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RULE ADOPTIONS

**LAW AND PUBLIC SAFETY
NEW JERSEY RACING COMMISSION
ADOPTED NEW RULES: N.J.A.C. 13:70-29A**

45 N.J.R. 926(a)

Horse Racing

Single-Pool Wagering

Proposed: December 17, 2012 at 44 N.J.R. 3043(a).

Adopted: March 20, 2013 by the New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Filed: March 21, 2013 as R.2013 d.068, **without change**.

Authority: N.J.S.A. 5:5-62.1.

Effective Date: April 15, 2013.

Expiration Date: December 7, 2017.

Summary of Public Comment and Agency Response:

Jean Public, New Jersey submitted a written comment.

COMMENT: The Racing Commission received an e-mail from a member of the public identifying herself as "Jean Public." Ms. Public's comment is largely devoted to a dissatisfaction with horse racing generally. With regard to the rule proposal, she states that all racing should be shut down, and that racing is abusive to horses. She contends that the horse breeders are greedy, want to destroy the horses when they are making money off them, and that the breeders run the horses to death. She further writes that there are many persons in New Jersey who despise the industry.

RESPONSE: The Racing Commission does not accept the comments, which in large part voices objection to horse racing generally and horse race betting. The horse racing and wagering rules are specifically authorized by law, and single-pool wagering has been specifically authorized by the Legislature. The Racing Commission does not believe that the adoption of this rule will result in abuse to horses.

Federal Standards Statement

A Federal standards analysis is not required because the rules of racing are dictated by N.J.S.A. 5:5-22 et seq., and the adopted rules are not subject to any Federal requirements or standards.

Full text of the adopted new rules follows:

SUBCHAPTER 29A. SINGLE-POOL WAGERING

13:70-29A.1 Applicability of rules in this subchapter

The rules in this subchapter are applicable to Racing Commission-approved single-pool wagering events. Single-pool wagering events shall also be governed by the rules set forth in this chapter, unless such rules are superseded by the rules in this subchapter. If there is a conflict between a rule in this subchapter, and any other rule set forth in this chapter, the rule set forth in this subchapter shall apply.

13:70-29A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Multi-pool traditional wagering" means the form of parimutuel wagering traditionally associated with horse race wagering in this State, as authorized by this chapter, and the varieties of wagers authorized for such wagering, including, but not limited to, trifecta, exacta, win, place, and show.

"Odds calculation engine" means a computer and its related hardware and software components, which, upon prior approval of the Racing Commission, may interface with the totalisator to receive wagering data from the totalisator, to perform single-pool wagering odds calculations, to calculate payoffs for winning single-pool wagering tickets, and after performing these functions, to then return the single-pool wagering odds calculation information to the totalisator. An odds calculation engine may be part of the totalisator or integrated within the totalisator, or it may be a separate component to the totalisator.

"Single-pool wager placement type" means a special form of wager to be specified by a patron at the time that he or she places a wager on a single-pool wager variety. Single-pool wager placement types authorized by this subchapter are a "combination wager," a "multiple race wager," a "limit wager" an "all-or-none wager," and such additional single-pool wager placement types that may be approved by the Racing Commission pursuant to N.J.A.C. 13:70-29A.7.

"Single-pool wager variety" means any wager variety authorized by this chapter for multi-pool traditional wagering, including, but not limited to, win, place, show, exacta, trifecta, and superfecta, and such additional wager varieties that may be authorized for single-pool wagering by the Racing Commission pursuant to N.J.A.C. 13:70-29A.7.

"Single-pool wagering" means the form of wagering authorized by this subchapter where the cumulative proceeds of different single-pool wager varieties, including, but not limited to, trifecta, exacta, win, place, and show, on one or more races, are combined to form a single wagering pool, and following the deduction of the required takeout from the resulting single wagering pool proceeds, and applying parimutuel properties, the remaining balance of the proceeds are

distributed to those individual winning ticket holders for the race or races whose cumulative wagers formed the single wagering pool.

"Single-pool wagering event" means a horse race wagering event, which, following approval by the Racing Commission of the race or races to be used to form the event, the single-pool wager placement types to be used to form the event, and the single-pool wager varieties to be used to form the event, may be offered for wagering to the public by a single-pool wagering outlet.

"Single-pool wagering outlet" means the following entities authorized by the Racing Commission to offer single-pool wagering events: a racetrack permit holder, an off-track wagering license holder, the account wagering licensee, and, subject to any required approval of the New Jersey Casino Control Commission, any Atlantic City casino authorized to participate in casino simulcasting.

"Single-pool wagering provider" means a person, persons, association, partnership, organization, or other entity who is the operator of the odds calculation engine. The single-pool wagering provider may or may not also be the operator of the totalisator.

"Single wagering pool" means the single wagering pool formed as a result of a Racing Commission-approved single-pool wagering event.

"Single wagering pool unawarded surplus" means the unawarded surplus, which might arise in connection with a single-pool wager variety for a race, which single-pool wager variety and race is part of a Racing Commission-approved single-pool wagering event. For example, if no [page=927] wager on a "place" single-pool wager variety was a winner, a single wagering pool unawarded surplus would arise because no winning bettor would be available to collect the portion of the funds, within the single wagering pool, arising from the inclusion within the pool of wagers placed for that single-pool wagering "place" variety.

"Totalisator," means a computer situated within the hub facility, which, among other things, directly or indirectly through one or more other totalisators receives pari-mutuel wagering information, calculates payoffs for winning pari-mutuel tickets, generates reports with respect to such information, and in the event that the transmission of data from a sending or host track has been interrupted, automatically ceases wagering in accordance with the internal control procedures of the hub facility. The totalisator, for purposes of single-pool wagering, interfaces with the odds calculation engine and receives single-pool odds calculation information from it. The totalisator may from time-to-time perform certain functions of the odds calculation engine, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, or in the event of a mechanical breakdown of the odds calculation engine.

13:70-29A.3 Licensing of single-pool wagering provider, principals, and employees

(a) The single-pool wagering provider shall be licensed as a vendor, pursuant to N.J.A.C. 13:70-4.1. In order for the application of a single-pool wager provider to be considered complete, the following documents must be submitted with its application for licensure, and such application and documents must be found to be complete by the Racing Commission Executive Director:

1. Written internal control procedures, consistent with N.J.A.C. 13:70-29A.4;
2. A written evaluation of the accuracy and reliability of the odds calculation engine, at cost to the applicant and performed by an independent testing facility acceptable to the Racing Commission Executive Director, as determined on a case-by-case basis, which includes a mathematical analysis of the odds calculation engine;

3. A fully executed contract, between the single-pool wager provider, and a single-pool wagering outlet, which provides for the offering of single-pool wagering events to the public;
4. Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a fully executed contract between the single-pool wager provider and totalisator operator, which contract is to address the interface between the totalisator and odds calculation engine, the specific single-pool wagering-related reports that are to be maintained by the totalisator operator, the specific single-pool wagering-related reports to be maintained by the single-pool wagering provider, and related terms;
5. Where the odds calculation engine is to operate as a separate computer component to the totalisator by a single-pool wagering provider other than the totalisator operator, a certification from a high managerial agent of the totalisator operator, indicating that the totalisator operator has reviewed the internal control procedures of the single-pool wagering provider, and as a result of that review, is of the opinion that the implementation of said procedures will not be inconsistent with the operation of the totalisator; and
6. A written list identifying all principals of the single-pool wagering provider, all the employees of the single-pool wagering provider, and those principals and employees who will have access to the odds calculation engine. The Racing Commission Executive Director, in his or her discretion, may require such persons to secure a Racing Commission "certificate of identification" license pursuant to N.J.A.C. 13:70-4.1(a)5.

13:70-29A.4 Written internal control procedures requirement for the single-pool wagering provider

(a) The single-pool wagering provider shall maintain written internal control procedures that address the following areas:

1. Procedures to demonstrate that the odds calculation engine is subject to an actively managed security policy, which meets auditable recognized information security management standards. The security procedures shall comply and conform to the existing security requirements of the totalisator and hub facility, that is, the in-State location where the totalisator is located;
2. Procedures to effectively operate the odds calculation engine in connection with single-pool wagering, and to protect the fiscal soundness, technical reliability, and integrity of single-pool wagering;
3. Procedures to insure that the odds calculation engine hardware and networked communication infrastructure between the odds calculation engine and totalisator support redundancy sufficient to prevent the implementation from being subject to any single point of failure;
4. Procedures to insure that any extensions of the totalisator requirements, as a result of interfacing with the odds calculation engine, or as a result of changes to hardware or software to the odds calculation engine, including alterations to the calculation engine algorithm or odds calculation engine system software, shall result in successful testing of both the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification consistent with this paragraph shall be provided to the Racing Commission;
5. Procedures to insure that any extensions of the odds calculation engine system requirements, as a result of interfacing with the totalisator, or as a result of changes to hardware or software to the totalisator, shall result in successful testing

of the totalisator and odds calculation engine. Prior to implementation of any such changes to the totalisator system or odds calculation engine, the totalisator operator and single-pool wagering provider shall each provide a written certification to the Racing Commission, signed respectively by a high managerial agent, certifying that the changes to the equipment and/or software under their control were successfully tested, and such report shall affirmatively disclose any actual or potential concerns as to technical reliability and integrity of wagering. If, however, the totalisator and odds calculation engine are operated by the same Racing Commission licensee, a single certification consistent with this paragraph shall be provided to the Racing Commission;

6. Procedures to insure the secure maintenance of a written record documenting access to the odds calculation engine, including its software, hardware, and any peripheral devices;

7. Procedures to insure that the odds calculation engine allows for an independent integrity check of its devices and software, including the ability to read the critical software files or code of the odds calculation engine for the purpose of performing a cryptographic hash to create an electronic signature of the software; and

8. Procedures to insure that data for reports and logs are maintained directly or through backup for a period equal to the totalisator system's data retention period, which time period shall be identified as part of the procedure.

(b) Where the odds calculation engine is to operate as a separate computer component to the totalisator, or by a single-pool wagering provider other than the totalisator operator, the internal control procedures of the single-pool wagering provider shall additionally address the following areas:

1. Procedures setting forth a defined protocol by which the odds calculation engine and totalisator shall communicate, which communication protocol shall employ methods of error detection and handling;

2. Procedures setting forth a documented method for odds calculation responsibilities to fall back to the totalisator in the event of communication failure;

3. Procedures to insure that logs, automated or otherwise, are maintained showing the detected communication failures and mechanical breakdowns, and if discernible, the cause of the failure. Such procedures shall further insure that logs, automated or otherwise, are maintained showing the resolution or restoration of communications after such [page=928] failures. Logs shall include times and dates of any failure, and the times and dates of the restoration of communication; and

4. Procedures to allow for the totalisator to perform certain functions of the odds calculation engine where within the existing technological capabilities of the totalisator, including the calculation of single-pool wagering odds calculations in those circumstances where the odds calculation engine is technologically incapable of directly supporting the calculation of odds, and in the event of a mechanical breakdown of the odds calculation engine.

13:70-29A.5 In-State requirement for odds calculation engine; dedicated requirement for odds calculation engine; access by Racing Commission

(a) The odds calculation engine, including its related hardware and software components and peripheral devices, shall be physically located within the State of New Jersey. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the single-pool wagering provider, shall be stored in a secure fashion at the same in-State location where the odds calculation engine is located. All reports and logs with regard to single-pool wagering, maintained or required to be maintained by the totalisator operator, shall be stored in a secure fashion at the same in-State location where the totalisator is situated. The odds calculation engine may be located, but is not required to be located, at the same in-State location where the totalisator is located.

(b) The odds calculation engine shall be dedicated to its functions consistent with this subchapter, and absent approval of the Racing Commission, shall not be part of a larger computer system designed to perform any other functions or responsibilities not the subject of this subchapter.

(c) The Racing Commission, and its authorized employees and agents, shall have absolute and on-demand access to the in-State location where the odds calculation engine is situated, to the odds calculation engine system, and to all reports related to the conduct of single-pool wagering maintained or required to be maintained by the single-pool wagering provider or totalisator operator.

13:70-29A.6 Petitions to the Racing Commission to offer a single-pool wagering event

(a) A petition for approval to conduct a single-pool wagering event shall be in writing, and submitted to the Racing Commission for approval in advance of the event offering, by a single-pool wagering outlet. The petition shall set forth the race or races used to form the event, the single-pool wager placement type or types to be offered as part of the event, and the single-pool wager variety or varieties to be offered as part of the event. The petition shall explain, consistent with N.J.A.C. 13:70-29A.8, how any unawarded surplus is proposed to be distributed. The petition will further specify whether the odds calculation engine will directly support and conduct the calculation of odds in connection with the proposed single-pool wagering event, or whether the totalisator will be responsible for supporting and calculating some or all of such odds for any aspect of the proposed single-pool wagering event. The petition shall further specify, consistent with N.J.A.C. 13:70-29A.9, the method proposed by the single-pool wagering outlet to calculate the odds in the event of a dead heat finish in connection with any race or wager subject of the proposed single-pool wagering event.

(b) Where the petition of a single-pool wagering outlet, to conduct a single-pool wagering event, seeks approval for a number of races to form the event, which number of races has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said number of races has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(c) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager placement type to form the event, which single-pool wager placement type has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the petition shall include documentation from the single-pool wagering provider evidencing that said single-pool wager placement type has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(d) Where a petition to conduct a single-pool wagering event seeks approval for a single-pool wager variety to form the event, which single-pool wager variety has not been previously approved by the Racing Commission at a public meeting as part of a prior approval of a single-pool wagering event, the application shall include documentation from the single-pool wagering provider evidencing that said single-pool wager variety has been the subject of successful testing of the odds calculation engine for accuracy and reliability, which is to include a mathematical analysis of the odds calculation engine. The Commission, in its discretion and at cost to the single-pool wagering provider, may require that additional testing be conducted, which could include testing by an independent firm specializing in such testing, as determined on a case-by-case basis.

(e) Where a petition seeking Racing Commission approval to conduct a single-pool wagering implicates (b), (c), or (d)

above, the petition of the single-pool wagering outlet shall include any certifications required by N.J.A.C. 13:70-29A.4(a)4 and 5.

(f) Where a petition seeking Racing Commission approval to conduct a single-pool wagering event implicates N.J.A.C. 13:70-29A.12(b), the petition shall set forth the take-out structure for the proposed single-pool wagering event.

13:70-29A.7 Single-pool wager placement types; single-pool wager varieties

(a) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to, and approval of the Racing Commission pursuant to N.J.A.C. 13:70-29A.6, may offer the single-pool wager placement types listed in this subsection, and such other single-pool wager placement types as the Racing Commission determines are consistent with the best interests of racing, and consistent with the technological ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets.

1. A "combination wager" means a wager placed on one or more horses and shall be a winning wager only if the horses selected finish in any of the positions selected as part of the wager. For example, a combination wager to select two of the top three finishers would be a winning wager only if both selected horses finish the race in any combination of first through third.

2. A "multiple race wager" means a wager on the outcome of multiple races. This wager may include any combination of number of races, on races contested at one or multiple racetracks, provided that each combination offered for wagering shall have its own associated odds.

3. A "limit wager" means a wager placed on an outcome that has associated with it specified odds or higher odds. A limit wager, once placed, only enters the single wagering pool to the extent that the actual odds calculated for the wager equal or exceed the odds specified as part of the limit wager when placed. Because a limit wager is removed from the single wagering pool to the extent that the calculated odds move below the odds specified as part of the limit wager when placed, a partial fill of the placed wager may result.

4. An "all-or-none wager" means a limit wager in which the wager must be able to placed within the single wagering pool in its entirety, or the wager may not be accepted.

(b) A single-pool wagering outlet, in connection with a single-pool wagering event, following written petitioning to and approval of the Racing Commission pursuant to N.J.A.C. 13:70-29A.6, may offer any wager variety authorized by this chapter for multi-pool traditional wagering, and such additional single-pool wager variety or varieties that the Racing Commission determines is consistent with the best interests of [page=929] racing and consistent with the technological ability of the single-pool wagering provider to perform accurate wagering odds calculations and payoff prices for winning single-pool wagering tickets.

13:70-29A.8 Single wagering pool unawarded surplus

The distribution of any single wagering pool unawarded surplus, which could arise in connection with a single-pool wagering event, shall be subject to the approval by the Racing Commission at the time it considers any petition of a single-pool wagering outlet for a single-pool wagering event. The single-pool wagering outlet shall have the burden to demonstrate, to the satisfaction of the Racing Commission, that any single wagering pool unawarded surplus will be distributed in a fair and consistent fashion to persons who have wagered on the same race, or races, resulting in the single wagering pool unawarded surplus.

13:70-29A.9 Calculation of odds in the event of a dead heat finish

(a) In the event of a dead heat for any position in any race comprising a single-pool wagering event, the payoff shall be calculated using either of the two methods set forth below, as approved by the Racing Commission.

1. The method set forth in N.J.A.C. 13:70-29.46; or

2. The payoff for each winning wager, in the event of a dead heat finish involving two horses, shall be equal to 1/2 of the expected payout for each horse involved in the dead heat. In the event of dead heat finish involving three or more horses, the payout for each winning wager shall be divided equally for each horse involved in the dead heat.

13:70-29A.10 Notification to public of single-pool wagering event; display of odds information

(a) A single-pool wagering outlet shall provide sufficient notice to the public of all single-pool wagering events, whether offered in connection with live racing or simulcasting. The public notification shall be included in the race program, unless otherwise approved by the Racing Commission, and shall identify the races, the single-pool wager varieties, and the single-pool wager placement types included in the single-pool wagering event.

(b) The odds information for all single-pool wager varieties forming a single-pool wagering event shall be displayed to the public consistent with N.J.A.C. 13:70-29.8, unless the Racing Commission approves such other method. Such odds information shall be displayed in a continuously updated manner, unless otherwise approved by the Racing Commission.

13:70-29A.11 Single-pool wagering with out-of-State racetracks

The Racing Commission may approve a single-pool wagering event imported from an out-of-State racetrack, or exported to an out-of-State racetrack, provided that such single-pool wagering event is consistent with law. Any petition to the Racing Commission to approve such a single-pool wagering event shall contain a certification, signed by a high managerial agent of both the single-pool wagering outlet and single-pool wagering provider, that the proposed single-pool wagering event is consistent with the law of such other jurisdiction or jurisdictions.

13:70-29A.12 Take-out structure for single-pool wagering events; calculation of net pool amount

(a) Where a Racing Commission-approved single-pool wagering event includes a single-pool wager variety, which same variety is also authorized by this chapter for multi-pool traditional wagering events, the take-out for such single-pool wagering variety shall be the same as that applied in multi-pool traditional wagering.

(b) Where a Racing Commission-approved single-pool wagering event includes a single-pool wager variety, which variety is not authorized by this chapter for multi-pool traditional wagering, the takeout rate for such single-pool wager variety shall be determined by the single-pool wagering outlet petitioning the Racing Commission for approval of the single-pool wagering event, but in no case shall the take-out rate be less than 17 percent or greater than 25 percent of the portion of the single wagering pool comprising said single-pool wager variety.

(c) Where a Racing Commission-approved single-pool wagering event is imported from another jurisdiction as a simulcast event, the take-out rate governing that race in the sending jurisdiction shall be applied.

(d) In no case shall any take-out rate for any single-pool wager variety be inconsistent with the take-out rate percentages provided for in P.L. 1940 c. 17 (N.J.S.A. 5:5-22 et seq.).

(e) To arrive at the net pool amount for a single-pool wagering event, the take-out authorized by this section shall first be applied to and deducted from the total wagered on each single-pool wager variety for each race comprising the single-pool wagering event. The total amount wagered on each horse race wager variety shall then be divided into the

corresponding net pool amount, which calculation results in the payoff price for each horse race wager variety for each race forming the single-pool wagering event.

13:70-29A.13 Integration of single-pool wagering data with Racing Commission mutuel system

Any data necessary for the Racing Commission computerized mutuel system to reconcile wagering information, and to insure that the distribution of wagers made is consistent with law, shall be made available to the Racing Commission by the single-pool wager provider or totalisator operator, as appropriate. In the event that any resulting hardware or software changes are required to be made to the Racing Commission computer system, the single-pool wager provider shall be directly responsible for all related costs incurred by the Racing Commission. Nothing contained in this section shall preclude the single-pool wager provider from contracting with any other person or entity to reimburse any such costs to it.

13:70-29A.14 System failure for single-pool wagering event

Where, due to any system failure in connection with a Racing Commission-approved single-pool wagering event, including as a result of a system failure of the odds calculation engine, the totalisator, or any interface between the odds calculation engine and the totalisator, odds cannot be calculated or wagers cannot be processed utilizing the single-pool wagering system, such odds shall be calculated utilizing the multi-pool traditional wagering system. In the event that the multi-pool wagering system cannot be utilized, the rules in effect governing totalisator failure for multi-pool traditional wagering shall apply.