

**RACING AND GAMING COMMISSION[491]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 1, "Organization and Operation," Chapter 2, "Rule Making and Declaratory Orders," Chapter 3, "Fair Information Practices," Chapter 4, "Contested Cases and Other Procedures," and Chapter 5, "Track and Excursion Boat Licensees' Responsibilities"; to rescind Chapter 8, "Wagering and Simulcasting," and to adopt new Chapter 8, "Wagering, Simulcasting and Advance Deposit Wagering"; to rescind Chapter 9, "Harness Racing"; and to amend Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

Items 1 to 9 and 11 change the Commission's address.

Item 10 clarifies that "abuse of discretion" is the standard of review for appeals of certain stewards' decisions and clarifies the ways in which the Commission will accept written appeals.

Item 12 establishes a shelf application for licensee debt.

Item 13 rescinds Chapter 8 and adopts new rules to treat pari-mutuel wagers and calculations similar to casino gambling games. New Chapter 8 also requires pari-mutuel wagers and calculations to be made available to the public upon request at a designated location.

Item 14 rescinds and reserves Chapter 9.

Items 15 and 16 remove "clerk of the course" as a racing official.

Items 17 and 18 clarify that "abuse of discretion" is the standard of review for appeals of stewards' disqualification decisions.

Item 19 establishes the requirement for trainers to ensure that their employees are properly licensed by the Commission.

Item 20 clarifies that gambling games of chance approved under Chapter 11 are to be conducted on the gaming floor.

Item 21 was removed from consideration.

These amendments were published under Notice of Intended Action in the February 20, 2013, Iowa Administrative Bulletin as **ARC 0604C**. A public hearing was held on March 12, 2013. Two changes have been made since the Notice of Intended Action. The following sentence was added to Item 10 due to comments received in order to clarify the methods the Commission accepts for written appeals: "An appeal may also be filed by facsimile, electronic mail, or any other method as determined by the administrator." Item 21 amending subrule 11.12(8), "wide area progressive systems," was not adopted as a result of comments from the gaming industry.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

These amendments will become effective June 19, 2013.

The following amendments are adopted.

ITEM 1. Amend paragraph **1.2(1)"a"** as follows:

a. The racing and gaming commission is located at ~~717 E. Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309; telephone (515)281-7352. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday.

ITEM 2. Amend subrule 2.5(1) as follows:

**2.5(1) Written comments.** For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Racing and Gaming Commission, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309.

ITEM 3. Amend subrule 2.11(1) as follows:

**2.11(1) General.** When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the commission shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Racing and Gaming Commission, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 4. Amend rule 491—2.18(17A) as follows:

**491—2.18(17A) Petition for rule making.** Any interested person or agency may file a petition for rule making with the commission. The petition for rule making shall be filed in the Racing and Gaming Commission Office, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a file-stamped copy of the petition. The petition may be either typewritten or legibly printed in ink and must substantially conform to the following form:

RACING AND GAMING COMMISSION  
~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100  
Des Moines, Iowa 50309

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Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULE MAKING
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The petition must provide the following information:

1. to 5. No change.

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Petitioner's signature

**2.18(1) to 2.18(4)** No change.

ITEM 5. Amend rule 491—2.20(17A) as follows:

**491—2.20(17A) Petition for declaratory order.** Any person may file a petition with the commission for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the commission, at ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. A petition is deemed filed when it is received by that office. The commission shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the commission an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

RACING AND GAMING COMMISSION  
~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100  
Des Moines, Iowa 50309

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Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER
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The petition must provide the following information:

1. to 8. No change.

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's

representative and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 6. Amend subrule 2.22(3) as follows:

**2.22(3)** A petition for intervention shall be filed at the Racing and Gaming Commission Office, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. Such a petition is deemed filed when it is received by that office. The commission will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

RACING AND GAMING COMMISSION <del>717 East Court, Suite B</del> <u>1300 Des Moines Street, Suite 100</u> Des Moines, Iowa 50309		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. to 7. No change.

The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 7. Amend rule 491—2.24(17A) as follows:

**491—2.24(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the Administrator, Racing and Gaming Commission, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309.

ITEM 8. Amend subrule 2.25(2) as follows:

**2.25(2) Filing—when required.** All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Racing and Gaming Commission Office, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the commission.

ITEM 9. Amend subrule 3.3(1) as follows:

**3.3(1) Location of record.** In lieu of the words “(insert agency head)”, insert “Administrator”. In lieu of the words “(insert agency name and address)”, insert “Racing and Gaming Commission, ~~717 East Court, Suite B~~ 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309”.

ITEM 10. Amend rule 491—4.10(99D,99F) as follows:

**491—4.10(99D,99F) Appeals of administrative actions.** A license applicant or an occupational licensee may appeal a denial, suspension or ruling. An appeal must be made in writing to the office of the gaming representative or the commission office in Des Moines. An appeal may also be filed by facsimile, electronic mail, or any other method as determined by the administrator. The appeal must be received within 72 hours of service of the decision and is not considered filed until received by the commission. For any appeal of a decision rendered pursuant to 491—paragraph 10.4(4)“d”(3)“1,” the appeal must be received within 72 hours of any such decision and the standard of review will be abuse of discretion. The appeal must contain numbered paragraphs and set forth the name of the person seeking review; the decision to be reviewed; separate assignments of error; clear and concise statement of relevant facts; reference to applicable statutes, rules or other authority; prayer setting

forth relief sought; and signature, name, address, and telephone number of the person seeking review or that person's representative; or shall be on a form prescribed by the commission. If a licensee is granted a stay of a suspension pursuant to 491—4.45(17A) and the ruling is upheld in a contested case proceeding, the board of stewards may reassign the dates of suspension so that the suspension dates are served in the state of Iowa.

ITEM 11. Amend subrules 4.28(3) and 4.28(4) as follows:

**4.28(3) Filing—when required.** After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the commission at ~~717 East Court, Suite B 1300 Des Moines Street, Suite 100~~, Des Moines, Iowa 50309. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the commission.

**4.28(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the commission office at ~~717 East Court, Suite B 1300 Des Moines Street, Suite 100~~, Des Moines, Iowa 50309, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

ITEM 12. Adopt the following **new** subrule 5.4(20):

**5.4(20) Shelf application for debt.**

a. The commission may grant approval of a shelf application for a period not to exceed three years.  
b. Licensees whose parent company has issued publicly traded debt or publicly traded securities may apply to the commission for a shelf approval of debt transactions if the parent company has:

(1) A class of securities listed on the New York Stock Exchange, the American Stock Exchange or the National Association of Securities Dealers Automatic Quotation System (NASDAQ) or has stockholders' equity in the amount of \$15 million or more as reported in the parent company's most recent report on Form 10-K or Form 10-Q filed with the Securities and Exchange Commission (SEC) immediately preceding application; and

(2) Filed all reports required by the SEC.

c. The application shall be in writing and shall contain:

(1) Proof of qualification to make the application in accordance with the criteria of this subrule.

(2) A statement of the amount of debt sought to be approved and the intended use of potential proceeds.

(3) Duration sought for the shelf approval.

(4) Financing rate sought during shelf approval.

(5) Evidence of signature by authorized representative of the licensee under oath.

(6) Other supplemental documentation requested by the commission or commission representative following the initial submission.

d. Once an application is approved by the commission:

(1) The licensee shall notify the commission representative of all debt transactions within ten days of consummation, including subsequent amendments and modifications of debt transactions, and provide executed copies of the documents evidencing the transactions as may be required.

(2) The commission representative may rescind a shelf approval without prior written notice. The rescission shall be in writing and set forth the reasons for the rescission and shall remain in effect until lifted by the commission upon the satisfaction of any such terms and conditions as required by the commission.

ITEM 13. Rescind 491—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8  
WAGERING, SIMULCASTING AND ADVANCE DEPOSIT WAGERING

**491—8.1(99D) Definitions.**

“*Account*” means an account approved by the commission for advance deposit wagering with a complete record of credits, wagers and debits established by a licensee account holder and managed by a licensee or ADWO.

“*Administrator*” means the administrator of the Iowa racing and gaming commission or the administrator’s designee.

“*Advance deposit wagering*” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering.

“*Advance deposit wagering center*” means an actual location, the equipment, and the staff of a licensee, ADWO, or both involved in the management, servicing and operation of advance deposit wagering for the licensee.

“*Advance deposit wagering operator*” or “*ADWO*” means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk County and the Iowa Horsemen’s Benevolent and Protective Association to provide advance deposit wagering.

“*Authorized receiver*” means a receiver that conducts and operates a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of one or more host facilities.

“*Betting interest*” means a number assigned to a single runner, an entry or a field for wagering purposes.

“*Board of stewards*” means a board established by the administrator to review conduct by pari-mutuel facilities and their employees that may constitute violations of the rules and statutes relating to pari-mutuel racing. The administrator may serve as a board of one.

“*Breakage*” means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents. “Breakage” is the net pool minus payoff.

“*Commission*” means the Iowa racing and gaming commission.

“*Commission representative*” means an employee of the commission designated to represent the commission in matters pertaining to the operation of the mutuel department. In the absence of a specifically appointed representative, a commission steward will perform the functions and duties of the commission representative.

“*Contest*” means a race on which wagers are placed.

“*Credits*” means all positive inflows of money to an account.

“*Dead heat*” means that two or more runners have tied at the finish line for the same position in the order of finish.

“*Debits*” means all negative outflow of money from an account.

“*Deposit*” means a payment of money into an account.

“*Double*” means a wager to select the winners of two consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the facility and shall not be construed as a “quinella double.”

“*Entry*” means two or more runners are coupled in a contest because of common ties and a wager on one of them shall be a wager on all of them.

“*Exacta*” (may also be known as “perfecta” or “correcta”) means a wager selecting the exact order of finish for first and second in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

“*Facility*” means an entity licensed by the commission to conduct pari-mutuel wagering in Iowa.

“*Field*” means when the individual runners competing in a contest exceed the numbering capacity of the totalizator and all runners of the higher number shall be grouped together. A wager on one in the field shall be a wager on all. (No “fields” shall be allowed in greyhound racing.)

“*Guest facility*” means a facility which offers licensed pari-mutuel wagering on contests conducted by another facility (the host) in either the same state or another jurisdiction.

“*Host facility*” means the facility conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

“*Interstate simulcasting*” means the telecast of live audio and visual signals of pari-mutuel racing sent to or received from a state outside the state of Iowa to an authorized racing or gaming facility for the purpose of wagering.

“*Intrastate simulcasting*” means the telecast of live audio and visual signals of pari-mutuel racing conducted on a licensed pari-mutuel track within Iowa sent to or received from an authorized pari-mutuel facility within Iowa for the purpose of pari-mutuel wagering.

“*Licensee*” means a horse racetrack located in Polk County operating under a license issued by the commission.

“*Licensee account holder*” means any individual at least 21 years of age who successfully completed an application and for whom the licensee or ADWO has opened an account. “Licensee account holder” does not include any corporation, partnership, limited liability company, trust, estate or other formal or nonformal entity.

“*Minus pool*” means when the total amount of money to be returned to the public exceeds what is in the pool because of the deduction of a commission and because of the rule stipulation that no mutuel tickets shall be paid at less than \$1.10 for each \$1.00 wagered.

“*Mutuel department*” means that area of a racetrack where wagers are made and winning tickets are cashed and where the totalizator is installed and any area used directly in the operation of pari-mutuel wagering.

“*Mutuel manager*” means an employee of the facility who manages the mutuel department.

“*Net pool*” means the amount remaining in each separate pari-mutuel pool after the takeout percentage, as provided for by Iowa Code section 99D.11, has been deducted.

“*Odds*” means the approximate payoffs per dollar based on win pool wagering only on each betting interest for finishing first without a dead heat with another betting interest.

“*Official*” means that the order of finish for the race is “official” and that payoff prices based upon the “official” order of finish shall be posted.

“*Order of finish*” means the finishing order of each runner from first place to last place in each race. For horse racing only, the order of finish may be changed by the stewards for a rule infraction prior to posting of the official order of finish.

“*Pari-mutuel pool*” means the total amount of money wagered on each separate pari-mutuel pool for payoff purposes.

“*Payoff*” means the amount distributed to holders of valid winning pari-mutuel tickets in each pool as determined by the official order of finish and includes the amount wagered and profit.

“*Pick (n)*” means a betting transaction in which a purchaser selects winner(s) of (x) number of contests designated by the facility during one racing card.

“*Pick three*” means a wager to select the winners of three consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

“*Place*” means a runner finishing second.

“*Place pick (n) pools*” means a wager to select the first- or second-place finisher in each of a designated number of contests.

“*Place pool*” means the total amount of money wagered on all betting interests in each race to finish first or second.

“*Post time*” means the scheduled starting time for a contest.

“*Proper identification*” means a form of identification accepted in the normal course of business to establish that the person making a transaction is a licensee account holder.

“*Quinella*” means a wager selecting two runners to finish first and second, regardless of the order of finish, and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

“*Quinella double*” means a wager which consists of selecting the quinella in each of two designated contests and is an entirely separate pool from all other pools and has no connection with or relation to any other pool conducted by the facility.

“*Runner*” means each entrant in a contest, designated by a number as a betting interest.

“*Sales transaction data*” means the data between totalizator ticket-issuing machines and the totalizator central processing unit for the purpose of accepting wagers and generating, canceling and cashing pari-mutuel tickets and the financial information resulting from the processing of sales transaction data, such as handle.

“*Secure personal identification code*” means an alpha-numeric character code provided by a licensee account holder as a means by which the licensee or ADWO may verify a wager or account transaction as authorized by the licensee account holder.

“*Show*” means a runner finishing third.

“*Show pool*” means the total amount of money wagered on all betting interests in each contest to finish either first, second or third.

“*Source market fee*” or “*host fee*” means the part of a wager that is made on any race by a person who is a licensee account holder and that is returned to the licensee and the Iowa Horsemen’s Benevolent and Protective Association pursuant to the terms of a negotiated agreement as required by 491—8.6(99D).

“*Steward*” means a racing official appointed or approved by the commission to perform the supervisory and regulatory duties relating to pari-mutuel racing.

“*Superfecta*” means a wager selecting the exact order of finish for first, second, third, and fourth in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

“*Totalizator*” means a machine for registering wagers and computing odds and payoffs based upon data supplied by each pari-mutuel ticket-issuing machine.

“*Trifecta*” means a wager selecting the exact order of finish for first, second, and third in that race and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

“*Tri-superfecta*” means a wager selecting the exact order of finish for first, second and third in the first designated tri-super contest combined with selecting the exact order of finish for first, second, third and fourth in the second designated tri-super contest.

“*Twin quinella*” means a wager in which the bettor selects the first two finishers, regardless of order, in each of two designated contests. Each winning ticket for the twin quinella must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool.

“*Twin superfecta*” means a wager in which the bettor selects the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool.

“*Twin trifecta*” means a wager in which the bettor selects the three runners that will finish first, second, and third in the exact order as officially posted in each of the two designated twin trifecta races.

“*Underpayment*” means when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication in payoffs results in less money returned to the public than is actually due.

“*Win*” means a runner finishing first.

“*Win pool*” means the total amount wagered on all betting interests in each contest to finish first.

“*Withdrawal*” means a payment of money from an account by the licensee or ADWO to the licensee account holder when properly requested by the licensee account holder.

**491—8.2(99D) General.**

**8.2(1) Wagering.** Each facility shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the commission. The totalizator shall be tested prior to and during the meeting as required by the commission. Annually, the facility shall have an external audit, approved by the administrator, of the totalizator system. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited, and any person attempting to participate in prohibited wagering shall be ejected or excluded from facility grounds.

**8.2(2) Records.** The facility shall maintain records of all wagering so the commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each facility and safeguarded for a period of time specified by the commission. The commission may require that certain of these records be made available to the wagering public at the completion of each contest.

The facility shall provide the commission with a list of the licensed individuals afforded access to pari-mutuel records and equipment at the wagering facility.

**8.2(3) Pari-mutuel tickets.** A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the facility and is evidence of the obligation of the facility to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The facility shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold and for a specified period after the last day of the meeting as provided in paragraph 8.2(4)“g.”

*a.* To be deemed a valid pari-mutuel ticket, such ticket shall have been issued by a pari-mutuel ticket machine operated by the facility and recorded as a ticket entitled to a share of the pari-mutuel pool and contain imprinted information as to:

- (1) The name of the facility operating the meeting.
- (2) A unique identifying number or code.
- (3) Identification of the terminal at which the ticket was issued.
- (4) A designation of the performance for which the wagering transaction was issued.
- (5) The contest number for which the pool is conducted.
- (6) The type(s) of wagers represented.
- (7) The number(s) representing the betting interests for which the wager is recorded.
- (8) The amount(s) of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

*b.* No pari-mutuel ticket recorded or reported as previously paid, canceled, or nonexistent shall be deemed a valid pari-mutuel ticket by the facility. The facility may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in paragraph 8.2(4)“e.”

**8.2(4) Pari-mutuel ticket sales.**

*a.* Pari-mutuel tickets shall not be sold by anyone other than a facility licensed to conduct pari-mutuel wagering.

*b.* No pari-mutuel ticket may be sold on a contest for which wagering has already been closed, and no facility shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator is closed for wagering on such contest.

*c.* Claims pertaining to a mistake on an issued or unissued ticket must be made by the bettor prior to leaving the seller’s window.

*d.* Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared “official.” Any subsequent change in the order of finish or award of purse money(s) as may result from a subsequent ruling by the stewards or administrator shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

*e.* The facility shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization from the administrator.



f. The facility shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

g. Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender to the facility where the wager was made within 60 days following the close of the meeting during which the wager was made. Failure to present any such ticket within 60 days shall constitute a waiver of the right to receive payment.

**8.2(5) Advance performance wagering.** No facility shall permit wagering to begin more than one hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the administrator.

**8.2(6) Claims for payment from pari-mutuel pool.** At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by the facility in any case where the facility has withheld payment or has refused to cash a pari-mutuel wager. The claim shall be made on such form as approved by the administrator, and the claimant shall make such claim under penalty of perjury. The original of such claim shall be forwarded to the administrator within 48 hours.

a. In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in paragraph 8.2(3) "a" of these general provisions, the facility shall make a recommendation to accompany the claim forwarded to the administrator as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

b. In the case of a claim made for payment on a pari-mutuel wager, the administrator shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the facility, may deny the claim, or may make such other order as the administrator may deem proper.

**8.2(7) Payment for errors.** If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed, and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

a. Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payoffs are equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payoff, the underpayment shall be added to the corresponding pool of the next contest. If an underpayment is discovered after the close of the meeting, the underpayment shall be held in an interest-bearing account approved by the administrator until being added, together with accrued interest, to the corresponding pool of the next meet.

b. Any claim not filed with the facility within 30 days, inclusive of the date on which the underpayment was publicly announced, shall be deemed waived, and the facility shall have no further liability therefor.

c. In the event the error results in an overpayment to winning wagers, the facility shall be responsible for such payment.

**8.2(8) Betting explanation.** A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on facility grounds and available upon request through facility representatives.

**8.2(9) Display of betting information.**

a. Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.

b. The probable payoff or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the administrator.

c. Official results and payoffs must be displayed upon each contest being declared official.

**8.2(10) Canceled contests.** If a contest is canceled or declared "no contest," refunds shall be granted on valid wagers in accordance with these rules.

**8.2(11) Refunds.**

a. Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(1) Win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two.

(2) Place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three.

(3) Show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four.

b. Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

**8.2(12) Coupled entries and mutuel fields.**

a. Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

b. For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

**8.2(13) Pools dependent upon betting interests.** Unless the administrator otherwise provides, at the time the pools are opened for wagering, the facility:

a. May offer win, place, and show wagering on all contests with six or more betting interests.

b. May prohibit show wagering on any contest with five or fewer betting interests scheduled to start.

c. May prohibit place wagering on any contest with four or fewer betting interests scheduled to start.

d. May prohibit quinella wagering on any contest with three or fewer betting interests scheduled to start.

e. May prohibit quinella double wagering on any contests with three or fewer betting interests scheduled to start.

f. May prohibit exacta wagering on any contest with three or fewer betting interests scheduled to start.

g. Shall prohibit trifecta wagering on any contest with five or fewer betting interests scheduled to start, or as provided in (1) below:

(1) Cancel trifecta. The stewards have the authority to cancel trifecta wagering at any time they determine an irregular pattern of wagering or determine that the conduct of the race would not be in the interest of the regulation of the pari-mutuel wagering industry or in the public confidence in racing. The stewards may approve smaller fields for trifecta wagering if extraneous circumstances are shown by the facility.

(2) Reserved.

h. May prohibit superfecta wagering on any contest with seven or fewer betting interests scheduled to start.

i. May prohibit twin quinella wagering on any contests with three or fewer betting interests scheduled to start.

j. May prohibit twin trifecta wagering on any contests with seven or fewer betting interests scheduled to start, except as provided in subparagraph 8.2(13)“g”(1).

k. May prohibit tri-superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

l. May prohibit twin superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

**8.2(14) Prior approval required for betting pools.**

a. A facility that desires to offer new forms of wagering must apply in writing to the administrator and receive written approval prior to implementing the new betting pool.

b. The facility may suspend previously approved forms of wagering with the prior approval of the administrator. Any carryover shall be held until the suspended form of wagering is reinstated. A facility may request approval of a form of wagering or separate wagering pool for specific requirements.

**8.2(15) Closing of wagering in a contest.**

a. All wagering shall stop and all pari-mutuel machines shall be locked at post time or at the actual start of the races. Machines shall be automatically locked, unless unusual circumstances dictate that the stewards act differently.

b. The facility shall maintain, in good order, a system approved by the administrator for closing wagering.

**8.2(16) Complaints pertaining to pari-mutuel operations.**

a. When a patron makes a complaint to a facility regarding the mutuel department, the facility shall immediately issue a complaint report, setting out:

- (1) The name of the complainant;
- (2) The nature of the complaint;
- (3) The name of the persons, if any, against whom the complaint was made;
- (4) The date of the complaint;
- (5) The action taken or proposed to be taken, if any, by the facility.

b. The facility shall submit every complaint report to the commission within five days after the complaint was made.

**8.2(17) Facility/vendor employees.** All facility/vendor employees shall report immediately to the administrator any known irregularities or wrongdoings by any person involving pari-mutuel wagering and shall cooperate in subsequent investigations.

**8.2(18) Unrestricted access.** The facility shall permit the commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the facility that relate to pari-mutuel wagering.

**8.2(19) Totalizator breakdown.** In the event of irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

**8.2(20) Minimum wager and payoff.** The minimum wager to be accepted by any licensed facility for win, place and show wagering shall be \$2. The minimum payoff on a \$2 wager shall be \$2.20. For all other wagers, the minimum wager to be accepted by any licensed facility shall be \$1. The minimum payoff for a \$1 wager shall be \$1.10. Any deviation from these minimums must be approved by the administrator. In cases where a minus pool occurs, the facility is responsible for the payment of the minimum payoff and no breakage shall be incurred from that pari-mutuel pool.

**8.2(21) Minors prohibited from wagering.** No minor shall be permitted by any licensed facility to purchase or cash a pari-mutuel ticket.

**8.2(22) Emergency situations.** In the event of an emergency in connection with the mutuel department not covered in these rules, the pari-mutuel manager representing the facility shall report the problem to the stewards, and the stewards shall render a full report to the administrator or administrator's designee within 48 hours.

**8.2(23) Commission mutuel supervisor.** The commission may employ a mutuel supervisor with accounting experience to serve as the commission's designated representative at each race meeting as provided in Iowa Code section 99D.19. In the absence of a specifically appointed commission mutuel supervisor, the board of stewards or simulcast steward will perform the functions and duties of the commission.

**491—8.3(99D) Approval of pari-mutuel wagers.**

**8.3(1) Pools permitted.** All pari-mutuel wagering pools approved by the commission shall be separately and independently calculated and distributed. Takeout shall be deducted from each gross pool as stipulated by Iowa Code section 99D.11. The remainder of the moneys in the pool shall constitute the net pool for distribution as payoff on winning wagers.

**8.3(2) *Pari-mutuel wagering submissions.*** Prior to conducting a new pari-mutuel wager, a facility shall submit proposals for the wager including, but not limited to, the wager type, calculation of payoff, refunds and distribution of pools. The wager submission, or requests for modification to an approved wager, shall be in writing and approved by the administrator or an administrator's designee prior to implementation.

**8.3(3) *Public notice.*** The public shall have access to the wagering rules and the calculation of payoffs and distribution of pools which are approved by the commission. Signage shall be conspicuously posted in the wagering area to direct patrons to the wagering area where this information can be viewed.

#### **491—8.4(99D) Simulcast wagering.**

##### **8.4(1) *General.***

*a. Rules.* All simulcasting must be transmitted live, and all wagering on simulcasting shall be made in accordance with the commission rules on pari-mutuel wagering. Commission rules in effect during live racing shall remain in effect during simulcasting where applicable.

*b. Transmission.* The method used to transmit sales transaction and data including, but not limited to, the odds, will pay, race results, and payoff prices must be approved by the commission, based upon the determination that provisions to secure the system and transmission are satisfactory.

*c. Communication.* A communication system between the host track and the receiving facility must be provided which will allow the totalizator operator and the commission representatives at the host track to communicate with the facility receiving the signal. The facility is responsible during the racing program's operating hours for reporting any problems or delays to the public.

##### *d. Approval.*

(1) All simulcasting, both interstate and intrastate, must be preapproved by the commission or commission representative. Each facility conducting simulcasting shall submit an annual written simulcast proposal to the commission with the application for license renewal required by 491—Chapter 1.

(2) The commission representative, upon written request, may grant modifications to the annual simulcast proposal. The commission representative may approve or disapprove simulcast requests at the representative's discretion. Factors that may be considered include, but are not limited to, economic conditions of a facility, impact on other facilities, impact on the Iowa breeding industry, other gambling in the state, and any other considerations the commission representative deems appropriate.

(3) Once simulcast authority has been granted by the commission or commission representative, it shall be the affirmative responsibility of the facility granted simulcast authority to obtain all necessary permission from other states and tracks to simulcast the pari-mutuel races. In addition, the burden of adhering to state and federal laws concerning simulcasting rests on the facility at all times.

##### **8.4(2) *Simulcast host.***

*a.* Every host facility, if requested, may contract with an authorized receiver for the purpose of providing authorized users its simulcast. All contracts governing participation in interstate or intrastate pools shall be submitted to the commission representative for prior approval. Contracts shall be of such content and in such format as required by the commission representative.

*b.* A host facility is responsible for the content of the simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of each performance.

*c.* Unless otherwise permitted by the commission representative, every simulcast will contain in its video content a digital display of actual time of day, the name of the host facility from which the simulcast originates, the number of the contest being displayed, and any other relevant information available to patrons at the host facility.

*d.* The host facility shall maintain such security controls, including encryption over its uplink and communications systems, as directed or approved by the commission or commission representative.

*e.* Financial reports shall be submitted daily or as otherwise directed by the commission representative. Reports shall be of such content and in such format as required by the commission representative.

**8.4(3) Authorized receiver.**

*a.* An authorized receiver shall provide:

(1) Adequate transmitting and receiving equipment of acceptable broadcast quality which shall not interfere with the closed circuit TV system of the host facility for providing any host facility patron information.

(2) Pari-mutuel terminals, pari-mutuel odds displays, modems and switching units enabling pari-mutuel data transmissions, and data communications between the host and guest facilities.

(3) A voice communication system between each guest facility and the host facility providing timely voice contact among the commission representative, placing judges, and mutuel departments.

*b.* The guest facility and all authorized receivers shall conduct pari-mutuel wagering pursuant to the applicable commission rules.

*c.* Not less than 30 minutes prior to the commencement of transmission of the performance of pari-mutuel contests, the guest facility shall initiate a test program of its transmitter, encryption and decoding, and data communication to ensure proper operation of the system.

*d.* The guest facility shall, in conjunction with the host facility(ies) for which it operates pari-mutuel wagering, provide the commission representative with a certified report of its pari-mutuel operations as directed by the commission representative.

*e.* Every authorized receiver shall file with the commission an annual report of its simulcast operations and an audited financial statement.

*f.* The mutuel manager shall notify the commission representative when the transfer of pools, pool totals, or calculations are in question, or if partial or total cancellations occur, and shall suggest alternatives for continued operation. Should loss of video signal occur, wagering may continue with approval from the commission representative.

**491—8.5(99D) Interstate common-pool wagering.**

**8.5(1) General.**

*a.* All contracts governing participation in interstate common pools shall be submitted to the commission representative for prior approval. Financial reports shall be submitted daily or as otherwise directed by the commission representative. Contracts and reports shall be of such content and in such format as required by the commission representative.

*b.* Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined for computing odds and calculating payoffs but will be held separate for auditing and all other purposes.

*c.* Any surcharges or withholdings in addition to the takeout shall be applied only in the jurisdiction otherwise imposing such surcharges or withholdings.

*d.* In determining whether to approve an interstate common pool which does not include the host facility or which includes contests from more than one facility, the commission representative shall consider and may approve use of a bet type which is not utilized at the host facility, application of a takeout rate not in effect at the host facility, or other factors which are presented to the commission representative.

*e.* The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules.

**8.5(2) Guest state participation in interstate common pools.**

*a.* With the prior approval of the commission representative, pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state or with corresponding pools established by one or more other jurisdictions.

*b.* The commission representative may permit adjustment of the takeout from the pari-mutuel pool so that the takeout rate in this jurisdiction is identical to that of the host facility or identical to that of other jurisdictions participating in a merged pool.

*c.* When takeout rates in the merged pools are not identical, the net-price calculation shall be the method by which the differing takeout rates are applied.

- d. Rules established in the state of the host facility designated for a pari-mutuel pool shall apply.
- e. The commission representative shall approve agreements made between the facility and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.
- f. If, for any reason, it becomes impossible to successfully merge the bets placed into the interstate common pool, the facility shall make payoffs in accordance with payoff prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere, except that, with the permission of the commission representative, the facility may alternatively determine either to pay winning tickets at the payoff prices at the host facility or to declare such accepted bets void and make refunds in accordance with the applicable rules.

**8.5(3) *Host state participation in merged pools.***

a. With the prior approval of the commission representative, a facility licensed to conduct pari-mutuel wagering may determine that one or more of its contests be utilized for pari-mutuel wagering at guest facilities in other states and may also determine that pari-mutuel pools in guest states be combined with corresponding wagering pools established by it as the host facility or comparable wagering pools established by two or more states.

b. When takeout rates in the merged pool are identical, the net-price calculation shall be the method by which the differing takeout rates are applied.

c. Rules of racing established for races held in this state shall also apply to interstate common pools unless the commission representative specifically determines otherwise.

d. The commission representative shall approve agreements made between the facility and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.

e. Any contract for interstate common pools entered into by the facility shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state into the interstate common pool formed by the facility or if, for any reason, the commission representative or facility determines that attempting to effect transfer of pool data from the guest state may endanger the facility's wagering pool, the facility shall have no liability for any measure taken which may result in the guest's wagers not being accepted into the pool.

**8.5(4) *Takeout rates in interstate common pools.***

a. With the prior approval of the commission representative, a facility wishing to participate in an interstate common pool may change its takeout rate so as to achieve a common takeout rate with all other participants in the interstate common pool.

b. A facility wishing to participate in an interstate common pool may request that the commission representative approve a methodology whereby host facility and guest facility states with different takeout rates for corresponding pari-mutuel pools may effectively and equitably combine wagers from the different states into an interstate common pool.

**491—8.6(99D) Advance deposit wagering.**

**8.6(1) *Authorization to conduct advance deposit wagering.***

a. A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to Iowa Code section 99D.11(6) "c" and these rules. As part of the request, the licensee shall submit a detailed plan of how its advance deposit wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

b. The commission may conduct investigations or inspections or request additional information from the licensee as the commission deems appropriate in determining whether to allow the licensee to conduct advance deposit wagering.

c. The licensee shall establish and manage an advance deposit wagering center.

d. The commission may issue an ADWO license to an entity that enters into an agreement with the commission, the licensee, and the Iowa Horsemen's Benevolent and Protective Association. The terms of any ADWO's license shall include but not be limited to:

(1) Any source market fees and host fees to be paid on any races subject to advance deposit wagering.

(2) An annual ADWO license fee in an amount to be determined by the commission.

(3) Completion of all necessary background investigations.

(4) Acceptance of wagers on live races conducted at the horse racetrack in Polk County from all of its licensee account holders.

(5) A bond or irrevocable letter of credit on behalf of the ADWO to be determined by the commission.

(6) A detailed description and certification of systems and procedures used by the ADWO to validate the identity and age of licensee account holders and to validate the legality of wagers accepted.

(7) Certification of prompt commission access to all records relating to licensee account holder identity and age in hard-copy or standard electronic format acceptable to the commission.

(8) Certification of secure retention of all records related to advance deposit wagering and accounts for a period of not less than three years or such longer period as specified by the commission.

(9) Utilization and communication of pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing facilities in Iowa.

*e.* Commission access to and use of information concerning advance deposit wager transactions and licensee account holders shall be considered proprietary, and such information shall not be disclosed publicly except as may be required pursuant to statute or court order or except as part of the official record of any proceeding before the commission. This requirement shall not prevent the sharing of this information with other pari-mutuel regulatory authorities or law enforcement agencies for investigative purposes.

*f.* For each advance deposit wager made for an account by telephone, the licensee or ADWO shall make a voice recording of the entire transaction and shall not accept any such wager if the voice-recording system is inoperable. Voice recordings shall be retained for not less than six months and shall be made available to the commission for investigative purposes.

**8.6(2) *Establishing an account.***

*a.* A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee's facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include the applicant's full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission.

*b.* Each application submitted will be subject to electronic verification with respect to the applicant's name, principal residence address and date of birth by either a national, independent individual reference service company or by means of a technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. An applicant's social security number may be necessary for completion of the verification process and for tax-reporting purposes. If there is a discrepancy between the application submitted and the information provided by the electronic verification or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted and given instructions as to how to resolve the matter.

*c.* The identity of a licensee account holder must be verified via electronic means or copies of other documents before the licensee account holder may place an advance deposit wager.

*d.* Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the licensee or ADWO provided that the licensee or ADWO informs the licensee account holder in writing prior to the change.

*e.* The applicant shall provide the licensee or ADWO with an alpha-numeric code to be used as a secure personal identification code when the licensee account holder is placing an advance deposit wager. The licensee account holder has the right to change this code at any time.

*f.* The licensee account holder shall receive at the time the account is approved a unique account identification number; a copy of the advance deposit wagering rules and such other information and material pertinent to the operation of the account; and such other information as the licensee, ADWO or commission may deem appropriate.

*g.* The account is nontransferable.

*h.* The licensee or ADWO may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information used to open an account was false or that the account has been used in violation of these rules or the licensee's or ADWO's terms and conditions.

**8.6(3) Operation of an account.** The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval.

These rules are intended to implement Iowa Code chapter 99D.

ITEM 14. Rescind and reserve **491—Chapter 9.**

ITEM 15. Rescind paragraph **10.4(1)“f.”**

ITEM 16. Reletter paragraphs **10.4(1)“g”** to **“o”** as **10.4(1)“f”** to **“n.”**

ITEM 17. Amend subparagraph **10.4(4)“a”(6)** as follows:

(6) General enforcement provisions. Stewards shall enforce the laws of Iowa and the rules of the commission. The laws of Iowa and the rules of racing apply equally during periods of racing. They supersede the conditions of a race and the regulations of a racing meet and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the facility. The decision of the stewards as to the extent of a disqualification of any horse in any race shall be final for purposes of distribution of the pari-mutuel pool. The administrative standard of review for a disqualification decision is abuse of discretion.

ITEM 18. Amend paragraph **10.4(4)“d”(3)“1”** as follows:

1. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and place any horse found to be disqualified behind others in the race with which it interfered or may place the offending horse last in the race. The stewards at their discretion may determine if there was sufficient interference or intimidation to affect the outcome of the race and take the appropriate actions thereafter. Abuse of discretion shall be the standard of review used in any appeal involving a steward's disqualification decision.

ITEM 19. Adopt the following **new** subparagraph **10.5(1)“a”(29)**:

(29) Ensuring that all individuals in their employ are properly licensed by the commission.

ITEM 20. Amend paragraph **11.5(4)“a”** as follows:

*a. Proposals.* Gambling games of chance involving prizes awarded to participants through promotional activities ~~occurring at a facility~~ shall be authorized and approved by the commission. Before a facility may conduct such gambling games, all proposals for terms, game rules, prizes, dates of operation and procedures for any gambling games of chance involving prizes awarded through promotional activities ~~occurring at a facility~~ shall be submitted in writing to a commission representative for approval. The written submission shall be submitted to the commission representative at least 14 days in advance of the planned activity. Any changes to an approved gambling game of chance involving prizes awarded to participants through promotional activities shall also require the approval of the commission representative. Gambling games of chance involving prizes awarded to participants through promotional activities ~~occurring at a facility~~ shall meet the following requirements:

(1) All rules of play shall be in writing and posted for public inspection;

(2) Such games shall be limited to participants 21 years of age or older;

(3) All games shall be conducted in a fair and honest manner, and all prizes advertised shall be awarded in accordance with the posted rules of play;

(4) All such games shall be conducted ~~within the regulated area of the facility~~ on the gaming floor and shall be conducted in accordance with the submission approved by the commission representative;



- (5) No entry fees shall be permitted; and
- (6) All employees of the facility shall be prohibited from participation.

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