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**IDAPA 11
TITLE 04
CHAPTER 02**

IDAHO STATE RACING COMMISSION

11.04.02 - RULES GOVERNING SIMULCASTING

000. LEGAL AUTHORITY.

The Idaho State Racing Commission has authority to make rules to implement and enforce the state racing law pursuant to Title 54, Chapter 25, of the Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.04.02, "Rules Governing Simulcasting," of the Idaho State Racing Commission. (4-5-00)

02. Scope. All aspects of simulcasting are addressed in these rules. (4-5-00)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying, at cost, at the Idaho State Racing Commission, 700 South Stratford Drive, P.O. Box 700, Meridian, Idaho 83680-0700. (4-5-00)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (3-20-04)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in this chapter of rules. (3-20-04)

005. MAILING ADDRESS AND OFFICE HOURS.

The mailing address of the Idaho State Racing Commission is P.O. Box 700, Meridian, Idaho 83680-0700. Office hours are Monday through Friday, 8 a.m. to 5 p.m. The street address for the State Racing Commission Office is 700 S. Stratford, Meridian, Idaho 83642. (3-20-04)

006. PUBLIC RECORDS AVAILABILITY.

Public Records are available during normal working hours for inspection and copying at the Idaho State Racing Commission Office, 700 South Stratford Drive, Meridian, ID 83680-0700. (3-20-04)

007. GENERAL JURISDICTION.

Simulcasting of Races within the State. The Idaho State Racing Commission shall have general jurisdiction over the simulcasting of horse and greyhound races within the state, and the Commission may issue rules in accordance with the provisions of this article as provided for in Idaho Statutes. (4-5-00)

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the race meet licensee or agent. (3-20-04)

02. Account Holder. A natural person who successfully completed an application and for whom the race meet licensee has opened an account. (3-20-04)

03. Advance Deposit Wagering. A form of pari-mutuel wagering in which a natural person may

deposit money in an account with a race meet licensee and then use the current balance to pay for pari-mutuel wagering on horse racing only conducted by the race meet licensee. (3-20-04)

04. Advance Deposit Wagering Facility. An actual location, equipment, and staff of a race meet licensee and/or agents involved in the management servicing and operation of advance deposit wagering for the race meet licensee. (3-20-04)

05. Agent Of The Race Meet Licensee. Those persons or entities with the authority to accept deposits and wagers on behalf of the race meet licensee, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. (3-20-04)

06. Applicant. A natural person who has submitted an application to establish an account with a race meet licensee. (3-20-04)

07. Application. The form or forms and other required submissions received from an applicant with the intent of opening an account. (3-20-04)

08. Association Which Accepts The Wager. The guest association where the bettor contributes his money to the pari-mutuel pool and receives a pari-mutuel ticket. (7-1-93)

09. Authorized User. A person authorized by the Commission to receive, to decode and use for legal purposes the encrypted simulcast signal of pari-mutuel events. (7-1-93)

10. Combined Pari-Mutuel Pools (Combined Pools). The pari-mutuel wagers at one (1) or more guest associations being contributed into the pari-mutuel pools of a host association of the combined pari-mutuel pools of simulcast facilities within the state of Idaho. (7-1-93)

11. Commission. The Idaho State Racing Commission. (7-1-93)

12. Confidential Information. The following information is confidential: (3-20-04)

a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account; (3-20-04)

b. The amount of money wagered by a particular account holder on any race or series of races; (3-20-04)

c. The account number and secure personal identification code of a particular account holder; (3-20-04)

d. The identities of particular entries on which the account holder is wagering or has wagered; (3-20-04)

e. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering facility and race meet licensee that would identify the account holder to anyone other than the commission, the advance deposit wagering facility or the race meet licensee. (3-20-04)

13. Credits. All positive inflow of money to an account. (3-20-04)

14. Debits. All negative outflow of money from an account. (3-20-04)

15. Decoder. A device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals. (7-1-93)

16. Deposit. A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account. (3-20-04)

- 17. Downlink.** Receiving antenna coupled with an audio-visual signal receiver compatible with and capable of receiving simultaneous audio-visual signals and/or data emanating from a host association, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. (7-1-93)
- 18. Enclosure, Enclosure-Public.** Includes all enclosed areas of the simulcast wagering facility. (7-1-93)
- 19. Encryption (Encrypted Or Encoded).** The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. (7-1-93)
- 20. Foreign Jurisdiction.** A jurisdiction of a foreign country or political subdivision thereof. (3-20-04)
- 21. Guest, Guest Association Or Simulcast Operator.** An association simulcast licensee authorized by the Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. (7-1-93)
- 22. Handle Or Gross Handle.** Total amount of money bet on a race less refunds and cancels. (3-20-04)
- 23. Host Or Host Association.** The racing association conducting a licensed horse racing meeting when it is authorized by the Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. (7-1-93)
- 24. Interstate Simulcast Wagering.** Wagering conducted by a betting system outside the state of Idaho on the results of one (1) or more races being run at an Idaho host association or wagering conducted by a betting system within the state of Idaho on the results of one (1) or more races being run at a host association outside the state of Idaho. (7-1-93)
- 25. Intrastate Simulcasting Wagering.** Pari-mutuel wagering at an Idaho guest association on Idaho horse racing events run at an Idaho host association. (7-1-93)
- 26. Multi-Jurisdictional Simulcasting And Interactive Wagering Totalizator Hub.** A multi-jurisdictional simulcasting and interactive wagering totalizator hub is a business that, through a qualified subscriber based service, conducts pari-mutuel wagering on the races that it simulcasts and other races that it carries in its wagering menu. The term "hub" will be used in these rules to refer to the multi-jurisdictional simulcasting and interactive wagering totalizator hub. (3-20-04)
- 27. Natural Person.** Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. (3-20-04)
- 28. Principal Residence Address.** That place where the natural person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year. (3-20-04)
- 29. Proper Identification.** A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. (3-20-04)
- 30. Qualified Subscriber Based Service.** The terms "qualified subscriber based service" and "closed-loop subscriber based system" shall mean any information service or system that uses: (3-20-04)
- a.** A device or combination of devices: (3-20-04)
 - i.** Authorized and operated exclusively for placing, receiving, or otherwise making a wager; and (3-20-04)

- ii. By which a person must subscribe to in order to be able to place, receive or otherwise make a bet or wager. (3-20-04)
- b. An effective customer verification and age verification system; and (3-20-04)
- c. Appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is a minor. (3-20-04)

31. Race Meet Licensee. Any person or entity holding a currently valid license to engage in racing or related regulated activities. (3-20-04)

32. Satellite Facility, Intrastate Wagering Facility, Extended Wagering Facility. The physical premises, structure and equipment utilized by a guest association for the conduct of pari-mutuel wagering on horse racing events being run elsewhere. Such facility must be a part of the license granted to the Guest or Host Association. (7-1-93)

33. Satellite Transponder, Transponder. Leased space segment time of an earth-orbit communication satellite. (7-1-93)

34. Secure Personal Identification Code. An alpha-numeric character code chosen by an account holder as a means by which the race meet licensee may verify a wager or account transaction as authorized by the account holder. (3-20-04)

35. Simulcast. The simultaneous telecast of audio and visual signals of running horse races and other permitted pari-mutuel events conducted for the purposes of pari-mutuel wagering. (7-1-93)

36. Simulcast Operator. A person licensed by the Commission to operate a simulcast wagering system as is provided for by these rules. (7-1-98)

37. Simulcast Service Supplier. A person engaged in providing service, supplies or equipment necessary to the operation of intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment; but does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. (7-1-93)

38. Source Market Fee. That part of a wager, made outside of the state by an Idaho resident, that is returned to the state of Idaho. (3-20-04)

39. Uplink. An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data on FCC-controlled frequencies, and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. (7-1-93)

40. Withdrawal. A payment of money from an account by the race meet licensee to the account holder when properly requested by the account holder. (3-20-04)

41. Withdrawal Slip. A form provided by the race meet licensee for use by an account holder in withdrawing funds from an account. (3-20-04)

011. REQUIREMENTS FOR SIMULCAST FACILITIES.

01. General. Any racing association or corporation authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of pari-mutuel events on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for under these rules may apply to the Commission for a license. Applications for licenses shall be in such form as may be prescribed by the Commission and shall contain such information or other material or evidence as the Commission may require. The fee for such licenses shall be based upon the weekly handle. If the handle is greater than thirty thousand dollars (\$30,000), the fee will be one hundred dollars (\$100) per race day payable by the licensee to the Commission, seventy-five dollars (\$75) of this fee will be

paid to the Idaho State Racing Commission and twenty-five (\$25) will be deposited in the Public School Income Fund. If the weekly handle is at least fifteen thousand dollars (\$15,000), but less than thirty thousand dollars (\$30,000), the fee will be fifty dollars (\$50) per race day payable by the licensee to the Commission, twenty-five dollars (\$25) of this fee will be deposited in the Public School Income Fund and twenty-five dollars (\$25) will be deposited in the racing account. If the weekly handle is less than fifteen thousand dollars (\$15,000) the fee will be twenty-five dollars (\$25), which will be deposited in the Public School Income Fund. (7-1-98)

02. Review And Approve. Before the Commission may grant such license, it shall review and approve a plan of operation submitted by an applicant including, but not limited to the following information: (7-1-93)

a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such a facility. The feasibility study shall include: (7-1-93)

i. The number of simulcast races to be displayed; (7-1-93)

ii. The types of wagering to be offered; (7-1-93)

iii. The level of attendance expected and the area from which such attendance will be drawn; (7-1-93)

iv. The level of anticipated wagering activity; (7-1-93)

v. The source and amount of revenues expected from other than pari-mutuel wagering; (7-1-93)

vi. The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs; and (7-1-93)

vii. The probable impact of the proposed operation on revenues to local government. (7-1-93)

b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of wagering data to effectuate common wagering pools. (7-1-93)

c. The type of data processing, communication and transmission equipment to be utilized. (7-1-93)

d. The description of the management groups responsible for the operation of the simulcast facility. (7-1-93)

e. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues and the accounting of costs relative to the simulcast operation. (7-1-93)

f. The location of the facility and a written confirmation from appropriate local officials that the location of such facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances, along with approval by the Board of County Commissioners involved. (7-1-93)

03. Satellite Facilities. Satellite facilities shall provide the same information as required in Subsection 011.02. (7-1-93)

04. Criteria. The Commission shall use the following decisional criteria in the approval or disapproval of an application for simulcast operator. (7-1-93)

a. The operator's general benefit to the state of Idaho. (7-1-93)

b. The operator's general benefit to the state of Idaho's horse racing industry. (7-1-93)

c. The operator's integrity: (7-1-93)

i. Individual and corporate conduct; (7-1-93)

- ii. Criminal history; and (7-1-93)
- iii. Betting and gaming industry conduct. (7-1-93)
- d.** The operator's credibility: (7-1-93)
 - i. Accuracy of a feasibility study; and (7-1-93)
 - ii. Experience and expertise of the operator in the simulcast industry. (7-1-93)
 - e. Financial stability. (7-1-93)

012. -- 025. (RESERVED).

026. DUTY OF ASSOCIATION TO OFFER EXTENDED WAGERING.

01. Contract. Every Idaho pari-mutuel track simulcasting its racing program shall contract with a simulcast operator (and/or simulcast service suppliers) for the purpose of providing authorized users with its simulcast. (7-1-93)

02. Content. A racing association is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events. (7-1-93)

03. Video. Unless otherwise permitted by the Commission, every simulcast will contain in its video content a digital display of the actual time of day, the name of the race track from where it emanates, the number of the race being displayed and the sequential fractional time of the race as the race is being run. (7-1-93)

027. -- 029. (RESERVED).

030. LICENSES FOR SIMULCAST OPERATORS.

01. License. Every person acting as a simulcast operator within Idaho shall procure a license from the Commission and no person shall act in the capacity of a simulcast operator without a valid license. Such license may be renewed annually unless the application is denied for any cause justifying suspension or revocation of license for violation of these rules. (7-1-93)

a. Submits a financial statement as required by the Idaho State Racing Commission. (7-1-93)

b. Post with the Commission a surety in the amount and in such form as the Commission may require, sufficient to ensure payment of distributable amounts of pari-mutuel pools pursuant to statute, operational costs, salaries, wages, benefits, and related financial obligations. (7-1-93)

c. Demonstrates experience and/or adequate knowledge of the conduct of simulcast wagering and/or pari-mutuel wagering operations. (7-1-93)

d. The association intending to conduct wagering on an out-of-state race files with the Commission a completed simulcast application. The application will be provided and approved by the Commission. At a minimum the application will require the applicant to provide the following information: (3-20-04)

- i. The number of live races ran in the current year: (3-20-04)
- ii. The number of live races ran in the preceding year: (3-20-04)
- iii. Documentation that the required bond has been posted: (3-20-04)
- iv. Documentation that the appropriate public liability insurance has been obtained; (3-20-04)

- v. A signed approval letter from the appropriate county commissioners; (3-20-04)
- vi. A signed contract from a local horsemen's group. The horsemen's group must be one which meets the definition of a horsemen's group as delineated in Section 54-2502, Idaho Code. The contract must not be in conflict with any of the provisions of Sections 3001 through 3007 of Title 15 of the United States Code or any other federal laws; (3-20-04)
- vii. A statement setting forth the date and time it intends to commence accepting wagers on out-of-state race or races; and (3-20-04)
- viii. Any other written or oral approvals required by the Commission. (3-20-04)

02. Granting Restrictions. (7-1-93)

a. No license as simulcast operator shall be granted to a person or entity who has failed, refused or neglected to comply with any rule, condition of license, or order of the Commission or its stewards reasonably related to its conduct as a simulcast operator, or who has engaged in any activity which is grounds for denial, suspension or revocation of license pursuant to the rules of the Commission or whose general partners, officers, directors, or employees have engaged in any unlawful activity determined to be conduct detrimental to the best interest of horseracing. (7-1-93)

b. Additionally, no license as simulcast operator shall be granted to a person or entity who has failed, refused or neglected to enter into an agreement with a Horsemen's group as defined by Section 54-2502, Idaho Code. (7-1-98)

03. No Limitation. There shall be no limitation as to the number of days a licensee may operate except as may otherwise be provided for within these rules or the Idaho Code. (7-1-93)

031. -- 034. (RESERVED).

035. DUTIES OF SIMULCAST OPERATOR.

01. General. A simulcast operator conducts and operates a pari-mutuel wagering system at one (1) or more guest associations on the results of horse races being held or conducted and simulcast from the enclosures of one or more host associations pursuant to its agreement with such guest and host association and with the approval of the Commission. (7-1-93)

02. Provisions. A simulcast operator shall provide: (7-1-93)

a. Adequate transmitting and/or receiving equipment which shall not interfere with the closed circuit TV system of the host track association for officiating any on-track patron information. All to be acceptable broadcast quality and meet applicable Federal Communication Commission and Commission rules and orders. Said equipment may include approved microwave transmitters, with appropriate safeguards, as approved by the Commission. (7-1-93)

b. Pari-mutuel terminals, pari-mutuel odds display, modems and/or switching units enabling pari-mutuel data transmissions, and data communication between the sending and the receiving associations. (7-1-98)

c. A voice communication system between each guest association and the host association providing direct voice contact among the stewards, placing judges and/or pari-mutuel departments. (7-1-93)

03. Wagering. A simulcast operator shall conduct the pari-mutuel wagering at a guest association pursuant to the applicable Commission rules. (7-1-93)

04. Pari-Mutuel Inspector. The Commission shall appoint at least one (1) state pari-mutuel inspector to supervise the operation of the pari-mutuel of all approved simulcast facilities and may require additional pari-

mutuel inspectors as is reasonably necessary for the protection of the public interest. The State Pari-Mutuel Inspector, as well as a member or members of the commission, shall: (3-20-04)

a. Be given free access to all of the books, papers and records of the race meet licensee at any and all times. (3-20-04)

b. Be empowered to direct the race meet licensee to adopt such rules and to install such methods and systems of operating the mutuel department as may be deemed necessary so as to ensure compliance with the law and the rules of the commission. (3-20-04)

c. The said State Pari-Mutuel Inspector shall report to the commission any failure of the licensee to comply with the provision hereof or any violation of the law or any of the rules of the commission which may come to his attention, including in his reports, recommendations with respect to the revocation of the licenses of any employee of the race meet licensee for failure to comply with the rules of the commission, or for fraud, dishonesty, or incompetency. (3-20-04)

05. Video Record. The simulcast operator shall, for a period of one (1) year, retain a video record of all simulcasts, in decoded form, and shall provide a copy of such record on a one-half (1/2) inch V.H.S. video cassette to the Commission, or have the ability to acquire such record from the host track upon request. (7-1-93)

06. Test Program. Not less than thirty (30) minutes prior to the commencement of transmission of the racing program for each day or night, the simulcast operator shall initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system. (7-1-93)

07. Display. The simulcast operator shall, at the request of any representative of the Commission, display a listing of all locations within this state enabled to receive the simulcast in decoded forms; and failure to do so is grounds for immediate summary suspension of license and immediate cessation of simulcasting activities. (7-1-93)

08. Security. The simulcast operator shall maintain such security controls over its uplink and communications system as directed by the Commission. (7-1-93)

09. Report. The simulcast operator shall, in conjunction with the host association or associations for which it operates pari-mutuel wagering, provide the Commission with a certified report of its pari-mutuel operations as directed by the Commission. (7-1-93)

10. Filing. Every association at the request of the Commission shall file an annual report of its live and simulcast operations, and an audited balance sheet and income statement prepared according to Generally Accepted Accounting Principles. (3-20-04)

11. Compliance. The simulcast operator shall comply with Section 54-2512, Idaho Code. (7-1-93)

036. OUT-OF-STATE AND INTERSTATE WAGERING.

01. General. When conducting out-of-state and Interstate wagering, the following conditions shall also apply: (7-1-93)

02. Commission Approval Of Methods. The Commission approves the methods by which the out-of-state association intends to transmit the simulcast of its race or races and the restrictions, if any, placed on the use of such simulcast, and the methods to be used to assure a separate voice communication system between its steward and the stewards or placing judges at the track where the race or races are held. (3-20-04)

a. A racing association may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided: (7-1-93)

b. The association files with the Commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the association for use of its simulcast, and of any agreements required by

Chapter 57, including Section 3001, of Title 15 of the United States Code. (7-1-93)

03. Permitted. Wagering shall be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a state racing commission, racing board or other governmental agency. (7-1-93)

04. Interruption. If a simulcasting facility has an interruption in its audio-visual signal, the race may be deemed no contest at the discretion of the assigned steward and all wagers at the facility in such instances shall be refunded. (7-1-93)

05. Results. All wagers are made on the official results of the hosting track. (7-1-93)

037. PROHIBITION OF SIMULCAST SIGNAL.

Pertaining to the simulcasting of greyhound racing, should substantial, competent evidence of cruelty to, or misconduct in the treatment of, greyhounds occur at a site under the jurisdiction of another state regulatory agency, the Commission shall prohibit the retransmission of any and all simulcast signals until appropriate action has been taken by the other state regulatory agency. (4-5-00)

038. -- 039. (RESERVED).

040. DISTRIBUTION OF DEPOSITS.

With regard to the distribution of deposits generated by simulcast races, the Commission adopts by reference Idaho Code Section 54-2507 and 54-2513, as applicable. (7-1-98)

041. CONFLICT OF LAWS.

In the event of a conflict between the laws of the host track and the laws or rules of the state of Idaho, the laws or rules of the state of Idaho shall apply. (7-1-93)

042. AUTHORIZATION FOR ADVANCED DEPOSIT WAGERING.

01. Authorization To Conduct Advanced Deposit Wagering. A race meet licensee who is the holder of or applicant for a license issued under Section 011 of these rules, may request authorization from the commission to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, the race meet licensee shall submit a detailed plan of how its proposed advance deposit wagering system would operate, the commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request. (3-20-04)

02. Investigations Or Inspections. The commission may conduct investigations or inspections or request additional information from the race meet licensee or applicant for a license as it deems appropriate in determining whether to allow the race meet licensee to conduct advance deposit wagering. (3-20-04)

03. Establish And Manage Advance Deposit Wagering Center. The race meet licensee or the agent of the race meet licensee shall establish and manage an advance deposit wagering center. (3-20-04)

04. Out Of State Providers. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be illegal unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission. (3-20-04)

043. ESTABLISHING AN ACCOUNT.

01. Establishing An Account. An established account is necessary to place advance deposit wagers. An account may be established at either an advance deposit wagering center or by mail to a race meet licensee. (3-20-04)

a. For establishing the account with an advance deposit wagering center an application form must be signed or otherwise authorized in a manner acceptable to the commission and include the applicant's: (3-20-04)

- i. Full legal name; (3-20-04)
- ii. Principal residence address; (3-20-04)
- iii. Telephone number; (3-20-04)
- iv. Social security number; (3-20-04)
- v. Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age; and (3-20-04)
- vi. Any other information required by the commission. (3-20-04)

b. Each application submitted will be subject to electronic verification, with respect to name, principal residence address, date of birth and Social Security number, by either an independent service provider or another means which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by an independent service provider. If there is a discrepancy between the application submitted and the information provided by the electronic verification described herein, or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. (3-20-04)

02. Minimum Deposit. In establishing an account a minimum deposit of fifty dollars (\$50) is required. (3-20-04)

03. Identifying Account Number. Each account shall have an unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering center provided the advance deposit wagering center informs the account holder in writing prior to the change. (3-20-04)

04. Secure Personal Identification Code. The applicant shall supply the advance deposit wagering center with an alpha-numeric code, to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time. (3-20-04)

05. Principle Residence. The principal residence address shall be established by reliance on the information submitted on the application form provided and certified by the applicant. (3-20-04)

06. The Account Holder Shall Receive. The holder of the account shall receive, at the time the account is approved: (3-20-04)

- a.** A unique account identification number; (3-20-04)
- b.** A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; (3-20-04)
- c.** Such other information as the advance deposit wagering center or commission may deem appropriate. (3-20-04)

07. Name Of Natural Persons. The advance deposit wagering center shall accept accounts in the name of a natural person only. (3-20-04)

08. Nontransferable. The account is nontransferable between natural persons. (3-20-04)

09. Close Or Refuse To Open An Account. The advance deposit wagering center may close or refuse to open an account for what it deems good and sufficient reason, and shall order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. (3-20-04)

044. OPERATION OF AN ACCOUNT.

01. Center May Refuse Deposits. The advance deposit wagering center may refuse deposits to an account for what it deems good and sufficient reason. (3-20-04)

02. Center May Suspend Or Close Account. The advance deposit wagering center may suspend any account or close any account at any time provided that when an account is closed, the advance deposit wagering facility shall, within five (5) business days, return to the account holder all monies then on deposit by sending a check to the principal residence address as listed on the application. (3-20-04)

03. Credits To An Account. Credits to an account after the initial establishment of the account may be made as follows: (3-20-04)

a. Deposits to an account by an account holder shall be made in the following forms: (3-20-04)

i. Cash given to the staff of an advance deposit wagering center; or (3-20-04)

ii. Personal or cashier check, money order given or sent to an advance deposit wagering center; or (3-20-04)

iii. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder, which may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering center; or (3-20-04)

iv. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his account, said account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. (3-20-04)

b. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched shall be posted to the account by the advance deposit wagering center. (3-20-04)

04. Debits To An Account. Debits to an account shall be made as follows: (3-20-04)

a. Upon receipt by the advance deposit wagering center of an account wager, the advance deposit wagering center shall debit the account in the amount of the wager; or (3-20-04)

b. For fees for service or other transaction-related charges by the race meet licensee or agent of the race meet licensee; or (3-20-04)

c. An advance deposit wagering center may authorize a withdrawal from an account when one (1) of the following exists: (3-20-04)

i. The account holder of an account appears personally at the advance deposit wagering center and provides the following: (3-20-04)

(1) Proper identification; (3-20-04)

(2) The correct secure personal identification code; and (3-20-04)

(3) A properly completed and signed withdrawal slip. (3-20-04)

ii. The account holder sends to the advance deposit wagering center a properly completed and signed withdrawal slip. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering center shall, within five (5) business days of its receipt, send a check to the account holder. The check shall be payable to the holder of the account and in the amount of the requested withdrawal. If funds are not sufficient to cover the withdrawal, the account holder will be notified in

writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering center subject to the same conditions described for electronic funds transfer credits described in Subsection 044.03.a.iv. of this rule. (3-20-04)

d. The race meet licensee or the agent of the race meet licensee may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. (3-20-04)

e. In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. (3-20-04)

05. Shall Not Accept Wagers In Excess Of Account Balance. The advance deposit wagering center shall not accept wagers from an account holder in an amount in excess of the account balance. (3-20-04)

06. Accordance With Financial Institution. Checks, money orders and other negotiable instruments shall be posted to the credit of the account holder in accordance with financial institution funds availability schedules. (3-20-04)

07. Accounts Shall Not Bear Any Interest. Monies deposited with the advance deposit wagering center for advance deposit wagering shall not bear any interest to the account holder. (3-20-04)

045. -- 049. (RESERVED).

050. MULTI-JURISDICTIONAL SIMULCASTING AND INTERACTIVE WAGERING TOTALIZATOR HUB - ADVANCE DEPOSIT WAGERING RULES APPLY.

01. Residents Of The State Of Idaho. The advance deposit wagering rules, as set forth in Sections 042 through 050 of these rules, shall apply to the establishing and to the operation of an account for residents of the state of Idaho by the hub operator or its agents unless expressly noted otherwise in these rules. (3-20-04)

02. Principal Residence. Notwithstanding Section 044 of these rules, accounts can be established and operated for people whose principal residence is outside of the state of Idaho including residents of foreign jurisdictions, if: (3-20-04)

a. Wagering on that same type of live racing is lawful in the jurisdiction which is the natural person's principal residence; and (3-20-04)

b. The hub complies with the provisions of the Interstate Horseracing Act, 15 U.S.C. Sections 3001 to 3007. (3-20-04)

03. No Surcharge For Non-Idaho Residents. Notwithstanding Section 045 of these rules, there will be no surcharge charged on any wager being processed through the hub for non-Idaho residents. (3-20-04)

04. Closed-Loop Subscriber Based System. Nothing in Section 043 of these rules prohibits the making or acceptance of wagers over a closed-loop subscriber based system. (3-20-04)

05. Residence Outside The State Of Idaho. Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of the state of Idaho shall be set forth in the operation plan as stated in Subsection 044.03 of these rules. (3-20-04)

051. APPROVAL OF THE LICENSE FOR AN ADVANCE DEPOSIT WAGERING HUB OPERATION.

01. License Granted. Prior to operating a hub the entity must apply for and be granted a license from the commission to conduct simulcasting and pari-mutuel wagering in accordance with Subsection 011.01 of these rules as a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub." (3-20-04)

02. License For Multi-Jurisdictional Simulcasting And Interactive Wagering Totalizator HUB.

An applicant for a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub" license must provide the following information as part of the application: (3-20-04)

- a. The applicant's legal name; (3-20-04)
- b. If the applicant is a corporation, the names, addresses, dates of birth of its shareholders, directors and officers; if a shareholder is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its shareholders, directors and officers must be provided; (3-20-04)
- c. If the applicant is a partnership the names, addresses, dates of birth of the partners; if a partner is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its share holders must be provided; (3-20-04)
- d. If the applicant is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information required in Subsection 051.02.b. and 051.02.c. of these rules shall be required from the directors of the membership organization, or the directors and officers of the publicly traded corporation, in lieu of the shareholders; (3-20-04)
- e. The names of the race tracks the applicant, or its agent, has contracts with that allow the applicant to provide the simulcast signals and pari-mutuel wagering on the product; (3-20-04)
- f. Financial information from the applicant that demonstrates whether the applicant has the financial resources to install and operate a hub; (3-20-04)
- g. A detailed budget showing anticipated revenue, expenditures and cash flows by month, from the hub's operation during the license period; and (3-20-04)
- h. The number of days that the applicant is planning to operate the hub during the fiscal year in which they are seeking to be licensed. (3-20-04)

03. Detailed Plan Of Operations. As part of the application for licensure as a hub, the applicant shall submit a detailed plan of operations in a format and containing such information as required by the commission. At a minimum, the operating plan shall address the following issues: (3-20-04)

- a. The manner in which the proposed simulcasting and wagering system will operate; (3-20-04)
- b. The requirements for a "qualified subscriber based service" or "closed loop subscriber based system" set out in Subsection 051.01; (3-20-04)
- c. Programs for responsible wagering; (3-20-04)
- d. Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides; and (3-20-04)
- e. The requirements for accounts established and operated for persons whose principal residence is outside of the state of Idaho. The commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request. (3-20-04)

04. Investigations Or Inspections. The commission may conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application. (3-20-04)

05. Bond Or Irrevocable Letter Of Credit. The applicant will provide the commission a bond or irrevocable letter of credit in the amount set by the commission which will be used to ensure that payments to the

commission and to the wagering accounts are made. An account holder, who is claiming that nonpayment has occurred, shall make a claim of non-payment to the commission. The commission will investigate the claim and provide the hub with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. If the commission determines that the account holder is entitled to restitution, the hub shall have ten (10) days to pay the amount determined by the commission. If the hub fails to make restitution within this time, the commission may take appropriate action against the bond. (3-20-04)

06. Promote And Advertise. An applicant licensed under this section may enter into such agreements, as for what it deems good and sufficient reasons, are necessary to promote, advertise and further the sport of racing or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. (3-20-04)

052. TOTAL TAKE-OUT RATES FOR NON-MERGED POOLS.

The hub operator shall as part of the operational plan, or update to the plan, set the total take-out rate, subject to the approval of the commission, for those wagering pools which are not merged with the wagering pools of the race track where the race is being run live. (3-20-04)

053. WHERE THE WAGER IS CONSIDERED TO HAVE BEEN MADE.

01. From An Account Maintained By The Hub Operator. Any wager that is made from an account maintained by the hub operator is considered to have been made in the state of Idaho. (3-20-04)

02. Instructions For Account Wagers. Account holders may communicate instructions concerning account wagers to the hub in person, by mail, telephone, or electronic means. (3-20-04)

054. POWERS OF THE COMMISSION TO REVIEW AND AUDIT RECORDS.

The commission, or its staff, will be given access to all records and financial information of the hub operator, including all account information, for review and audit. This information will be made available to the commission or commission staff, by the hub operator at the hub location, upon notice from the commission or commission staff at all reasonable times. The commission may require that the hub operator annually submit to the commission audited financial statements of the advance deposit wagering system. (3-20-04)

055. -- 059. (RESERVED).

060. DISTRIBUTION OF RECEIPTS FROM MULTI-JURISDICTIONAL SIMULCASTING AND INTERACTIVE WAGERING TOTALIZATOR HUBS.

01. Distribution. From the payments made to the Idaho State Racing Commission by Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs, the commission shall: (3-20-04)

a. Receive a source market fee of not less than ten percent (10%) of the handle shall be forwarded monthly to the commission. Distribution of the source market fee shall be: (3-20-04)

i. Forty percent (40%) to purses at all tracks weighted by number of races ran through the year of distribution; (3-20-04)

ii. Forty percent (40%) to the simulcast sites in the state weighted by the annual simulcast handle; (3-20-04)

iii. Five percent (5%) to the track distribution fund pursuant to Section 54-2513, Idaho Code; (3-20-04)

iv. Five percent (5%) to the breed distribution fund pursuant to Section 54-2513, Idaho Code; (3-20-04)

v. Five percent (5%) to the Idaho State Racing Commission, and; (3-20-04)

vi. Five percent (5%) to the public school income fund pursuant to Section 54-2513, Idaho Code. (3-20-04)

02. Acceptance Of Advance Deposit Wagers. Account wagers shall be accepted at the time and in the manner designated by the commission. (3-20-04)

03. Closed Wagering. Notwithstanding any other rules, the managing employee of the advance deposit wagering center may at any time declare the advance deposit wagering center closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering. Anytime the advance deposit wagering center is closed during normal wagering hours by the managing employee a written report must be filed with the commission within forty-eight (48) hours. (3-20-04)

04. Refuse To Accept. The advance deposit wagering center has the right at any time and for what it deems good and sufficient reason to refuse to accept all or part of any wager. (3-20-04)

05. Account Holder Responsibilities. Accounts are for the personal use of the account holder. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center shall not be responsible for any loss arising from the use by any other person or persons of an account holder's account. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. (3-20-04)

06. Payments On Winning Pari-Mutuel Wagers. Payment on winning pari-mutuel wagers and credits for account wagers on entries which are scratched shall be posted to the credit of the account holder as soon as practicable after the race is declared official. (3-20-04)

07. Written Statements. The advance deposit wagering center shall, from time to time, but not less than once per year, provide written statements of an individual's account activity during the period to each account holder. In addition, an account holder has the right to request a statement at any time. Unless written notice to the contrary is received by the advance deposit wagering center within fourteen (14) days of the date that any statement is sent to an account holder, the statement will be deemed accepted as correct. (3-20-04)

08. Mailing Address. The principal residence address provided in writing by the account holder at the time of application is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder. (3-20-04)

09. Confidential Information. No employee or agent of the advance deposit wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the advance deposit wagering center, except to the account holder as required by these rules, the commission, and as otherwise required by state or federal law, or the rules of racing of this state. (3-20-04)

061. -- 999. (RESERVED).

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