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# Proposed Rulemaking

## Title

Promulgated by:  
Arkansas Racing Commission

### **Title 23. Public Utilities and Regulated Industries**

#### **Chapter VIII. Arkansas Racing Commission, Department of Finance and Administration**

##### **Subchapter A. Generally**

##### **Part 357. Rules Governing Horse Racing in Arkansas**

##### **Subpart 6. Winnings**

###### **23 CAR § 357-601. Winnings generally.**

(a) Winnings shall include all net moneys won in all countries, up to the time appointed for the start, including walkovers and forfeits, but not second and third money nor the value of a prize not in money.

(b) Winnings during a year shall be reckoned from January 1 of that year.

(c) Winner or non-winner of a specified sum means winner or non-winner of a single race of that value to the winner, unless otherwise stated.

(d)(1) In computing the value of a series of races in which an extra sum of money is won by the winning of two (2) or more races of the series, the extra amount shall not be included in the horse's winnings until the series, or that part of it, is finished, and hence the extra amount is definitely ascertainable.

(2) When ascertained, it shall be added to the race which determines the extra amount.

(e) Foreign winnings shall be estimated on the basis of the normal rate of exchange prevailing on the day of the winnings.

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(f)(1) All franchise racing holders, owners, trainers, jockeys, agents, grooms, and platers, and all licensees are deemed to accept the conditions under which the franchise holder conducts the race meeting.

(2) Any person shall, before he or she terminates or discontinues his or her employment, engagement, or activities under such accepted conditions, give the person's employer or other party for whom the person works, as the case may be, at least seven (7) days' notice in writing of his or her intention to terminate or discontinue his or her employment, engagement, or activities, provided, the employer or other party for whom the person works may waive the requirement of such advance notice.

(3) The Arkansas Racing Commission may, upon notice to all parties of interest, conduct a hearing or hearings with respect to any termination or discontinuance of employment, engagement, or activities and if the commission shall find that the cause for said termination or discontinuance of employment, engagement, or activities under such accepted conditions is unreasonable or unlawful or contrary to the rules and conditions of the commission, or the statutes of the State of Arkansas, or in bad faith or detrimental to the public interest or against the best interest of racing, or if the commission shall find that the licensee or said persons have failed to give the required written notice herein provided, or in any other manner violated this part, it may, in its discretion, revoke, cancel, withdraw, or suspend the licenses of any such trainer, jockey, agent, groom, plater, and other licensee, or may forever prohibit said person or persons from engaging in any activities at any racetrack in the State of Arkansas, or take other appropriate disciplinary action in the circumstances.

**23 CAR § 357-602. Dead heats.**

(a) The owners of the horses in a dead heat shall divide equally the purse money involved.

(b) If a dead heat is for the first place, each horse shall be considered a winner of the amount received according to the preceding rule.

(c) When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses that ran the dead heat shall be deemed to have run a dead heat for first place.

(d) Owners shall divide equally all moneys and other prizes, and if no agreement can be reached as to which of them shall receive a cup, plate, or other indivisible prize, they shall draw lots for it in the presence of one (1) or more of the stewards.

(e)(1) In a dead heat for first place, the winning jockeys shall receive ten percent (10%) of the winning purse, and in all other cases the jockeys involved shall divide equally the sum total of the fees they would have received individually had one (1) beaten the other, or others.

(2) Likewise, the owners of the horses involved shall pay their equal share of the jockey's fees.

### **23 CAR § 357-603. Mutuels.**

(a) When two (2) or more horses run in a race and are coupled because of common ties, they are called an entry, and a wager on one (1) of them shall be a wager on all of them.

(b) When the individual horses competing in a race exceed the numbering capacity of the totalisator, the highest numbered horse within the capacity of the totalisator and all horses of a higher number shall be grouped together and called the "Field", and a wager on one (1) of them shall be a wager on all of them.

(c)(1) With the approval of the proper officers of the franchise holder, the following rules will apply.

(2) If fewer than six (6) interests qualify horses to start in a race, the manager of the Pari-mutuel Department shall be permitted to prohibit show wagering on that race.

(3) If fewer than five (5) interests qualify horses to start in a race, the said manager shall be permitted to prohibit both place and show wagering on that race.

(4) If fewer than three (3) interests qualify horses to start in a race, and both of the horses qualified are coupled as an entry, the said manager shall be permitted to prohibit wagering on that race.

(5) The said manager may prohibit wagering on any particular horse in any race.

(d)(1) Before the wagering starts on each race, the morning line showing odds on each horse may be posted on the public board.

(2) Entries shall be listed as one (1) horse, and likewise the field shall be listed as one (1) horse.

(e)(1) After wagering has begun on each race and immediately after there are one thousand dollars (\$1,000) (more or less, depending on circumstances) in the straight pool, the approximate odds on each horse must be computed at each cycle of the tote board.

(2) Said approximate odds shall agree with the amount wagered on each horse in the straight pool.

(3) There shall be a minimum of four (4) sets, and more under proper circumstances, of approximate odds posted during the wagering on each race.

(4) These odds, however, are approximate and not the exact figures used in the payoff.

(f) Wagering shall cease not later than off time, and no tickets shall be sold after the totalisator has been locked or wagering ceased.

(g)(1) If, for any reason other than power failure or accidental locking, the pari-mutuel ticket issuing machines are closed during the wagering on a race, and before off time, they shall remain closed until after the race.

(2) Wagering shall cease on that race, and the payoff for that race shall be computed on the sums then wagered in each pool.

(h) If a horse or horses are locked in the gate, the proper racing official shall promptly notify the manager of the Pari-mutuel Department of the name and number of said horse or horses.

(i) At the end of each race, the Placing Judges shall advise the manager of the Pari-mutuel Department of the official placement of the horses, and no payoff shall be made until the receipt of such notice.

(j)(1) If an error is made in posting the payoff figures on the tote board, it shall be corrected promptly and only the correct amounts shall be used in the payoff, irrespective of the error on the tote board.

(2) If, because of mechanical failure, it is impossible to promptly correct the posted payoff, a statement shall be made over the public address system stating the facts and corrections.

(k)(1) In the event of an irreparable breakdown of the totalisator or the ticket-issuing machines or both during the wagering on a race, the wagering for that race shall be declared closed.

(2) The payoff for that race shall be computed on the sums wagered in each pool up to the time of the breakdown.

(l) In all cases when a horse has been excused by the stewards after wagering has started, but before off time, all money wagered on the horse so excused shall be deducted from the pool and be refunded.

(m) Should an accident in the starting gate, malfunction of the starting gate, or other unusual event caused by outside elements compromise the fairness of the race or safety of race participants, the stewards, in consultation with the official starter, may declare individual horses to be non-starters or declare a no contest, and, subject to other rules of the Arkansas Racing Commission applicable to multi-race wagers, exclude individual horses from one (1) or more pari-mutuel pools and order a refund of pari-mutuel wagers on the horses involved, as the circumstances warrant in fairness to the bettors and race participants.

(n) If no horse finishes in a race, all money wagered on that race shall be refunded.

(o) If two (2) or more horses in a race are coupled on the same mutuel ticket, there shall be no refunds unless all of the horses so coupled are excused before off time or all of the horses so coupled are locked in the gate.

(p)(1) If a jockey weighs in more than two pounds (2 lbs.) short of the weight that the jockey was assigned in the race, and his mount is disqualified by the stewards in consequence of short weight prior to the declaration of the race as official, all moneys wagered on said horse shall be deducted from the pool and refunded.

(2) If a jockey weighs in more than two pounds (2 lbs.) short of the weight that the jockey was assigned in the race, and his or her mount is disqualified by the stewards in consequence of short weight after the results of the race have been declared official, the moneys wagered on said horse shall not be deducted from the pool or refunded and such disqualification shall not affect the results of the race for pari-mutuel wagering purposes or in so far as the pay out to patrons is concerned.

(q)(1) In the case of an entry, if one (1) of the jockeys riding the entry weighs in short of weight by more than two pounds (2 lbs.) and his or her mount is disqualified by the stewards in consequence of short weight prior to the result of the race being declared official, no refund shall be made unless the other portion of the entry also is disqualified by the stewards for short weight prior to the result of the race being declared official, in which case all moneys wagered on the entry so disqualified prior to the results of the race being declared official shall be deducted from the pool and refunded.

(2) This rule applies with equal effect to the field.

(3) See 23 CAR § 357-503(h) and 23 CAR § 357-603(p) in the event a jockey weighs in short of weight by more than two pounds (2 lbs.) after the results of the race have been declared official.

(4) Such resulting disqualification of the mount, after the results of the race have been declared official, shall not affect the results of the race for pari-mutuel wagering purposes or in so far as the payout to patrons is concerned.

(r) In the case of a race postponed beyond the day originally scheduled, all money wagered on said race shall be refunded.

(s) If a race is declared off by the stewards after wagering begins on that race, all money wagered on that race shall be refunded.

(t) If a horse wins and there is no money wagered on that horse to win, the straight pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise, among holders of the show tickets on that horse.

(u) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(v) If no money has been wagered to show on a horse which is placed first, second, or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second, or third in that place.

(w) If only one (1) horse finishes in a race, the place and show pools shall be apportioned among the holders of place and show tickets on that horse.

(x) If only two (2) horses finish in a race, the show pool shall be apportioned among the holders of show tickets on those two (2) horses.

(y) Any ruling of the stewards with regard to the reward of purse money made after the sign "Official" has been purposely displayed by the Placing Judges shall have no bearing on the mutuel payoff.

(z)(1) Whenever there is a difference in any pool or pools, i.e., a difference between the sum total of the wagers on the individual horses as compared with the grand total as shown by the tote board, the larger amount shall be used as the basis for computing the payoff.

(2) The said larger amount shall be used as the base on which the commissions are computed and paid to the franchise holder and to the commission respectively, except that at racetracks which use equipment such as computers, which make it possible to determine immediately the correct amount of money wagered, the correct amount so determined shall be used as the basis for computing the payoff and commissions.

(3) In cases where the lesser amount is used, the commission auditor on duty must be in agreement with the figure used.

(aa)(1) Payments due on all wagers shall be made in conformity with the well-established practice of the pari-mutuel system.

(2) Money wagered on winning tickets is returned in full, plus the profits.

(3) The practice is to work in dollars and not in the number of tickets.

(4) The break permitted by law is deducted in all of the calculations arriving at the payoff price, i.e., the odd cents over any multiple of ten cents (\$0.10) of winnings per dollar wagered are deducted.

(bb)(1) Any claim by a person that a wrong ticket has been delivered to him or her must be made before leaving the mutuel ticket window.

(2) No claim shall be considered thereafter and no claim shall be considered for tickets thrown away, lost, changed, destroyed, or mutilated beyond identification.

(3) Payment of wagers will be made only on presentation of appropriate pari-mutuel tickets.

(cc)(1) Should an emergency arise in connection with the operation of the Pari-mutuel Department not covered by this part and an immediate decision is necessary, the manager of the Pari-mutuel Department shall make the decision.

(2) The manager of the Pari-mutuel Department shall be properly and timely advised by the Racing Secretary, prior to the beginning of wagering of each race, of the horses that will compete in the race.

(dd) No minor shall be allowed to wager, and no jockey in colors shall enter the betting area.

(ee)(1) The minimum payout on all winning wagers in live horse racing shall be equal to the amount wagered plus ten percent (10%), i.e., the minimum payout on a one-dollar wager shall be one dollar and ten cents (\$1.10), the minimum payout on a two-dollar wager shall be two dollars and twenty cents (\$2.20), etc.

(2) However, in the event of a minus pool in live horse racing, the minimum payout on all winning wagers in that pool shall be equal to the amount wagered plus five percent (5%), i.e., the minimum payout on a one-dollar wager shall be one dollar and five cents (\$1.05), the minimum payout on a two-dollar wager shall be two dollars and ten cents (\$2.10), etc.

**23 CAR § 357-604. Steps in calculating the payoff in win pool.**

(a)(1) The commission authorized by law is deducted from the sum total wagered in the win pool.

(2) The balance is called the "net pool".

(b)(1) The amount wagered on the winner is then divided into the net pool.

(2) The quotient thus obtained is the payoff price on the winner for each dollar wagered, and it includes the dollar wagered on the winner.

**23 CAR § 357-605. Steps in calculating the payoff in a place pool.**

(a)(1) The commission authorized by law is deducted from the sum total wagered in the place pool.

(2) The balance is called the "net pool".

(b)(1) The sum total of the amount wagered in the place pool on the horses placed first and second is deducted from the net pool.

(2) This gives a remainder, which is the profit or winnings.

(3) The said profit is divided into two (2) equal parts between those who wagered in the place pool, on the winner, and those who wagered on the horse that was placed second.

(c) Using the amount wagered in the place pool on the winner to place as a divisor and one-half (1/2) of the profits of the place pool as specified in subsection (b) of this section as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the winner to place.

(d) Using the amount wagered in the place pool on the horse placed second to place as a divisor and the other half of the profits as specified in subsection (b) of this section as a dividend, the quotient thus obtained is the profit per dollar wagered in the place pool on the second horse to place.

(e)(1) In each of subsections (c) and (d) of this section, the profit per dollar wagered is the resultant.

(2) The sums wagered on the horses placed first and second must be returned, therefore add to the quotient the dollar taken out of the net pool in subsection (b) of this section.

(3) The result is the payoff for each dollar wagered on horses placed first and second in the place pool.

**23 CAR § 357-606. Steps in calculating the payoff in a show pool.**

(a)(1) The commission authorized by law is deducted from the sum total wagered in the show pool.

(2) The balance is called the "net pool".

(b)(1) The sum total of the amount wagered in the show pool on the horses placed first, second, and third is deducted from the net pool.

(2) This gives a remainder, which is the profit or winnings.

(3) The said profit is divided into three (3) equal parts among those who wagered in the show pool on the:

(A) Winner;

(B) Second horse; and

(C) Third horse.

(c) Using the amount wagered in the show pool on the winner to show as a divisor and one-third ( $1/3$ ) of the profits of the show pool as specified in subsection (b) of this section as a dividend, the quotient thus obtained is the profit per dollar wagered in the show pool on the winner to show.

(d) Using the amount wagered in the show pool on the horse placed second to show as a divisor and one-third ( $1/3$ ) of the profits as specified in subsection (b) of this section as a dividend, the quotient thus obtained is the profit per dollar wagered in the show pool on the second horse to show.

(e) Using the amount wagered in the show pool on the horse placed third to show as a divisor and one-third ( $1/3$ ) of the profits as specified in subsection (b) of this section as a dividend, the quotient thus obtained is the profit per dollar in the show pool wagered on the third horse to show.

(f)(1) In each of subsections (c), (d), and (e) of this section, the profit per dollar wagered is the resultant.

(2) The sums wagered on the horses placed first, second, and third must be returned, therefore add to the quotient the dollar taken out of the net pool in subsection (b) of this section.

(3) The result is the payoff price for each dollar wagered on horses placed first, second, and third in the show pool.

### **23 CAR § 357-607. Steps in calculating the payoff in dead heat.**

(a) In the case of a dead heat in the straight pool, the payoff prices shall be figured as in a place pool.

(b) In the case of a dead heat for second in the place pool, the winner of the race receives its half share of the profits in that pool, and each of the two (2) horses that dead heat for second receives one-half (1/2) of the remaining half of the profit.

(c) In the case of a dead heat for third or "show" in the show pool, the first and second horses each receive a normal one-third (1/3) of the profits in that pool, and the two (2) horses that dead heat for third each receive one-half (1/2) of the remaining third of the profits.

(d)(1) Where two (2) or more horses racing for one (1) interest or field horses participate in dead heats, each horse of the entry or field is entitled to his or her proportionate share of the profits in the pool in which the dead heat occurs and the other pools affected.

(2) For example: Where two (2) horses of an entry or field dead heat for win, the win and place prices are calculated as straight pools, and the entry is entitled to two-thirds (2/3) of the profits of the show pool.

### **23 CAR § 357-608. Daily Double.**

(a) Two (2) Daily Doubles will be permitted during any single racing program.

(b) If no ticket is sold combining the two (2) winners of the Daily Double, the pool shall then be apportioned equally between those having tickets including the winner in

the first race of the Daily Double and those having tickets including the winner in the last race of the Daily Double in the same manner in which a place pool is calculated and distributed.

(c) If no ticket is sold including the winner of the first race of the Daily Double, then the entire pool will be paid to the holders of tickets which include the winner of the last race of the Daily Double.

(d) Likewise, if no ticket is sold including the winner of the last race of the Daily Double, the entire pool will be paid to the holders of tickets which include the winner of the first race of the Daily Double.

(e) If no ticket is sold including a winner of either race of the Daily Double, then the pool shall be paid to holders of tickets which include the horses finishing second in the two (2) races of the Daily Double.

(f) If no ticket is sold that would require distribution of the Daily Double pool to a winner under subsections (b), (c), (d), and (e) of this section, the association shall make a complete and full refund of the Daily Double pool.

(g)(1) There shall be a refund of Daily Double wagers in the event of a horse being scratched before the betting on the Daily Double has closed.

(2) This refund is to apply only to wagers on the horse scratched.

(h) It is required that a complete tabulation of sale or take-off of all combinations of tickets in the Daily Double pool be made, and a copy of said take-off be in the hands of the Arkansas Racing Commission auditor as soon as practicable.

(i) In the event a horse is scratched or excused in the second half of the Daily Double, after the first half is official, all tickets combining the scratched horse with the winner of the first half of the Daily Double shall be paid a price per dollar denomination calculated as follows:

(1) The net Daily Double pool (gross pool less commission) shall be divided by the purchase price of all tickets combining the winner of the first half, and the quotient thus obtained shall be the price to be paid to holders of tickets combining the winner of the first half and the scratched or excused horse in the second half; and

(2) The entire consolation pool (number of eligible tickets times the consolation), shall be deducted from the Daily Double pool.

(j) Before the running of the race comprising the last half of the Daily Double pool, there shall be displayed in a prominent place, easily visible from the grandstand, clubhouse, and bleachers, the payoff of each combination coupled with the winner of the first half of the Daily Double.

(k)(1) In case of a dead heat for winner in the first half of the Daily Double, the payoff of the Daily Double need not be posted until after the running of the second half of the Daily Double, owing to the complicated calculations involved.

(2) However, announcement of this fact must be made over the loudspeaker and notice to this effect be posted on the tote board at the conclusion of the first half of Daily Double.

(l) If a dead heat should result in either the first or second race of the daily double, the total pool is figured as a place pool.

### **23 CAR § 357-609. Exacta wagering.**

(a)(1) The Exacta pool is a contract by the purchaser of one (1) ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race.

(2) Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(b) The exacta is not a parlay and has no connection with or relation to the win, place, and show betting and will be calculated as an entirely separate pool.

(c) If no ticket is sold on the winning combination of an Exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(d) If no ticket is sold that would require distribution of an Exacta pool to winner as above defined, the association shall make a complete and full refund of Exacta pool.

(e)(1) In case of a dead heat between two (2) horses for first place, the net Exacta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations.

(2) In case of a dead heat between two (2) horses for second place, the Exacta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(f)(1) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination.

(2) If no tickets combine the winning horse with either of the place horses in the dead heat, the Exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(g) In the event of any entry finishing first and second, the net Exacta pool shall be distributed to holders of tickets selecting the entry to win combined with the horse finishing third.

**23 CAR § 357-610. Minus pool.**

(a) In the event of a minus pool, the deficiency shall be absorbed by the breaks accruing for that day.

(b) In the event the breaks accruing for that day are not sufficient to absorb such minus pool, the remaining deficiency will be borne solely by the franchise holder.

**23 CAR § 357-611. Claiming.**

(a)(1) In claiming races on the flat, any horse is subject to claim by:

(A) Any owner in good standing; or

(B) A person who has been issued a claiming authorization as provided below in subsection (b) of this section (a "claiming authorization").

(2) However, no owner (who has not otherwise been issued a claiming authorization) may claim a horse at Oaklawn unless that owner (either individually or

through co-ownership, partnership, limited liability company, corporation, or other entity in which the owner owns an equity interest) has:

(A) Foal papers on file in the Oaklawn racing office with respect to a horse eligible to race at Oaklawn; or

(B) Started a horse at the Oaklawn meeting and does not currently have foal papers on file in the racing office with respect to a horse eligible to race at Oaklawn because the owner's last horse or horses was claimed, i.e., in the case of subdivision (a)(2)(A) of this section or this subdivision (a)(2)(B), that owner is not required to obtain a claiming authorization and is immediately eligible to claim a horse at Oaklawn, provided such claim is in compliance with all other applicable claiming rules.

**(b) Claiming authorization.**

(1) The stewards or their appointed representatives shall issue a claiming authorization to any person who makes application therefor on forms prescribed for that purpose and who:

(A) Meets all requirements for the issuance of an owner's license;

(B) Either:

(i) Is not presently involved, and does not have a spouse presently involved, as an owner of a horse in thoroughbred racing able and eligible to race at Oaklawn;

(ii) Was an owner, either individually or through co-ownership, partnership, limited liability company, corporation, or other entity in which the owner owns an equity interest, of a horse that had an official start in a prior race at Oaklawn during the immediately preceding Oaklawn race meet; or

(iii) Has foal papers on file in the Oaklawn racing office with respect to a horse eligible to race at Oaklawn;

(C) Has an agreement with a licensed trainer to take charge of, care for, and train any horse claimed pursuant to the claiming authorization (and the holder of a claiming authorization and the trainer shall each promptly notify the stewards in writing if such agreement is terminated before a horse is successfully claimed);

(D) Has at least the amount of the claim on deposit or credited with the horsemen's bookkeeper; and

(E)(i) A claiming certificate may not be utilized until twenty-four (24) hours shall have elapsed since the application was received and approved by the stewards.

(ii) However, notwithstanding the foregoing, a claiming authorization may not be issued to any thoroughbred horse trainer licensed as such in any jurisdiction unless the trainer is a member of a partnership, limited liability company, corporation, or other entity that would otherwise be eligible for a claiming authorization and the claim is being made by that partnership, limited liability company, corporation, or other entity.

(2)(A) The claiming authorization shall be valid for the race meet in which it is issued or until such earlier time as the person to whom the claiming authorization was issued:

(i) Executes a claim and becomes an owner of a horse through use of the claiming authorization; or

(ii) In the case of a claiming authorization issued to a person under subdivision (b)(1)(B)(i) of this section, through private purchase.

(B) A person shall not be eligible for issuance of more than one (1) claiming authorization for the same race meeting unless the person presents evidence to the satisfaction of the stewards that the person is no longer the owner (either individually or through co-ownership, partnership, limited liability company, corporation, or other entity in which the owner owns an equity interest) of a horse able to race at Oaklawn because of illness or injury to the horse.

(3)(A) If the applicant has not been issued an owner's license for the current race meet, the same fee charged for an owner's license shall be payable to the Arkansas Racing Commission by the applicant prior to issuance of a claiming authorization.

(B) The holder of a claiming authorization shall not, by virtue thereof, be entitled to admission to the grandstand, clubhouse, or other spectator facility at prices less than those charged the general public.

(4)(A) An application for claiming authorization may be denied or revoked for any reason that would justify denial, suspension, or revocation of an owner's license.

(B) Any person whose claiming authorization is denied or revoked shall have the same rights to notice and hearing as an owner whose license is denied, suspended, or revoked.

(5) A holder of a claiming authorization for the current race meet who has not previously been granted an owner's license for the current race meet will be issued an owner's license without payment of any additional fees, but subject to the other requirements for issuance of an owner's license.

(c)(1) **First waiver.** At the time of entry into a claiming race, the owner (or trainer acting under authorization from the owner) may opt to declare a horse ineligible to be claimed provided:

(A) The horse has not been an official starter in a race at any racetrack for a minimum of ~~sixty~~ sixty one hundred twenty (~~60~~120) days since its last race as an official starter;

(B) The horse's last race as an official starter was a claiming race in which the horse was eligible to be claimed;

(C) The horse is entered for a claiming price equal to or greater than the claiming price at which it last started as an official starter;

(D) Failure to declare the horse ineligible at the time of entry may not be remedied; and

(E) Ineligibility to be claimed under this subdivision (c)(1) shall apply only to the horse's first start as an official starter following each such ~~sixty~~ sixty one hundred ~~twenty~~ twenty-day or longer layoff.

(2) **Second waiver.** At the time of entry into a claiming race, the owner (or trainer acting under authorization from the owner) may opt to declare a horse ineligible to be claimed provided:

(A) The horse was properly declared ineligible to be claimed in its immediately preceding race at Oaklawn under subdivision (c)(1) of this section, i.e., its "first race back";

(B) The horse was an official starter in its first race back and was not the official winner in its first race back;

(C) The horse has not been an official starter in a race at any racetrack since its first race back;

(D) The horse is entered for a claiming price equal to or greater than the claiming price at which it last started as an official starter;

(E) Failure to declare the horse ineligible at the time of entry may not be remedied; and

(F) Ineligibility to be claimed under this subdivision (c)(2) shall apply only to the horse's next start as an official starter following the horse's first race back.

(d) A claim may be made by an authorized agent, but the agent may claim only for the account of those for whom he or she is licensed as agent.

(e) No person shall claim his or her own horse or cause his or her own horse to be claimed, directly or indirectly, for his or her own account.

(f) No person shall claim more than one (1) horse from any one (1) race.

(g) When a stable consists of horses owned by more than one (1) person and trained by the same trainer, no more than one (1) claim (in the aggregate) may be entered on behalf of such stable or any member of such stable in any one (1) race.

(h) The claiming price of each horse in a claiming race shall be printed in the official program, and all claims for said horse shall be for the amount so designated.

(i)(1) Each claim shall be made in writing on a form supplied by the franchise holder.

(2) It shall be properly signed and enclosed in an envelope provided for the purpose by the Racing Secretary.

(3) The envelope shall have no identification mark on it, but it shall be marked with the number of the race.

(4) It shall be sealed and deposited in a locked box provided for this purpose by the Racing Secretary.

(j)(1) No money or its equivalent shall be put in the claiming box.

(2) For a claim to be valid, the person making the claim must have a credit balance in his or her account with the franchise holder's horseman's account of not less than the amount of the claim plus any applicable sales tax.

(3) All claims shall be deposited in the claiming box at least fifteen (15) minutes before the established post time of the race out of which the claim is made.

(k)(1) Claims are irrevocable except as otherwise provided in subdivision (k)(5) of this section.

(2)(A) At the time of filing the claim form, claimants shall have the right to designate on the claim form a request for a post-race test of the claimed horse for beta-2 agonists, anabolic steroids, and blood doping agents determined from time to time by the Commission Veterinarian, including, but not limited to:

- (i) Clenbuterol;
- (ii) Erythropoietin;
- (iii) Darbepoetin;
- (iv) Oxyglobin; and
- (v) Hemopure, a blood doping agent.

(B) In the event a request for the post-race test for beta-2 agonists, anabolic steroids, and blood doping agents is marked on the successful claimant's claim form, the claimed horse shall be taken to the test barn immediately after the race, a blood, urine, and/or hair sample shall be obtained from the horse by the Commission Veterinarian or Commission Veterinarian's assistant, and the sample shall be submitted to a commission-approved laboratory to test for the presence of beta-2 agonists, anabolic steroids, and blood doping agent antibodies.

(C) The blood, urine, or hair sample shall be taken, contained, and submitted to the commission-approved laboratory in accordance with the rules and procedures, including split samples, applicable to other post-race tests for foreign substances.

(D) The beta-2 agonists, anabolic steroids, and blood doping agents to be tested for shall include clenbuterol, Erythropoietin, Darbepoetin, Oxyglobin, Hemopure, and such other beta-2 agonists, anabolic steroids, and blood doping agents determined from time to time by the Commission Veterinarian.

(3)(A) The successful claimant shall be responsible for paying the cost for the test for beta-2 agonists, anabolic steroids, and blood doping agents.

(B) This cost shall be posted by the Commission Veterinarian and shall be deducted from the successful claimant's account with the horsemen's bookkeeper.

(4)(A) If for any reason the claimed horse is unable to go to the test barn following the race, the Commission Veterinarian or Commission Veterinarian's assistant will make reasonable efforts to reach the horse and obtain a blood, urine, and/or hair sample for testing.

(B) If for any reason the Commission Veterinarian or Commission Veterinarian's assistant is unable or otherwise fails to obtain a blood, urine, or hair sample, the successful claimant's right to revoke the claim under this subsection shall be forfeited.

(5) The successful claimant shall have the right to void the claim if the stewards determine that the blood, urine, or hair sample from the claimed horse exhibited a positive response to the test for any beta-2 agonist, anabolic steroid, or blood doping agent under the testing guidelines established by the Commission Veterinarian, provided, any such revocation of the claim must be submitted in writing to the stewards within the forty-eight-hour period after the stewards' decision on the positive test result is made public, as set forth below.

(6)(A) Once the stewards' determination of the positive test result for beta-2 agonists, anabolic steroids, and a blood doping agent is made public, the successful claimant shall have forty-eight (48) hours thereafter to exercise his or her right to revoke the claim.

(B) Such revocation must be in writing and must be submitted to the stewards within said forty-eight-hour time period.

(C) If no such revocation is received by the stewards within the designated forty-eight-hour time period, the successful claimant shall forfeit the right to revoke the claim.

(7) If the successful claimant revokes the claim in accordance with this subsection, the stewards shall order that the:

(A) Horse be returned promptly to the former owner from whom the horse was claimed; and

(B) Claim money be returned promptly to the claimant revoking the claim, regardless of any appeals, hearings, or other delays of any type.

(8) The successful claimant shall be responsible for all expenses for the care and maintenance of the horse from the time the horse is transferred to the claimant until the time the horse is returned to the prior owner following revocation of the claim in accordance with this subsection.

(9)(A) In the event a claimed horse suffers a fatality during the running of the race (or on the racetrack after the running of the race and before control of the horse is transferred to the claimant), or the horse is otherwise removed from the racetrack in the horse ambulance, the claim shall be declared void by the Board of Stewards unless the claimant notifies the Board of Stewards within fifteen (15) minutes after the race is declared official that the claimant desires for the claim to remain in effect.

(B) Any such notice must be provided within said fifteen-minute period by the claimant-owner or the claimant-owner's trainer, or by a representative thereof designated in writing for this purpose by the claimant-owner or claimant-owner's trainer to the Board of Stewards prior to the running of the race with respect to which the claim was submitted.

(10)(A) In the event a claimed horse suffers an injury during the running of the race (or on the racetrack after the running of the race and before control of the horse is transferred to the claimant), but the horse is not removed from the racetrack in the horse ambulance pursuant to instructions from the Association Veterinarian, contrary to instructions from the Association Veterinarian, because of unavailability of a horse ambulance, or because of other extenuating circumstances, e.g., horse is injured

in the race, loses jockey, and runs loose off the track, the Board of Stewards may, after consultation with the Association Veterinarian, declare the claim void unless the claimant notifies the Board of Stewards within fifteen (15) minutes after the race is declared official that the claimant desires for the claim to remain in effect.

(B) Any such notice must be provided within said fifteen-minute period by the claimant-owner or the claimant-owner's trainer, or by a representative thereof designated in writing for this purpose by the claimant-owner or claimant-owner's trainer to the Board of Stewards prior to the race with respect to which the claim was submitted.

(l)(1) When claiming time has expired, the claiming box shall be delivered to the Racing Secretary or the Racing Secretary's deputy.

(2) The Racing Secretary or the Racing Secretary's deputy shall open the box, and thereafter all claims are in their possession.

(3) The claiming box shall be available in the office of the Racing Secretary each racing day until fifteen (15) minutes before scheduled post time of each race.

(4) Where after the claiming box shall be available in the possession of the Racing Secretary or the Racing Secretary's deputy.

(m) The Racing Secretary or the Racing Secretary's deputy, shall open the claim envelope for each race as soon as, but not until, the horses for said race enter the track on the way from paddock to post, and immediately thereafter check with the horsemen's bookkeeper to ascertain whether or not the proper credit balance has been established with the franchise holder.

(n) The stewards may at any time, in their discretion, require any person filing a claim to make affidavit in writing that they are claiming in accordance with the rules.

(o) Claims that are made not in keeping with the rules shall be void.

(p) A claimed horse shall run in the interest and for the account of the owner from whom claimed.

(q)(1) Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter, unless the claim is voided by the stewards or revoked by or on behalf of the claimant in accordance with this part.

(2) A horse is a starter when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses.

(r)(1) Any horse that has been claimed shall, after the race has been run, be taken to a claimed horse exchange area approved by the Board of Stewards for delivery to the claimant.

(2) However, if a urine or other test is to be made, the horse shall be taken to the test barn and the test made immediately.

(3) Thereafter, possession of the horse shall be delivered to the claimant.

(s) A horse claimed shall not be delivered by the original owner to the successful claimant until written authorization is given by the Racing Secretary.

(t) No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race.

(u)~~(1)~~ **Multiple claims determined by draw — Invalid claims.**

~~(A)(1) Except as otherwise provided in subdivision (u)(2) of this section,~~ **if** more than one (1) claim is filed for the same horse, the title to the horse shall be determined by lot under the direction and supervision of one (1) or more of the stewards.

~~(B)(2) After title to the claimed horse is determined by lot under this subdivision (u)(1) this subsection, if applicable, under subdivision (u)(2) of this section,~~ all other claims on that horse in ~~at~~ the race shall be deemed null and void.

~~(C)(3) Accordingly, if the winning claim determined by lot under this subdivision (u)(1) this subsection, if applicable, under subdivision (u)(2) of this section,~~ is subsequently ruled invalid for any reason, title to the horse shall be returned to the owner of the horse prior to the lot draw ~~or, if applicable, prior to the determination of the preferred claimant under subdivision (u)(2) of this section.~~

~~(D)(4) The successful claimant shall be responsible for all expenses for the care and maintenance of the horse from the time the horse is transferred to the claimant until the time the horse is returned to the prior owner following invalidation of the winning claim.~~

~~(2) Claiming preference.~~

**DRAFT**

~~—————(A) An owner who has a horse claimed during the Oaklawn racing season will be awarded a claiming preference (a “claiming preference”) subject to the terms and conditions of this subdivision (u)(2).~~

~~—————(B)(i) An owner who has a horse claimed during the Oaklawn current racing season will be awarded one (1) claiming preference.~~

~~—————(ii) However, a claiming preference will not be awarded to the connections of a claimed horse:~~

~~—————(a) If the horse’s most recent previous race was in a nonclaiming race (or optional claiming race where the horse was not eligible to be claimed); or~~

~~—————(b) If the horse dropped more than twenty five percent (25%) in claiming price from the claiming price in its most recent race in a claiming race.~~

~~—————(C) Any owner that receives a claiming authorization under 23 CAR § 357-611(b) and is unsuccessful with the owner's first two (2) valid claim attempts after receipt of such claiming authorization will be awarded a claiming preference.~~

~~—————(D)(i) Claiming preferences cannot be accrued or accumulated.~~

~~—————(ii) A second claiming preference may not be awarded until the first is validly used and the owner using the claiming preference is awarded title to the claimed horse.~~

~~—————(iii) If a claiming preference is validly used and the owner using the claiming preference is awarded title to the claimed horse, the owner will be issued another claiming preference if the owner subsequently has a horse claimed at Oaklawn and is otherwise eligible to receive a claiming preference under this section with respect to such claimed horse.~~

~~—————(E)(i) Claiming preferences will become valid and useable by the owner to whom the claiming preference was awarded starting with the first Tuesday of race on the week next racing day after the claiming preference is awarded.~~

~~—————(ii) A claiming preference may only be used by the exact same owner to whom the claiming preference was awarded.~~

~~—————(F)(i) An owner may use the owner's claiming preference on any claiming race through the end of the racing season during which the claiming preference was awarded.~~

~~—————(ii) Unused claiming preferences expire at the end of the racing season during which the claiming preference was awarded.~~

~~—————(G)(i) An owner holding a claiming preference who desires to use the claiming preference must expressly so indicate by marking the proper space on the claim card denoting election to use the claiming preference for that claim.~~

~~—————(ii) The use of the claiming preference is at the option of the owner with the claiming preference, i.e., the owner is not required to utilize the claiming preference and may defer use to a later claiming race during the then current racing season.~~

~~—————(H) If use of a claiming preference is noted on the claim card when no claiming preference is available, the claim will be invalidated.~~

~~—————(I) If there are multiple claims for the same horse in a claiming race, claims with a claiming preference will be given preference in determining the successful claimant and title to the horse, e.g., if there are multiple valid claims for the same horse in a claiming race, and only one (1) valid claim with a claiming preference, the claimant properly utilizing the claimant's claiming preference will be determined the successful claimant, and title to the horse shall transfer to that claimant without lot draw/shake.~~

~~—————(J)(i) If there are multiple claims with claiming preferences for the same horse in a claiming race, only claims with claiming preferences will participate in the lot draw/shake, and the successful claimant and title to the horse shall be determined under subdivision (u)(1) of this section among only those claimants validly using their claiming preference.~~

~~—————(ii) The unsuccessful claimant or claimants, i.e., those not winning the lot draw/shake, retain their claiming preference.~~

~~—————(K) If an owner validly exercises the owner's claiming preference and is awarded the claim and title to the claimed horse, that claiming preference will then expire.~~

~~—————(L) Once a claiming preference is validly used by the owner and the owner is awarded the claim and title to the claimed horse, the owner will receive a subsequent claiming preference upon having another horse claimed at Oaklawn provided the owner is otherwise eligible to receive a claiming preference under this section with respect to such claimed horse.~~

~~—————(M)(i) The racing office shall post a list of owners with claiming preferences every Tuesday before entries before 11:00 a.m. each live racing day.~~

~~—————(ii) Such list shall reflect all owners with claiming preferences available for use beginning with the first race on such racing day, i.e., shall reflect all owners with claiming preferences through the conclusion of racing on the most recent prior racing day.~~

~~—————(N) A claiming preference may only be used in the exact same name of the owner to whom the claiming preference was awarded.~~

~~—————(O) Claiming preferences are not transferable.~~

(v)(1) For a period of twenty-seven (27) days after the claim, a claimed horse shall not start in a race in which the determining eligibility price is less than twenty-five percent (25%) more than the price at which it was claimed.

(2) The day claimed shall not count for purposes of counting the applicable twenty-seven-day period, and for this purpose, the immediate following calendar day after the day claimed shall be the first day.

(3) The horse shall be entitled to enter whenever necessary so that the horse may start on the twenty-eighth calendar day following the claim, for any claiming price.

(w)(1) No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day claimed except in another claiming race.

(2) Further, when a horse is claimed at a recognized race meeting under rules that are at variance with this subsection, title to such horse shall be recognized in Arkansas to follow the rule of the race meeting under which it was claimed.

(x) No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

(y) A horse claimed at a recognized race meeting under rules which are at variance with those of Arkansas shall, while racing in Arkansas, pay the penalties imposed on claimed horses by the Arkansas rules, and shall pay any additional penalty imposed by the rules under which it was claimed.

(z)(1) The engagements of a claimed horse pass automatically with the horse to the claimant.

(2) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

(aa)(1) The holder of a claim, whether it be a mortgage, bill of sale, or lien of any kind against a horse, shall be required to file the same with the Racing Secretary previous to the time the horse is entered.

(2) Failure to do so shall forfeit his or her rights in the winnings of the horse previous to the time his or her claim is properly filed.

(bb) No person shall enter a horse in a claiming race without disclosing its true ownership.

(cc) An allegation of ownership of a horse entered in a claiming race will not be considered after closing time for claims on that race.

(dd) No person shall offer or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming, any horse in a claiming race.

(ee) No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race for which it is entered.

(ff) No owner or trainer shall make any agreement for the protection of each other's horses in a claiming race.

(gg)(1) Any horse claimed at Oaklawn Jockey Club will not be eligible to start at any other track until the current Oaklawn meeting is closed, unless approved by the stewards.

(2) See also subsection (hh) of this section for additional restrictions on starting horses at other racetracks after the current Oaklawn meeting is closed.

(hh)(1) Except as otherwise provided in this subsection, no horse claimed during an Oaklawn race meet shall be eligible to race at another track for a period of thirty (30) days following the end of the Oaklawn racing season unless the claimed horse has subsequently run back in another race at Oaklawn following the claim.

(2) Horses claimed during the final twenty-one (21) calendar days of an Oaklawn race meet are excepted from the requirements of subdivision (hh)(1) of this section.

(3) Horses entered in good faith in a subsequent race at Oaklawn with appropriate conditions that are unable to run back because of failure of the subsequent race at Oaklawn to fill or failure to draw in from the also eligible list may be excepted from the requirements of subdivision (hh)(1) of this section, if approved by the Racing Secretary.

(4) Horses also may be excused from the requirements of subdivision (hh)(1) of this section with approval by the Racing Secretary and stewards in other appropriate circumstances where the horse was unable for good cause to run back in a subsequent race at Oaklawn.

### **23 CAR § 357-612. Oaklawn Jockey Club Classix rules.**

(a) The Classix pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by Oaklawn, nor to any win, place, and show pool shown on the totalisator, nor to the rules governing the distribution of such other pools.

(b)(1) The Classix pari-mutuel pool consists of amounts contributed for a selection for win only in each of six (6) races designated by Oaklawn.

(2) Each person purchasing a Classix ticket shall designate the winning horse in each of the six (6) races comprising the Classix.

(c)(1) Those horses constituting an entry of coupled horses or those horses coupled to constitute the mutuel field in a race comprising the Classix shall race as a single wagering interest for the purpose of the Classix pari-mutuel pool calculations and payouts to the public.

(2) However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win that race for the Classix calculation and the selection shall not be deemed a scratch.

(d) The Classix pari-mutuel pool shall be handled as follows:

(1)(A) The net amount in the Classix pari-mutuel pool will be divided into the major share (seventy-five percent (75%)) and the minor (consolation) share (twenty-five percent (25%)).

(B) The major share (seventy-five percent (75%)) will be distributed among holders of Classix tickets which correctly designate the official winner in each of the six (6) races comprising the Classix.

(C) The minor share (twenty-five percent (25%)) will be distributed among the holders of Classix tickets which correctly designate the most official winners, but fewer than six (6), of the six (6) races comprising the Classix;

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six (6) races comprising the Classix, the major share (seventy-five percent (75%)) shall not be distributed, but shall be carried over to the next racing day and be added to the major share for distribution among holders of Classix tickets which correctly designate the official winner in each of the six (6) races comprising the Classix;

(3)(A) The management of Oaklawn reserves the right to cancel (terminate) Classix wagering.

(B) Public notice must be given at least seventy-two (72) hours prior to the date of cancellation (termination); and

(4) Should no distribution be made pursuant to subdivision (d)(1)(B) of this section on the last day of Oaklawn's meeting in which Classix wagering is offered (held), then that portion of the distributable pool and all moneys accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the six (6) races comprising the Classix for that day.

(e) In the event a Classix pari-mutuel ticket designates a selection in any one (1) or more of the races comprising the Classix and that selection is scratched, excused, or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

(f) In the event of a dead heat for win between two (2) or more horses in any Classix race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(g)(1)(A) No Classix shall be refunded except when all six (6) legs are cancelled or declared as "no contest".

(B) The refund shall apply only to the Classix pool established on that racing card.

(C) Any net pool carryover accrued from a previous Classix feature shall be further carried over to the next scheduled Classix pool operated by Oaklawn.

(2)(A) In the event that any number of races less six (6) comprising the Classix are completed, one hundred percent (100%) of the net pool for the Classix shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races.

(B) No carryover from a previous day shall be added to the Classix pool in which less than six (6) races have been completed.

(C) Any net pool carryover accrued from a previous Classix feature shall be further carried over to the next scheduled Classix Pool operated by Oaklawn.

(h) No pari-mutuel ticket for the Classix Pool shall be sold, exchanged, or canceled after the time of the closing of wagering in the first of the six (6) races comprising the Classix, except for such refunds on Classix tickets as required by this part, and no person shall disclose the number of tickets sold in the Classix Pool, or the number or amount of tickets sold in the Classix Pool, or the number or amount of tickets selecting winners of the Classix races, until such time as the stewards have determined the last race comprising the Classix each day to be official.

(i) A Classix pari-mutuel ticket shall constitute a binding contract between the holder of the ticket and Oaklawn, and said ticket shall constitute an acceptance of the Classix rules.

**23 CAR § 357-613. Pick-3 wagering.**

(a) The Pick-3 pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place, or show pool, nor to the rules governing the distribution of such other pools.

(b) A valid Pick-3 ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the said ticket shall constitute an acceptance of Pick-3 provisions and rules.

(c)(1) The Pick-3 pari-mutuel pool consists of amounts contributed for a selection for win only in each of three (3) races designated by the association with prior approval of the Arkansas Racing Commission.

(2) Each person purchasing a Pick-3 ticket shall designate the winning horse in each of the three (3) races comprising the Pick-3.

(d)(1) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick-3 shall race as a single wagering interest for the purpose of the Pick-3 pari-mutuel pool calculations and payouts to the public.

(2) However, if any part of either an entry or the field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Pick-3 calculation, and the selection shall not be deemed a scratch.

(e) The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets that correctly designate the winners in all three (3) races comprising the Pick-3.

(f) If no ticket is sold combining the three (3) winners of the Pick-3, the net amount in the Pick-3 pari-mutuel pool shall be distributed among holders of tickets

which include the winners of at least two (2) of the three (3) races comprising the Pick-3.

(g) If no ticket is sold combining at least two (2) winners of the Pick-3, the net amount in the Pick-3 pari-mutuel pool shall be distributed among holders of tickets which include the winner of any one (1) race comprising the Pick-3.

(h) If no ticket is sold that would require distribution of the Pick-3 pool to a winner under this section, the association shall make a complete and full refund of the Pick-3 pool.

(i) If for any reason one (1) of the races comprising the Pick-3 is cancelled, the net amount of the Pick-3 pari-mutuel pool shall be distributed as provided in subsections (f), (g), and (h) of this section.

(j) If for any reason two (2) or more of the races comprising the Pick-3 are cancelled, a full and complete refund will be made of the Pick-3 pool.

(k) In the event a Pick-3 ticket designates a selection in any one (1) or more of the races comprising the Pick-3 and that selection is scratched, excused, or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

(l) In the event of a dead heat for win between two (2) or more horses in any Pick-3 race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(m) No pari-mutuel ticket for the Pick-3 pool shall be sold, exchanged, or cancelled after the time of the closing of wagering in the first of the three (3) races comprising the Pick-3, except for such refunds on Pick-3 tickets as required by this section, and no person shall disclose the number of tickets sold in the Pick-3 pool or the number or amount of tickets selecting winners of Pick-3 races until such time as the stewards have determined the last race comprising the Pick-3 to be official.

**23 CAR § 357-614. Trifecta wager.**

(a) The Trifecta requires selection of the first three (3) finishers, in their exact order for a single race.

(b) The net Trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single priced pool to those whose combination finished in correct sequence, as the first three (3) betting interests;

(2) If there are no such wagers in subdivision (b)(1) of this section, then as a single priced pool to those whose combination included, in correct sequence, the first two (2) betting interests;

(3) If there are no such wagers in subdivision (b)(1) or subdivision (b)(2) of this section, then as a single priced pool to those whose combination correctly selected the first place betting interest only; and

(4) If there are no such wagers in subdivision (b)(1), subdivision (b)(2), or subdivision (b)(3) of this section, then the entire pool shall be refunded on Trifecta wagers for that race.

(c)(1) If less than three (3) betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those interests completing the race.

(2) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(d) If there is a dead heat for first involving:

(1) Contestants representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests that correspond with any of the betting interests involved in the dead heat shall share in a profit split; or

(2) Contestants representing two (2) betting interests, both of the betting interests, irrespective of order, along with the third place betting interests shall share in a profit split.

(e) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any two (2) of the betting interests involved in the dead heat for second shall share in a profit split.

(f) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(g)(1) Entries coupled as a single wagering interest and a field of horses when designated as a single wagering interest are permitted.

(2) Such a single wagering interest constitutes an individual wagering selection, and a scratch of any horse that is part of an entry or the field shall not constitute a scratch of the single wagering interest.

(h)(1) For Trifecta races, at least five (5) betting interests shall be carded, provided, if only four (4) betting interests are carded, or if scratches occurring after opening the Trifecta pool reduce the race to four (4) betting interests, Trifecta wagering on the race will still be permitted.

(2) However, in no event shall Trifecta wagering be allowed on a race with fewer than four (4) betting interests.

### **23 CAR § 357-615. Quinella wager.**

(a)(1) The Quinella is not a parlay and has no connection with or relation to the win, place, and show pools.

(2) All tickets on the Quinella will be calculated in a separate pool.

(b)(1) All Quinella tickets will be for the win and place combination only.

(2) When purchasing a Quinella ticket, two (2) horses are selected, which must finish 1-2 or 2-1.

(3) For example, if numbers three (3) and six (6) are selected, they must come in three (3) first and six (6) second, or six (6) first and three (3) second.

(c)(1) Entries or field horses in a race comprising the Quinella shall race as single wagering interests for the purpose of pari-mutuel pool calculations and payouts to the public.

(2) If, in the event that any part of the entry or the field is a starter, there shall be no refund to persons wagering on such entry or field.

(3) In the event any part of an entry or the field finishes first, the order of finish of all other horses making up such entry or field will be disregarded in determining which horse finished second for the purpose of this section.

(d) Should any horse or horses entered in a Quinella race be scratched or excused by the stewards after wagering has commenced, or should any horse or horses be prevented from racing because of the failure of stall doors on the starting gate to open, all tickets including such horse or horses shall be deducted from the Quinella pool and refunded to the purchasers of tickets on the horse or horses so excused or prevented from racing.

(e) Should there be no tickets sold on the winning combination in a Quinella race, any and all Quinella tickets bearing the number of the individual win horse and any and all Quinella tickets bearing the number of the individual place horse shall be deemed winning tickets, and the payoff shall be calculated as a place pool.

(f) Should there be no tickets sold on the winning combination in a Quinella race and should there be no Quinella tickets sold bearing the number of the individual win horse, any and all Quinella tickets bearing the number of the individual place horse shall be deemed winning tickets, and the payoff shall be calculated as a win pool.

(g) Should there be no tickets on the winning combination in a Quinella race, and should there be no Quinella tickets sold bearing the number of the individual place horse, any and all tickets bearing the number of the individual win horse shall be deemed winning tickets, and the payoff shall be calculated as a win pool.

(h) Should there be no tickets on the winning combinations in a Quinella race, and should there be no Quinella tickets sold bearing the number of the individual win horse, and should there be no Quinella tickets sold bearing the number of the individual place horse, the Quinella shall be deemed no contest, and all money in the Quinella shall be promptly refunded.

(i) Should, after an official start is effected, only one (1) horse finish the Quinella race, the total money is figured as a win pool, with those who have picked that one (1) horse in the race participating in the pool.

(j) Should a two-horse dead heat for win result in a Quinella race, the two (2) horses involved in the dead heat shall be the winners of the Quinella race.

(k)(1) Should a multiple dead heat for win result in a Quinella race, all horses involved in the dead heat shall be winners of the Quinella and payoffs figured accordingly.

(2) Example: Should numbers one (1), three (3), and five (5) dead heat for win, the winning Quinella combinations would be 1-3, 1-5, 3-1, 3-5, 5-1, 5-3.

(3) The net pool, after deducting the amount wagered on the winning combinations, will be equally distributed in payoff calculations on the winning combinations.

(l) Should a two-horse dead heat for place result in a Quinella race, the total pool is calculated as a place pool.

(m) Should a multiple dead heat for place result in a Quinella race, all combinations coupling the winning horse with the individual place horses shall be winners of the Quinella race, and payoffs calculated accordingly.

### **23 CAR § 357-616. Superfecta pool.**

(a) The Superfecta requires the selection of the first four (4) finishers, in their exact order, for a single race.

(b) The net Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests;

(2) If there are no such wagers in subdivision (b)(1) of this section, then as a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests;

(3) If there are no such wagers in subdivisions (b)(1) or (b)(2) of this section, then as a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests;

(4) If there are no such wagers in subdivision (b)(1), (b)(2), or (b)(3) of this section, then as a single price pool to those whose combination correctly selected the first place betting interest only; and

(5) If there are no such wagers in subdivision (b)(1), (b)(2), (b)(3), or (b)(4), then the entire pool shall be refunded on Superfecta wagers for that race.

(c)(1) If fewer than four (4) betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race.

(2) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(d) If there is a dead heat for first involving:

(1) Contestants representing four (4) or more betting interests, all of the wagering combinations selecting four (4) betting interests that correspond with any of the betting interests involved in the dead heat shall share in a profit split;

(2) Contestants representing three (3) betting interests, all of the wagering combinations selecting the three (3) dead heat betting interests, irrespective of order, along with the fourth place betting interest shall share in a profit split; and

(3) Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third place and fourth place betting interests shall share in a profit split.

(e) If there is a dead heat for second involving:

(1) Contestants representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second shall share in a profit split; and

(2) Contestants representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth place betting interest shall share in a profit split.

(f) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the dead heat for third shall share in a profit split.

(g) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(h)(1) Entries coupled as a single wagering interest and a field of horses when designated as a single wagering interest are permitted.

(2) Such a single wagering interest shall constitute an individual wagering selection, and a scratch of any horse that is part of an entry or the field shall not constitute a scratch of the single wagering interest.

(i)(1) In the event that more than one (1) component of a field or coupled entry finishes within the first four (4) finishing positions, the first member of the field or coupled entry to finish shall determine the position (first, second, third, or fourth) of the single betting interest.

(2) The net pool shall then be distributed to those whose selection included the field or coupled entry and each of the other three (3) betting interests in accordance with the priorities otherwise set forth in this Superfecta rule.

(j) For Superfecta races, at least six (6) betting interests shall be carded, provided, however, if only five (5) betting interests are carded, or if scratches occurring after opening reduce the Superfecta pool to five (5) betting interests, Superfecta wagering on the race shall still be permitted, but in no event shall Superfecta wagering be allowed on a race with fewer than five (5) betting interests.

### **23 CAR § 357-617. Pick-4 wagering.**

(a)(1) The Pick-4 requires selection of the first-place finisher in each of four (4) designated races.

(2) The association shall designate the four (4) races comprising the Pick-4, with prior approval of the Arkansas Racing Commission.

(3) Any changes to the approved Pick-4 format shall require prior approval from the commission.

(b)(1) The net Pick-4 pool shall be distributed as a single price pool among the holders of valid tickets that designate the first-place finisher in the greatest number of races comprising the Pick-4, based upon the official order of finish.

(2) For example, the net amount in the Pick-4 pool shall be distributed among the holders of valid tickets that correctly designate the official winner of all four (4) races comprising the Pick-4.

(3) If there is no valid ticket sold that correctly designates the official winner of all four (4) of the Pick-4 races, the net amount in the Pick-4 pool shall be distributed among the holders of valid tickets that correctly designate the official winner of any three (3) of the races comprising the Pick-4.

(4) If there is no valid ticket sold that correctly designates the official winner of at least three (3) of the Pick-4 races, the net amount in the Pick-4 pool shall be distributed among the holders of valid tickets that correctly designate the official winner of any two (2) of the races comprising the Pick-4.

(5) If there is no valid ticket sold that correctly designates the official winner of at least two (2) of the Pick-4 races, the net amount in the Pick-4 pool shall be distributed among the holders of valid tickets that correctly designate the official winner of any one (1) of the races comprising the Pick-4.

(6) If there are no winning wagers, i.e., if there is no valid ticket sold that correctly designates the official winner of at least one (1) of the Pick-4 races, the Pick-4 pool shall be refunded.

(c) If there is a dead heat for first in any of the Pick-4 races involving horses representing:

(1) The same betting interest, the net Pick-4 pool shall be distributed as if no dead heat occurred; and

(2) Two (2) or more betting interests, all such horses in the dead heat for win shall be considered as winning horses in the race for purposes of calculating the Pick-4 pool and payouts to the public.

(d)(1) Should a betting interest in any of the Pick-4 races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the race at the close of wagering on that race, shall be substituted for the scratched betting interest for all purposes of the Pick-4, including Pick-4 pool calculations.

(2) In the event that the win pool total at the host association for the race at the close of wagering on that race for two (2) or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number.

(3) The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(e)(1) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick-4 shall race as a single wagering interest for purposes of the Pick-4 pool calculations and payouts to the public.

(2) If only part of an entry or part of the field racing as a single interest scratch and any part of the entry or part of the field racing as a single interest is a starter in the race, the entry or the field selection shall remain as the designated selection to win in that race for the Pick-4 calculation, and the selection of the entry or field, as the case may be, shall not be deemed a scratch.

(f) The Pick-4 pool shall be canceled and all Pick-4 wagers for that Pick-4 shall be refunded if at least three (3) contests included as part of such Pick-4 are canceled or declared no contest.

(g) If one (1) or two (2) contest or contests included as part of a Pick-4 are canceled or declared no contest, the net Pick-4 pool shall be distributed as a single price pool among the holders of valid tickets that designate the first-place finisher in the greatest number of remaining Pick-4 races for that Pick-4.

(h)(1) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited until such time as the stewards have determined the last race comprising the Pick-4 to be official.

(2) This shall not prohibit necessary communication between totalisator and Pari-mutuel Department employees for processing of pool data.

(i) The association may suspend previously approved Pick-4 wagering with the prior approval of the commission.

**23 CAR § 357-618. Pick-5 wagering.**

(a)(1) The Pick-5 requires the selection of the first-place finisher in each of five (5) designated races.

(2) The association shall designate the five (5) races comprising the Pick-5 with prior approval of the Arkansas Racing Commission.

(3) Any changes to the approved Pick-5 format shall require approval from the commission.

(b)(1) The net Pick-5 pool shall be distributed as a single price pool among the holders of valid tickets that designate the first-place finisher in the greatest number of races comprising the Pick-5, based upon the official order of finish.

(2) For example, the net amount in the Pick-5 pool shall be distributed among the holders of valid tickets that correctly designate the official winner of all five (5) races in the Pick-5.

(3) If there is no valid ticket sold that correctly designates the official winner of all five (5) of the Pick-5 races, the net amount in the Pick-5 pool shall be distributed among the holders of valid tickets that correctly the designate the official winner of any four (4) of the races comprising the Pick-5.

(4) If there is no valid ticket sold that correctly designates the official winner of at least four (4) of the Pick-5 races, the net amount in the Pick-5 pool shall be distributed among holders of valid tickets that correctly designate the official winner of any three (3) of the races comprising the Pick-5.

(5) If there is no valid ticket sold that correctly designates the official winner of at least three (3) of the Pick-5 races, the net amount in the Pick-5 pool shall be distributed among holders of valid tickets that correctly designate the official winner of any two (2) of the races comprising the Pick-5.

(6) If there is no valid ticket sold that correctly designates the official winner of at least two (2) of the Pick-5 races, the net amount in the Pick-5 pool shall be distributed among holders of valid tickets that correctly designate the official winner of any one (1) of the races comprising the Pick-5.

(7) If there are no winning wagers, i.e., if there is no valid ticket sold that correctly designates the official winner of at least one (1) of the Pick-5 races, the Pick-5 pool shall be refunded.

(c) If there is a dead heat for first in any of the Pick-5 races involving:

(1) Horses representing the same betting interest, the net Pick-5 pool shall be distributed as if no dead heat occurred; and

(2) Horses representing two (2) or more betting interests, all such horses in the dead heat for win shall be considered as winning horses in the race for purposes of calculating the Pick-5 pool and payouts to the public.

(d)(1) Should a betting interest in any of the Pick-5 races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the race at the close of wagering on that race, shall be substituted for the scratched betting interest for all purposes of the Pick-5, including the Pick-5 pool calculations.

(2) In the event that the win pool total at the host association for the race at the close of wagering on that race for two (2) or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number.

(3) The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(e)(1) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick-5 shall race as a single wagering interest for purposes of the Pick-5 pool calculations and payouts to the public.

(2) If only part of an entry or part of the field racing as a single interest scratch and any part of the entry or part of the field racing as a single interest is a starter in the race, the entry or the field selection shall remain as the designated

selection to win in that race for the Pick-5 calculation, and the selection of the entry or field, as the case may be, shall not be deemed a scratch.

(f) The Pick-5 pool shall be canceled and all Pick-5 wagers for that Pick-5 shall be refunded if at least three (3) contests included as part of such Pick-5 are canceled or declared no contest.

(g) If one (1) or two (2) contests included as part of a Pick-5 are canceled or declared no contest, the net Pick-5 pool shall be distributed as a single price pool among the holders of valid tickets that designate the first-place finisher in the greatest number of remaining Pick-5 races for that Pick-5.

(h)(1) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited until such time as the stewards have determined the last race comprising the Pick-5 to be official.

(2) This shall not prohibit necessary communication between totalisator and Pari-mutuel Department employees for processing of pool data.

(i) The association may suspend previously approved Pick-5 wagering with the prior approval of the commission.

### **23 CAR § 357-619. Instant Racing #5, Instant Double**

(a)(1) **Summary.** Instant Double is a method of pari-mutuel wagering which requires selection of one (1) or more of the first three (3) finishers for each of two (2) races selected from a historical library of previously run races that are replayed from a central video server according to the following procedures:

(A) (The first race from the historical library is selected at random before the player enters any selection;

(B) The player may examine one (1) or more charts including past performance information showing the relative merits of the horses as they actually were on the day of the first race;

(C) After the player's selections are registered, the identity of the first race is revealed, a video segment of the race finish is shown, and the actual official results are displayed;

(D)(i) A player qualifies to play the bonus game by matching some or all of the first three (3) finishers of the first race in one (1) of several different ways.

(ii) See ways to qualify for bonus game;

(E)(i) In the bonus game, the player's selections are matched with a second race, the bonus race, selected from the historical library.

(ii) Any winnings may be collected instantly; and

(F) The results of the bonus game are displayed as a pattern of symbols for easy identification.

**(2) Wager amounts.**

(A) Acceptable wagering units shall be no lower than "5¢ Per Play" (\$0.05) and no higher than "\$20 Per Play" (\$20.00).

(B) The franchise holder shall designate a maximum number of unit bets per wager, no higher than ten (10).

(C) For players who purchase the maximum number of unit bets in one (1) wager, the highest value pool shall be augmented by the maximum bet jackpot pool, if available.

**(3) Pool split.** After the applicable takeout as approved by the Arkansas Racing Commission has been deducted from the wager, the remaining amount shall be apportioned among several separate pools which have been carried over from previous races played by all players:

(A) The remaining amount after takeout of the bet amount shall be apportioned among a pool for each of several ways to win, the maximum bet jackpot pool if available, and to the seed pool, depending on its current amount;

(B) The takeout rate and allocation to each pool may be different for each of the bet amounts from one to the maximum number of bet units.

(4) **Ways to qualify for bonus game.** Some or all of the following ways to qualify for the bonus game may be included, or other similar ways may be declared with approval of the commission:

(A) **3 Exact Order.** The player's selections correctly match the first three (3) finishers of the first race in exact order;

(B) **3 Any Order.** The player's selections correctly match the first three (3) finishers of the first race in any order;

(C) **Top 2 Exact Order.** The player's top two (2) selections correctly match the first two (2) finishers of the first race in exact order;

(D) **Top Pick Wins Race.** The player's top selection correctly matches the first (winning) finisher of the first race;

(E) **Any 2 of 3.** The player's selections correctly match any two (2) of the first three (3) finishers of the first race in any order; and

(F) **In the Money.** Any one (1) of the player's three (3) selections correctly matches the first, second, or third finisher of the first race.

(5) **Ways to win the bonus game.** A wager may qualify to win the bonus game using the following procedure:

(A) The bonus race shall be selected using various designated permutations of the player's selections in a manner set by the franchise holder and reported to the commission;

(B) The franchise holder may elect to associate each of the several separate pools with a group of two (2) or more of these ways to win so that either:

(i) Each such way to win shall be an equivalent way to win that pool;

or

(ii) One (1) such way to win shall be paid a designated multiple of the payment calculated for another way to win;

(C) One (1) or more of the ways to win may be designated to participate in the maximum bet jackpot pool, only for those players who purchase the maximum number of unit bets in one (1) wager; and

(D) Some or all of the following ways to win may be included, or other similar ways may be declared with approval of the commission:

(i) **3 Exact Order.** The player's selections correctly match the first three (3) finishers of the bonus race in exact order;

(ii) **3 Any Order.** The player's selections correctly match the first three (3) finishers of the bonus race in any order;

(iii) **Third-Second-First.** The player's selections match the first three (3) finishers of the bonus race in reverse order;

(iv) **Top 2 Exact Order.** The player's top two (2) selections correctly match the first two (2) finishers of the bonus race in exact order, and the player's third selection is ignored;

(v) **Top Pick Wins Race.** The player's top selection correctly matches the first (winning) finisher of the bonus race, and the player's second and third selections are ignored;

(vi) **Top 2 Exact Order Only.** The player's top two (2) selections correctly match the first two (2) finishers of the bonus race in exact order, but the player's third selection matches nothing;

(vii) **Top Pick Wins Race Only.** The player's top selection correctly matches the first (winning) finisher of the bonus race, but the player's second and third selections match nothing; and

(viii) **3 Any Order Consolation.** The player's selections fail to match any other way to win in the bonus race, but do correctly match the first three (3) finishers of the first race in any order.

**(6) Payment calculation.**

(A) The winning price for a pool shall be calculated as follows:

(i) The entire amount in the pool after takeout shall be divided by the maximum number of unit bets, then;

(ii) If there are other ways to win this pool that specify a multiple, the result shall be further divided by the largest multiple, then;

(iii) The result shall be rounded down if necessary for price round-off (breakage), then;

(iv) The result shall be raised if necessary to the minimum payoff amount, then;

(v) The result shall be multiplied by the actual number of unit bets wagered, then;

(vi) If the way to win this pool specifies a multiple, the result shall be further increased by that multiple; and

(vii) Only for players who purchase the maximum number of unit bets in one (1) wager, if this way to win has been designated to be paid the maximum bet jackpot pool, then that amount shall be added to the winning price, rounded down if necessary for price round-off (breakage).

(B) When a wager qualifies for more than one (1) way to win, only the largest single amount qualified for shall be paid.

(C) Each way to win has a minimum payoff amount for winning wagers, which shall be posted.

(D) In the case of a minus pool, the minimum payoff amount shall not be less than the amount of one (1) unit bet wagered.

(E) If two (2) players qualify to win the same pool within a short time, the first winner shall be paid an amount calculated from the current pool and the second shall be paid an amount calculated from the new pool, which may begin with the minimum payoff amount.

(7) **Dead heat.** A race that has a dead heat for first, second, or third shall not be used for Instant Double wagering.

(8) **Coupled entries, mutuel fields.**

(A) A race involving coupled entries or mutuel fields shall not be used for Instant Double wagering if there are two (2) or more betting interests live for a single horse number.

(B)(i) The one (1) remaining live betting interest of a coupled entry or mutuel field shall be represented by its horse number without a letter.

(ii) For example, horse number "1" represents either horse "1" or "1A".

(9) **Seed pool.**

(A) To cover the cases when one (1) of the minimum payoff amounts is paid, the seed pool is accumulated from a designated percent of wagers.

(B) Each time the application of the minimum payoff results in a payoff amount in excess of the actual amount available in the pool, the shortfall shall be deducted from the seed pool.

(C) After a pool is paid, the actual amount of the pool may be seeded from the seed pool to a specified initial amount.

(D) While the seed pool is below a designated threshold amount, the allotments to the other pools are each decreased and the difference shall increase the allotment to the seed pool.

(10) **Commission approval.**

(A) The takeout rate may not exceed seventeen percent (17%).

(B) The method of apportioning wagers to each of the pools shall be set by the franchise holder and reported to the commission.

(C) The method of seeding pools shall be set by the franchise holder and reported to the commission.

(D) The number of pools and specific ways to win, and specific ways to qualify for the bonus game, declared from time to time by the franchise holder from the list set forth above or other similar ways approved by the commission, shall be set by the franchise holder and reported to the commission.

(E) The bonus race selection method shall be approved by the commission.

(F) Should the Instant Double pools be designated for termination or mandatory distribution on a specific date, a method approved by the commission shall be used.

(G) The percents for apportioning the wager among takeout and the various pools will be posted.

(b)(1)(A) Only wagers that are pari-mutuel and processed through a recognized pari-mutuel totalisator system may be accepted.

(B) Wagers placed in accordance with the Instant Double rules adopted by the commission contemporaneously herewith are pari-mutuel.

(2)(A) Races shall be randomly selected from a historical library of actual races that have previously been run.

(B) Only races that were run at licensed racetracks may be used.

(C) It shall not be necessary that each patron be wagering on the same race.

(3)(A) All wagers, less the applicable takeout, will be placed in pari-mutuel pools as approved by the commission.

(B) The takeout may not exceed seventeen percent (17%).

(4)(A) Minimum payout on winning wagers will be ten cents (\$0.10) on the dollar, unless that results in a minus pool, in which event, the minimum payout on winning wagers may be as low as the amount of the wager itself.

(B) The effective breakage will be ten cents (\$0.10) on the dollar, except when minimum payouts are less than ten cents (\$0.10) on the dollar.

(5) The total amount in each pari-mutuel pool shall be posted at all times.

(6) Minimum payouts shall be posted at all times.

(7) The tax rate will be the same as for simulcasting.

(8)(A) Except as provided in Arkansas Code § 23-110-405(b)(3)(B), no purse and construction fund amounts will be withheld from the wager or included as part of the takeout.

(B) Except as provided in Arkansas Code § 23-110-405(b)(3)(B), no portion of the takeout shall be allocated to the purse and construction fund.

(9)(A) Oaklawn will receive this simulcast product on replayed races from RaceTech, LLC, pursuant to agreements with the racetracks where the races were actually run, and shall relay the product to Southland and ultimately later on to other racetracks.

(B) Southland, and eventually other racetracks, will wager through Oaklawn's pools.

(10) Reports and tax payments to the state will be made on a monthly basis.

**23 CAR § 357-620. Purse, construction, and patronage and tourism promotion fund.**

(a)(1) Pursuant to Arkansas Code § 23-110-407(a)(3)(A), the franchise holder shall retain four and one-half percent (4.5%) of all moneys wagered on races where the wagerer is required to select one (1) horse, and three and one-half percent (3.5%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse, i.e., the "purse, construction, and patronage and tourism promotion moneys", which retained amounts shall be reflected in a separate account on the franchise holder's books designated "purse, construction, patronage and tourism fund".

(2) In addition, the franchise holder shall retain and deposit into the purse, construction, and patronage and tourism fund account the amount required to be withheld by the franchise holder for such purposes pursuant to Arkansas Code § 23-110-405(b)(3)(B), and such amounts shall likewise be considered purse, construction, and patronage and tourism promotion money.

(b)(1) The purse, construction, and patronage and tourism promotion fund account shall be established and maintained in federally insured financial institutions selected by the franchise holder.

(2) Such financial institutions shall be located in the State of Arkansas, provided, however, if the franchise holder obtains a loan for construction purposes from a financial institution located outside the State of Arkansas, the purse, construction, and patronage and tourism promotion fund account may be maintained there as long as the loan is outstanding.

(3) All such funds shall be maintained in interest-bearing accounts whenever reasonably possible.

(4) Purse, construction, and patronage and tourism promotion moneys shall be used only for purses and construction, for debt service on money borrowed by the

franchise holder for construction, or for promotions to encourage patronage and tourism consistent with the provisions of Arkansas Code § 23-110-407(a)(3).

(c)(1) "Construction", as used in this section, shall include all items and expenditures incurred in keeping the overall racing facility in the best possible condition for the patrons, horsemen, and franchise holder, including, without limitation, land acquisition (provided that the franchise holder submits plans for utilizing the acquired land for an approved purpose within five (5) years of the acquisition), new construction with related equipment, and reconstruction, renovation, reconditioning, and repairing of facilities with related equipment.

(2) "Construction", as used in this section, shall not include ordinary or routine maintenance of the overall racing facility and shall not include the construction or improvement of areas of the racing facility not generally accessible by or used for the benefit of the horsemen or patrons, or both.

(3) "Construction", as used in this section, shall not apply to office furniture, office telephones, or other office equipment primarily devoted to the use of the franchise holder and providing little or no benefit to either horsemen or patrons, or both.

(d) The franchise holder may be reimbursed only for construction and patronage and tourism promotion expenditures from the purse, construction, and patronage and tourism promotion fund after submitting a claim that itemizes each expenditure listing the specific expenditure and the payee of the expenditure and stating in specific terms with respect to construction expenditures how the expenditure jointly benefits the patrons, horsemen, and franchise holder.

(e)(1) The Arkansas Racing Commission shall have jurisdiction and shall seek the assistance of the Department of Finance and Administration to check and verify compliance by the franchise holder with the provisions of this section.

(2) The commission shall make periodic determinations as to compliance under this section and under such other rules as the commission shall adopt.

(f)(1) The franchise holder must deliver to the commission any documents reasonably requested by the commission, and the franchise holder must deliver to the

department any documents reasonably requested by the department, to check and verify compliance with this section, within thirty (30) days of receiving a written request for the documents.

(2) If the commission does not receive the documents requested by the commission within the time period provided, or if the department does not receive the documents requested by the department within the time period provided (and the Secretary of the Department of Finance and Administration so notifies the commission), no reimbursement shall be approved from the purse, construction, and patronage and tourism promotion fund until the documents are delivered.

(g)(1) The franchise holder may seek prior approval from the commission for expenditures.

(2) The application for the approval must contain the information required by subsection (d) of this section, provided if the exact amount of the expenditure is not then known, the franchise holder shall use its best estimate, and if the precise contractor or payee is not then known, the franchise holder may provide that information prior to final approval of the expenditure by the commission as set forth below.

(3) The initial approval will be subject to a final approval by the commission that the expenditures were made for the approved purposes in compliance with the requirements of this part and Arkansas Code § 23-110-407(a)(3), and the commission shall seek assistance from the department to verify that the expenditures were made for the approved purposes.

(h)(1) The franchise holder shall be solely responsible for planning and accomplishing all construction and for accountings.

(2) Before undertaking any construction project estimated to cost one hundred thousand dollars (\$100,000) or more, the franchise holder shall give the committee (identified in subsection (l) of this section) at least fifteen (15) days' notice of the proposed project and its estimated cost, which notice shall contain sufficient information to adequately apprise the committee of what is being undertaken.

(3) If the committee wants a meeting concerning the proposed project, it shall advise the franchise holder within the fifteen (15) days.

(4) If there is no request for a meeting, the franchise holder may proceed with the project.

(5) If there is a request for a meeting, the franchise holder may proceed after the meeting in accordance with the action taken by the committee at the meeting.

(6) If the estimated cost of a project is less than one hundred thousand dollars (\$100,000), the franchise holder may proceed immediately, but must notify the committee within sixty (60) days of the project and its estimated cost, which notice shall contain sufficient information to adequately apprise the committee of what is being undertaken.

(7) If the committee wants a meeting concerning the proposed project, it shall advise the franchise holder within fifteen (15) days after receipt of the notice.

(8) If there is no request for a meeting, the franchise holder may proceed with the project.

(9) If there is a request for a meeting, the franchise holder may proceed after the meeting in accordance with the action taken by the committee at the meeting.

(i)(1) On or before June 1 of each year the franchise holder shall file a report with the committee reflecting the purpose and amounts of expenditures for construction and promotions to encourage patronage and tourism during the preceding calendar year.

(2) The report shall be accompanied by a statement from the franchise holder's independent certified public accounting firm that the report accurately reflects the purposes and amounts of construction and patronage and tourism promotion expenditures.

(3) Also, on or before June 1 of each year, the franchise holder shall file a report with the committee specifying the amount of purse, construction, and patronage and tourism promotion moneys used for purses during the preceding calendar year.

(j)(1) The purse, construction, and patronage and tourism promotion moneys shall not be subject to the provisions of any contract or agreement between the franchise holder and the organization representing horsemen, to the end that any contractual

obligations for the use of moneys for purses shall not apply to any expenditures for construction or patronage and tourism promotion out of the purse, construction, and patronage and tourism promotion moneys, and any expenditures for purses out of the purse, construction, and patronage and tourism promotion moneys shall be in addition to contractual purse obligations affecting moneys other than the purse, construction, and patronage and tourism promotion moneys.

(2) The franchise holder shall determine the amount of the purse, construction, and patronage and tourism promotion moneys to be used for the authorized purposes, except that at least one-half (1/2) of the purse, construction, and patronage and tourism promotion moneys must be used for purses.

(k) No expenditures shall be made from the purse, construction, and patronage and tourism promotion fund to any construction company, material supplier, or other entity directly involved in an actual construction project in which an officer, director, employee, or shareholder of the franchise holder or their spouse, children, or grandchildren have any type of significant financial interest, or receive significant financial benefits.

(l)(1) The commission shall appoint a three-member committee, to include the secretary (the "committee"), to examine and to approve or disapprove, in whole or in part, the reports filed by the franchise holder pursuant to subsection (i) of this section.

(2) Committee action shall be reported to the full commission for approval or ratification, but the franchise holder may proceed on the basis of any committee action until it shall be notified that the full commission has taken contrary action.

(3) The committee may, in its discretion, have an auditor from the department conduct an audit of all deposits and expenditures of purse, construction, and patronage and tourism promotion fund moneys for any calendar year.

(4) In that event, the franchise holder shall make available to the auditor all records necessary for the audit.

(m)(1) As authorized by Arkansas Code § 23-110-407(a)(3), accountings for expenditures for construction and patronage and tourism promotion out of the purse, construction, and patronage and tourism promotion fund moneys may utilize a multi-

year approach based on a multi-year program being undertaken by the franchise holder so that accountability for expenditures may be based on expenditures made during the entire multi-year period out of the purse, construction, and patronage and tourism promotion fund moneys derived during the multi-year period, provided that the multi-year period shall not exceed five (5) years, unless the commission makes a specific determination that a longer period is necessary to finance long-term construction projects for the joint benefit of patrons, horsemen, and the franchise holder.

(2) Authorized expenditures will be determined on the basis of what is expended during the entire multi-year period and not on what is expended in any one (1) year.

(3) For example, if in the first year less is expended for construction than the eligible amount, the unused amount will carry over to the next year and if in that year more is expended than the eligible amount plus any carry over, the excess shall be carried forward to the next year and credited against the franchise holder's expenditures, and so forth.

(n)(1) If money is borrowed for an authorized purpose, then purse, construction, and patronage and tourism promotion moneys may be used for debt service (principal, interest, and service charges) on the loan.

(2) The franchise holder shall account to the commission for expenditures from the proceeds of any loan, to ensure that eligible items are involved.

(o) If the amount of approved expenditures exceeds the balance of the purse, construction, and patronage and tourism promotion fund, the excess amount will remain payable to the franchise holder out of the purse, construction, and patronage and tourism fund, provided that, with respect to expenditures incurred by the franchise holder on or after January 1, 2001, interest shall not accrue on the deficit balance, unless the interest is payable to an unrelated third-party lender with respect to indebtedness directly incurred to finance construction expenditures as contemplated by this section and Arkansas Code § 23-110-407(a)(3).

(p)(1) If the franchise holder makes any expenditure of purse, construction, and patronage and tourism promotion moneys in good faith and it is subsequently

determined that all or part of that expenditure does not qualify as an authorized purpose under this part or Arkansas Code § 23-110-407(a)(3), the franchise holder may use the unqualified amount for another purpose that is qualified.

(2) If, after the franchise holder is afforded that opportunity, there is a final determination that there remains at the end of the applicable multi-year period an amount that represents an unauthorized expenditure, that amount shall be paid to the commission for the use and benefit of the State of Arkansas.

### **23 CAR § 357-621. Instant Racing purse and awards.**

(a) The franchise holder shall pay to the Arkansas Racing Commission for deposit in the Arkansas Racing Commission Purse and Awards Fund, to be used for purse supplements, breeders' awards, owners' awards, and stallion awards as provided in Arkansas Code § 23-110-409, an amount equal to one percent (1%) of the net takeout from pari-mutuel wagering at the franchise holder's racetrack facility under the Electronic 1-2-3 (thoroughbred) rules.

(b) For this purpose, net takeout shall be the amount of the applicable takeout from the wagering pool remaining after payments for system and race rights usage fees.

### **23 CAR § 357-622. Advance deposit wagering.**

(a) As used in this section:

(1) "ADW" means advance deposit wagering;

(2) "Commission" means the Arkansas Racing Commission;

(3) "Federal Interstate Horseracing Act" means the federal Interstate Horseracing Act of 1978, as amended, 15 U.S.C. § 3001 et seq., as in effect on the effective date of this section;

(4) "Franchise holder" means the holder of a franchise to conduct pari-mutuel wagering on:

(A) Horse racing under the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq.; or

(B) Greyhound racing under the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq;

(5) "Greyhound racing franchise holder" means the holder of a franchise to conduct pari-mutuel wagering on greyhound racing under the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq;

(6) "Horse racing franchise holder" means the holder of a franchise to conduct pari-mutuel wagering on horse racing under the Arkansas Horse Racing Law; and

(7) "Other ADW provider" means any individual or entity licensed in a jurisdiction other than Arkansas to engage in ADW on horse or greyhound racing that accepts advance deposit wagers from Arkansas residents, under the applicable law of the jurisdiction where the individual or entity is so licensed, and in the case of horse racing, under the federal Interstate Horseracing Act of 1978.

(b)(1) Horse racing franchise holders may conduct ADW under Arkansas Code § 23-110-405(e) and in accordance with this section.

(2) Greyhound racing franchise holders may conduct ADW under Arkansas Code § 23-111-508(e) and in accordance with this section.

(c) A franchise holder's patrons may, with money on deposit in an account with the franchise holder, place wagers by communication through telephone or other mobile device, or through other electronic means, on races conducted at the franchise holder's racetrack facility and races (horse and greyhound) at other racetracks, whether or not the patron is located on the grounds of the franchise holder's racetrack facility when placing the wager.

(d) A franchise holder or other ADW provider may not accept advance deposit wagers under this section on any horse or greyhound race unless the franchise holder or other ADW provider, as the case may be, has the consent of the host racetrack, i.e., the racetrack where the race is conducted, allowing the franchise holder or other ADW provider, as the case may be, to accept wagers on such race.

(e)(1) Prior to conducting ADW under this part, the franchise holder shall provide to the Arkansas Racing Commission the franchise holder's proposed rules governing patrons' ADW accounts, and such rules shall be subject to approval by the commission.

(2) Such ADW account rules, as approved by the commission, shall be made available to each account holder at the time the ADW account is opened, either online at the franchise holder's internet website or ADW platform, or in other written form delivered, mailed, or otherwise made reasonably available to the account holder.

(f)(1)(A) ADW accounts may be opened only by an individual eighteen (18) years of age or older.

(B) An applicant for an ADW account with a franchise holder must provide to the franchise holder the applicant's name, resident address, mailing address if different, Social Security number, date of birth, and such other information required by the franchise holder's ADW account rules.

(C) Any person that submits a birth date that indicates they are under eighteen (18) years of age shall be denied the ability to register for an ADW account.

(2)(A)(i) Identity verification shall be undertaken before a player is allowed to place a wager using an ADW account.

(ii) Third-party service providers may be used for identity verification as allowed by the commission.

(B) Identity verification shall authenticate the legal name, physical address, and age of the individual at a minimum as required by the commission.

(C) Identity verification shall also confirm that the person is not on any exclusion list held by the franchise holder or the commission to the extent disclosed to the franchise holder by the commission or prohibited from establishing or maintaining a wagering account for any other reason under this part.

(D) Details of identity verification shall be kept in a secure manner.

(3) The ADW account can only become active once age and identity verification are successfully completed, the patron is determined to not be on any exclusion lists as provided in this part or prohibited from establishing or maintaining an account for any other reason under this part, the patron acknowledged the necessary privacy policies and terms and conditions, and the ADW account registration is complete.

(4) A patron shall only be permitted to have one (1) active player ADW account at a time unless specifically authorized by the commission.

(5)(A) The system shall allow the ability to update passwords, registration information, and the account used for financial transactions for each patron.

(B) A multi-factor authentication process may be employed for these purposes.

(6)(A)(i) A player accesses their ADW account using a username (or similar) and password, or a secure alternative means for the patron to perform authentication to log in to the ADW account.

(ii) Authentication methods are subject to the discretion of the commission as necessary.

(iii) The requirement does not prohibit the option for more than one (1) method of authentication being available for a patron to access their wagering accounts.

(B) If the system does not recognize the username and/or password when entered, an explanatory message shall be displayed to the patron which prompts the patron to re-enter the information.

(C) Where a patron has forgotten their username and/or password, a multi-factor authentication process may be employed for the retrieval of the username/resetting of the password.

(D) Current account balance information and transaction options shall be available to the patron once authenticated.

(E)(i) The ADW account shall support a mechanism that allows for an ADW account to be locked in the event that suspicious activity is detected, e.g. too many failed attempts for login.

(ii) A multi-factor authentication process may be employed for the ADW account to be unlocked.

(g)(1) Franchise holders and other ADW providers conducting ADW under this section shall operate a secure ADW platform consistent with, or exceeding, current security standards and protocols in the ADW industry.

(2) Each ADW account shall have a separate unique username and passcode or personal identification number.

(h) Funds in ADW accounts shall be segregated from the franchise holder's own funds, and shall be maintained in a separate account or accounts separate and apart from the franchise holder's other accounts.

(i) A franchise holder may contract with another ADW provider to utilize the other ADW provider's ADW platform as the franchise holder's ADW platform under this part.

(j) Wagers accepted under Arkansas Code § 23-110-405(e) or Arkansas Code § 23-111-508(e), as applicable to the franchise holder, and this part shall be treated for all purposes under the provisions of Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq. or the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., as applicable to the franchise holder, and the rules of the commission, as if the wagers were made by the patron on the grounds of the franchise holder's racetrack facility, e.g., advance deposit wagers accepted by the franchise holder on its live races, shall be treated as if the patron made a wager at the franchise holder's racetrack facility on a live race conducted at the franchise holder's racetrack facility, and advance deposit wagers accepted by the franchise holder on simulcast races from other racetracks shall be treated as if the patron made a wager at the franchise holder's racetrack facility on the simulcast race.

(k)(1) On or before January 7, 2014, and continuing on or before January 7 (if a business day, or if not, by the next business day) of each calendar year thereafter, each other ADW provider shall register as such with the commission on forms supplied by the commission, and shall provide to the commission information reasonably requested by the commission to verify that the other ADW provider is:

(A) Duly licensed by the applicable regulatory agency; and

(B) In good standing in the jurisdiction where the other ADW provider is licensed to conduct ADW.

(2) Other ADW providers accepting wagers on horse racing from Arkansas residents shall comply, as applicable, with the federal Interstate Horseracing Act of 1978.

(l)(1) Another ADW provider may not accept advance deposit wagers on horse racing from Arkansas residents unless the other ADW provider has a mutually acceptable written agreement in place with the Arkansas horse racing franchise holder to pay the Arkansas horse racing franchise holder commercially reasonable source market fees consistent with generally prevailing standards in the horse racing ADW industry relating to such source market fees.

(2) The Arkansas horse racing franchise holder shall have a mutually acceptable written agreement in place with the organization representing horsemen at the horse racing franchise racetrack regarding the portion of such source market fees to be dedicated and used for purses on live horse races conducted at the horse racing franchise holder's racetrack.

(m)(1) Another ADW provider may not accept advance deposit wagers on greyhound racing from Arkansas residents unless the other ADW provider has a mutually acceptable written agreement in place with the Arkansas greyhound racing franchise holder to pay the Arkansas greyhound racing franchise holder commercially reasonable source market fees consistent with generally prevailing standards in the greyhound racing ADW industry relating to such source market fees.

(2) The Arkansas greyhound racing franchise holder shall have a mutually acceptable written agreement in place with the organization representing greyhound owners and trainers at the greyhound racing franchise holder's racetrack regarding the portion of such source market fees to be dedicated and used for purses on live greyhound races conducted at the greyhound racing franchise holder's racetrack.