaking and federal rulemaking under the Fair Labor Standards Act, with respect to salary thresholds for executive and administrative employees and whether the state rulemaking should be delayed or reconsidered based on the status of the federal rulemaking.

Response 2:

This rulemaking is not based on, or related to, the federal rulemaking concerning salary thresholds. As stated above, this rulemaking is required by law and non-discretionary. Its purpose and effect is to maintain the longstanding historical relationship between minimum wage and salary threshold amounts, where the weekly salary threshold is always equal to 75 times the hourly minimum wage rate. For example, when the minimum wage increases to \$10 per hour, this rulemaking increases the weekly salary threshold to \$750.

Comment 3:

Multiple comments concerned the fact that the proposed rulemaking does not rescind the phase-in schedules and minimum wage rates for fast food employees, and does not eliminate distinctions between fast food employees and other employees in the hospitality industry.

Response 3:

The scope and intent of this rulemaking is to implement the mandatory rate adjustments mandated by law, as set forth above. Since the legislature did not rescind the fast food wage order, which drew distinctions between fast food and other hospitality employees, with corresponding differences in rates, phase-in schedules, and provisions for tipped employees, this rulemaking retains those distinctions. While the Department recognizes that the Commissioner has discretionary authority to address such issues, this rulemaking does not exercise that authority.

Comment 4:

Multiple comments sought clarification about how the Department

interprets and intends to implement distinctions established in the statute establishing different phase-in schedules for different regions, and for large and small employers within New York City, as well as the impact of those rates on various other requirements within the Wage Orders.

Response 4:

The Department will address such issues through Frequently Asked Questions and other educational and outreach materials prior to the effective date of the rule.

Comment 5:

The overtime examples in Part 146 should be updated to reflect the new Minimum Wage rates.

Response 5:

These examples were updated to identify the relevant historical rates underlying each example. The examples were not updated to reflect further rates because of the fact that there are so many different rates for each region and year during the phase in period.

Comment 6:

The rule should include a funding offset for any increased costs to State or government supported contracts as a result of the rule.

Response 6:

The Department disagrees. Such funding levels are outside of the authority granted to the Commissioner of Labor in the Labor Law.

Lake George Park Commission

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Increases in User Fees for Boats, Dock and Wharf Fees As Authorized by Amendments to ECL Section 43-0125

I.D. No. LGP-52-16-00002-P

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

Proposed Action: Amendment of sections 645-7.2, 645-7.6 and 645-7.7 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 43-0107(8) and 43-0125 as amended by L. 2016, ch. 272

Subject: Increases in user fees for boats, dock and wharf fees as authorized by amendments to Environmental Conservation Law section 43-0125.

Purpose: To incorporate new boat, dock and wharf fees established by amendments to Environmental Conservation Law section 43-0125.

Public hearing(s) will be held at: 4:00 p.m., Feb. 13, 2017 at Bolton Town Hall, Bolton, NY.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Text of proposed rule: Amendment of sections 645-7.2, 645-7.6 and 645-7.7 of Title 6 NYCRR – Regulatory Fees

Section 645-7.2 Persons Required to Pay. Regulatory fees must be paid by each person not specifically exempted herein who:

(a) owns or constructs a dock, mooring or wharf within the Park, exclusive of Trout Lake; and

(b) uses on the waters of Lake George any mechanically propelled boat or vessel with a motor of ten horsepower or more [or any non-mechanically propelled boat or vessel eighteen feet or more in length].

Section 645-7.6 Dock, Mooring and Wharf Fees.

(a) No person shall use or construct a dock, wharf or mooring on the waters of the Park without paying the fee required by this Section.

(b) The owner of a dock, wharf or mooring used for residential purposes shall pay an annual fee of [\$37.50] \$50.00 for each such dock, wharf or mooring.

(c) The owner of an association dock, wharf or mooring shall pay an annual fee in the amount of [\$37.50] \$50.00 times the total number of units with deeded or contractual access to the association docks, wharfs or moorings, or the actual number of vessels capable of being docked or moored at the association docks, wharfs or moorings, whichever is less.

(d) The owner of a dock or wharf used for commercial purposes shall