

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 4, “Contested Cases and Other Procedures,” Chapter 8, “Wagering and Simulcasting,” Chapter 9, “Harness Racing,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” and Chapter 11, “Gambling Games,” Iowa Administrative Code.

Item 1 amends rule 491—4.7(99D,99F), Penalties (gaming board and board of stewards), to restore language that was removed in error.

Item 2 establishes a new rule for advance deposit wagering.

Items 3 and 6 remove an outdated provision related to eligibility for claiming a horse.

Item 4 rescinds the definition for “claiming race” and replaces it with a new definition.

Item 5 changes from 30 days to 60 days the time frame in which a published workout for quarter horses is required.

Item 7 establishes a waived claiming rule.

Item 8 amends the definition of “implement of gambling” to remove unnecessary language.

Item 9 removes outdated games listed in subrule 11.5(1).

Item 10 improves the integrity of tournaments for patrons by establishing controls for tournament chips.

Item 11 amends the subrule concerning wagers to clarify what information needs to be posted and to clarify requirements for “renting” a seat at a table game.

Item 12 clarifies wagering and shooting procedures for craps.

Item 13 rescinds a subrule that pertains to an outdated table game.

Item 14 clarifies which poker games should have the Rules of Game on hand, what constitutes a “Bad Beat,” and how the fund can be seeded. It prevents an administrative fee from being charged.

Item 15 improves the integrity of the game for players.

Item 16 establishes fundamental wagering rules for baccarat.

Any person may make written suggestions or comments on the proposed amendments on or before November 8, 2011. Written material should be directed to the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on November 8, 2011, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrules 4.7(1) to 4.7(5):

4.7(1) Fines shall be paid within ten calendar days of receipt of the ruling, by the end of business hours, at any commission office. Nonpayment or late payment of a fine may result in an immediate license suspension. All fines are to be paid by the individual assessed the fine.

4.7(2) If the fine is appealed to the board, the appeals process will not stay the fine. The fine will be due as defined in subrule 4.7(1).

4.7(3) If the party is successful in the appeal, the amount of the fine will be refunded to the party as soon as possible after the date the decision is rendered.

4.7(4) Refunds due under subrule 4.7(3) will be mailed to the party's current address on record.

4.7(5) When a racing animal or the holder of an occupational license is suspended by the board at one location, the suspension shall immediately become effective at all other facilities under the jurisdiction of the commission.

ITEM 2. Adopt the following new rule 491—8.6(99D):

491—8.6(99D) Advance deposit wagering.

8.6(1) 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.

“*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, equipment, and 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.

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

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

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

“*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.

“*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.

“*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.

“*Source market fee*” or “*host fee*” means the part of a wager made on any race by a person who is a licensee account holder 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 these rules.

“*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.

8.6(2) Authorization to conduct advance deposit wagering.

a. A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to 2011 Iowa Acts, Senate File 526, section 7, 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, 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(3) *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(4) Operation of an account. The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval.

ITEM 3. Amend subparagraph **9.6(15)“a”(1)** as follows:

(1) No person may file a claim for any horse unless the person:

1. Is a licensed owner at the meeting who has started a horse at the meeting. ~~A temporary horse owner's license is not valid for claiming purposes;~~ or
2. and 3. No change.

ITEM 4. Rescind the definition of “Claiming race” in rule **491—10.1(99D)** and adopt the following **new** definition in lieu thereof:

“*Claiming race*” means a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules. (See also waived claiming rule in paragraph 10.6(18)“k.”)

ITEM 5. Amend paragraph **10.6(9)“a”** as follows:

a. *When required.* No horse shall be allowed to start unless the horse has raced in an official race or has an approved official timed workout satisfactory to the stewards. A horse that has not started for a period of 60 days or more shall be ineligible to race until it has completed a published workout satisfactory to the stewards prior to the day of the race in which the horse is entered. The workout must have occurred within the previous 30 days for a thoroughbred or within the previous 60 days for a quarter horse. First-time starters must have at least two published workouts and be approved from the gate by the starter.

ITEM 6. Amend subparagraph **10.6(18)“a”(1)** as follows:

(1) Registered to race or open claim. No person may file a claim for any horse unless the person:

1. Is a licensed owner at the meeting who either has foal paper(s) registered with the racing secretary's office or has started a horse at the meeting. ~~A temporary horse owner's license is not valid for claiming purposes;~~ or
2. and 3. No change.

ITEM 7. Adopt the following **new** paragraph **10.6(18)“k”**:

k. *Waived claiming rule.*

(1) At the time of entry into claiming races, the owner, trainer, or any authorized agent may opt to declare a horse ineligible to be claimed provided:

1. The horse has not been an official starter at any racetrack for a minimum of 120 days since the horse's last race as an official starter (at time of race);
2. The horse's last race as an official starter was a claiming race in which the horse was eligible to be claimed;
3. The horse is entered for a claiming price equal to or greater than the claiming price at which the horse last started as an official starter;
4. Failure of declaration of ineligibility at time of entry may not be remedied; and

5. Ineligibility to be claimed shall apply only to the horse's first start as an official starter following each such 120-day or longer layoff.

(2) Any win which occurs in a claiming race by a horse ineligible to be claimed under waived claiming rules of this, or any other, jurisdiction will be treated as an allowance win for the determination of the horse's eligibility and allowances for every race at the meet, unless the conditions of the race specify otherwise.

ITEM 8. Amend rule ~~491—11.1(99F)~~, definition of "Implement of gambling," as follows:

"Implement of gambling" means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a slot machine; or be integral to the conduct of a commission-authorized gambling game; ~~possession or use of which is otherwise prohibited by statute.~~

ITEM 9. Amend subrule 11.5(1) as follows:

11.5(1) ~~Dice, craps~~ Craps, roulette, twenty-one (blackjack), ~~big six—roulette, red dog,~~ baccarat, and poker are authorized as table games. The administrator is authorized to approve multiplayer electronic devices simulating these games, subject to the requirements of rule ~~491—11.4(99F)~~ and subrule 11.5(3).

ITEM 10. Adopt the following new subrule 11.6(3):

11.6(3) *Tournament chips.* Tournament chips used as wagers in table game tournament proposals approved pursuant to this rule shall be imprinted with a number representing the value of the chip or shall be assigned a value. The facility shall provide that:

- a. The assigned value of tournament chips be conspicuously displayed in the tournament area.
- b. Internal controls which account for all tournament chips and include reconciliation, handling and variance procedures are approved by a commission representative.

ITEM 11. Amend subrule 11.7(2) as follows:

11.7(2) Wagers. All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout. Information pertaining to the minimum and maximum allowed at the table shall be posted on the game. Any other fee collected to participate in a table game shall be subject to the wagering tax pursuant to Iowa Code section 99F.11.

ITEM 12. Rescind subrule 11.7(3) and adopt the following new subrule in lieu thereof:

11.7(3) Craps.

a. Wagers must be made before the dice are thrown. "Call bets," or the calling out of bets between the time the dice leave the shooter's hand and the time the dice come to rest, not accompanied by the placement of gaming chips, are not allowed. A wager made on any bet may be removed or reduced at any time prior to a roll that decides the outcome of such wager unless the wager is a "Pass" or "Come" bet and a point has been established with respect to such bet or the wager is a proposition bet contingent on multiple rolls.

b. The shooter shall make a "Pass" or "Don't Pass" bet and shall handle the two selected dice with one hand before throwing the dice in a simultaneous manner.

c. Each die used shall be transparent.

ITEM 13. Rescind and reserve subrule **11.7(6)**.

ITEM 14. Adopt the following new paragraphs **11.7(7)"e"** and **"f"**:

e. The facility shall comply with and receive approval pursuant to subrule 11.4(3) for each type of poker game offered.

f. The facility may elect to offer a jackpot award generated from pot contributions at a table or group of tables for predesignated high-value poker hands, subject to the following requirements:

(1) Approval of the jackpot award rules must be obtained from a commission representative prior to play.

(2) Jackpot award rules and jackpot award amounts shall be posted in a conspicuous location within the poker room. Jackpot award amounts shall be updated no less than once per day.

(3) The facility shall divide pot contributions for any single qualifying award circumstance or event into no more than three jackpot award pools.

(4) The jackpot award pool containing the highest monetary value amount shall be the amount posted in the poker room and awarded to a qualifying player or players.

(5) If additional jackpot award pools are in use, the award pool containing the highest monetary value shall be used to seed the primary jackpot award pool.

(6) All moneys collected as pot contributions to a jackpot award payout shall be distributed in their entirety to the players; no facility shall charge an administration fee for distribution of a jackpot award.

ITEM 15. Amend paragraph **11.7(7)“a”** as follows:

a. When a facility conducts poker with an imprest dealer gaming chip bank, the rules in 491—Chapter 12 for closing and distributing or removing gaming chips to or from gaming tables do not apply. The entire amount of the table rake is subject to the wagering tax pursuant to Iowa Code section 99F.11. Proposals for imprest dealer gaming chip banks must be submitted in writing and approved by a commission representative prior to use and must include, but not be limited to, controls to regularly monitor, investigate, and report table bank variances.

ITEM 16. Rescind subrule 11.7(8) and adopt the following **new** subrule in lieu thereof:

11.7(8) Baccarat. Before the first card is dealt for each round of play, each player is permitted to make a wager on the Banker’s Hand, Player’s Hand, Tie Bet, and any proposition bet if offered. All wagers shall be made by placing gaming chips on the appropriate areas of the layout. Once the first card has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.