

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 7, “Greyhound Racing,” Iowa Administrative Code.

This amendment adopts new rule 491—7.15(99D) to implement 2014 Iowa Acts, Senate File 2362 [Iowa Code section 99D.9B], with regard to the Iowa greyhound pari-mutuel racing fund.

Notice of Intended Action was published in the June 24, 2015, Iowa Administrative Bulletin as **ARC 2045C**. On July 29, 2015, at 8:30 a.m., a public hearing was held at Prairie Meadows Racetrack and Casino, Altoona, Iowa. There were several attendees, and 11 individuals made oral comments. In addition, 11 individuals submitted written comments.

The oral and written comments regarding the proposed rule requested that the following changes be considered:

- The majority of the money in the fund should not be allocated to greyhound owners based on their dogs’ past racing performances;
- Breeders should receive a higher percentage of the distributions, in part because they did not receive any money for racing performances of the dogs they raised;
- Distributions should go only to greyhounds whelped and raised in Iowa, not in other states;
- Greyhound owners who are still racing greyhounds in Dubuque, thereby continuing to make a living racing greyhounds, should not be allowed to receive any distributions from the fund (essentially advocating for no “double dipping”);
- The amount of money allowed for in the “hardship” portion of the rules should be increased;
- A cap of at least \$1 million should be implemented to ensure that no individual could receive more than that amount from the fund;
- Clarification should be made related to the location or obtaining of documentation required to accompany submission of a claim or in order to receive the appropriate distribution; and
- The length of time proposed until the first disbursement is made should be shortened.

As a result of the public hearing and comments received, several changes were made to the rule published under Notice, and the revised rule was added to the Commission’s August 20 meeting agenda published on August 14, 2015. Additional oral and written comments were received on the incorporated changes. The majority of the comments were from individuals who were opposed to the Commission’s implementing any type of cap on the amount of money any one individual could receive and were specifically opposed to the Commission’s using a cap of \$1 million per person. As a result of the additional feedback, the Commission deferred the decision to adopt the revised rule at the August 20 meeting.

The Commission reviewed, discussed and considered all comments received over the course of the past several months. Based on the review and comments, several changes have been made to the rule published under Notice of Intended Action. In paragraph 7.15(2)“d,” a clarification was made with regard to trainer eligibility. In paragraph 7.15(2)“f,” the cap on the amount allowed for a hardship case was increased to \$100,000. In the introductory paragraph and paragraphs “a” and “b” of 7.15(3), language regarding the application process and other similar requirements for documentation from industry participants was removed; likewise, proposed paragraph 7.15(3)“c” was not adopted. In paragraph 7.15(3)“a,” the percentage of the fund that shall be distributed based on past racing performances was changed to 70 percent. In paragraph 7.15(3)“b,” the percentage of the fund that shall be distributed to qualifying greyhound industry participants without regard to purse winnings was changed to 30 percent. In paragraph 7.15(3)“b”(1)“2,” a revision was made so that distributions go to breeders who whelped and raised the greyhound for the first six months of the greyhound’s life in Iowa, as recorded. Proposed paragraphs 7.15(3)“d” and “e” were relettered as “e” and “f,” and new paragraphs 7.15(3)“c” and “d” were adopted. Paragraph 7.15(3)“d” specifies that individual fund

recipients, identified by independent tax identification numbers, shall be limited to receiving no more than \$3 million. The paragraph also notes a situation in which the \$3 million cap could be reconsidered.

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

This amendment is intended to implement Iowa Code chapters 99D and 99F.

This amendment will become effective November 18, 2015.

The following amendment is adopted.

Adopt the following new rule 491—7.15(99D):

491—7.15(99D) Iowa greyhound pari-mutuel racing fund. Pursuant to Iowa Code section 99D.9B, an Iowa greyhound pari-mutuel racing fund (fund) is created in the state treasury and under the control of the commission. The fund will be distributed on an annual basis pursuant to this rule.

7.15(1) Iowa greyhound association.

a. Fifty percent of the money in the fund shall be distributed to the Iowa greyhound association.

b. An annual audit concerning the operation of the escrow account shall be submitted to the commission 90 days after the end of the Iowa greyhound association's fiscal year.

c. In the event that the Iowa greyhound association fails to conduct live dog racing during any calendar year, the Iowa greyhound association shall transfer any unused moneys in the escrow fund to the commission and shall receive no further distributions from the fund.

7.15(2) One-time payments.

a. *Administrative expenses.* All expenses incurred by the commission to administer the fund will be deducted before an amount is determined for distribution during each calendar year.

b. *Greyhound adoption agency (agency).* An agency will be reimbursed a dollar amount based upon original receipts and itemized expenses up to \$1,700 per greyhound. All documentation for reimbursement must be submitted to the commission office for consideration on a form prescribed by the commission. Distribution of reimbursement for qualifying requests will occur upon approval by the commission. The commission has sole discretion in determining the eligibility of receipts submitted. No requests for reimbursement will be accepted by the commission after October 31, 2016. For an agency to be eligible for reimbursement, the agency must prove to the commission that:

- (1) The agency physically handled the greyhound to facilitate the adoption;
- (2) The agency has a no-kill policy;
- (3) The greyhound raced in Iowa; and
- (4) The greyhound was placed into adoption due to the cessation of racing.

c. *Greyhound kennel owners.* Greyhound kennel owners are eligible to recover costs up to \$5,000 associated with the removal of equipment from the kennels at the pari-mutuel dog racetrack located in Pottawattamie County. For a greyhound kennel owner to be eligible for reimbursement, the owner must prove to the commission that the expenses were incurred as a result of the removal of property, excluding the transporting of the greyhounds. Greyhound kennel owners shall submit original receipts and itemize the expenses to the commission to verify expenditures. All documentation for reimbursement must be submitted to the commission office for consideration on a form prescribed by the commission. The commission has sole discretion in determining the eligibility of the receipts and expenses submitted. Distribution of reimbursement for qualifying requests will occur upon approval by the commission. No requests for reimbursement will be accepted by the commission after October 31, 2016.

d. *Trainers.* The trainer of record for the kennel employed at the pari-mutuel dog racetrack located in Pottawattamie County upon the closing of the racetrack in December 2015 shall receive \$8,000 for each year of service during the five-year period from 2011 through 2015. Proof of employment for each year for which payment is requested must be sent to the commission. The commission has sole discretion in determining the eligibility of the proof of employment submitted. Distribution for qualifying requests will occur upon approval by the commission. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

e. *Assistant trainers.* Assistant trainers employed, present and handling the day-to-day affairs at the pari-mutuel dog racetrack located in Pottawattamie County at the closing of the racetrack in December 2015 shall receive \$4,000 for each year of service during the five-year period from 2011

through 2015. Proof of employment for each year for which payment is requested must be sent to the commission. Distribution for qualifying requests will occur upon approval by the commission. Any assistant trainer who is not employed through the closing of the racetrack in December 2015 shall be eligible for payments only if the kennel owner certifies in writing the assistant trainer's services are not needed. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

f. Financial hardship. Industry participants are eligible to receive up to \$100,000 from the commission if they can demonstrate a need to be compensated due to hardships caused by the closing of the pari-mutuel dog racetrack located in Pottawattamie County. The burden of demonstrating hardship is on the applicant. The applicant shall submit in writing the request and basis for compensation including original receipts, if applicable, and itemized expenses. The commission has sole discretion in determining the eligibility of the applicant and the authentication of information to demonstrate hardship. Distribution for qualifying requests will occur upon approval by the commission. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

g. Live greyhound racing in Dubuque County. Should live racing cease in Dubuque County in or after calendar year 2015 but prior to 2022, the commission will establish an application process for one-time payments related to the cessation of racing in Dubuque County. The commission has sole discretion in establishing this process.

7.15(3) Annual payments. After all one-time payments have been paid from the fund, the remainder of the fund will be distributed to industry participants. The remainder of the fund shall be distributed as follows:

a. Seventy percent of the fund shall be paid as past-performance distributions based on the percentage of purse winnings and the department of agriculture and land stewardship awards the industry participant received from 2010 through 2014. Information pertaining to purse winnings and breeders awards will be obtained from the greyhound racetracks in Pottawattamie and Dubuque counties and from the department of agriculture and land stewardship.

b. Thirty percent of the fund shall be paid to qualifying greyhound industry participants without regard to purse winnings.

(1) Points will be awarded to the following recipients:

1. Greyhound farm owners shall receive 1,060 points for each year of operation from 2010 through 2014, provided the farm was licensed by the department of agriculture and land stewardship from 2010 through 2014.

2. Greyhound breeders shall receive 32 points for each greyhound the breeder whelped and raised for the first six months of the greyhound's life in Iowa as recorded with the department of agriculture and land stewardship from 2010 through 2014.

(2) The applicant's pro rata share of the overall points awarded will be converted to the pro rata basis of the moneys distributed to qualifying greyhound industry participants without regard to purse winnings.

c. Information pertaining to registered greyhound farms or greyhounds individually registered at whelping will be obtained from the department of agriculture and land stewardship.

d. Fund recipients, identified by independent tax identification numbers, shall be limited to \$3 million over the life of the fund. In the event live racing in Dubuque County ends and, as a result, there are remaining moneys to be deposited into the fund to be distributed to qualifying greyhound participants, the commission shall establish a new limit for fund recipients to be received over the life of the fund.

e. The commission has the sole discretion in determining the eligibility of the documentation submitted as it relates to claims under this rule.

f. The first of the annual payments will be distributed no later than April 2017 with payment each year following in April. The last payment will be distributed April 2022.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.