

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form

**FILED**  
9-29-14 3:08 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Oregon Racing Commission  
Agency and Division  
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Address

462  
Administrative Rules Chapter Number  
(971) 673-0208  
Telephone

**RULE CAPTION**

Rule implements regulation of mutuel wagering for "Instant" or historical racing.  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
11-17-14	10:00 a.m.	PSOB 800 NE Oregon Street Portland, OR 97232 Room 1A	Charles Williamson,

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**  
462-200-0700

**AMEND:**  
N/A

**REPEAL:**  
N/A

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.  
N/A

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.  
N/A

**Statutory Authority:**  
ORS 462.270 (3)

**Other Authority:**  
N/A

**Statutes Implemented:**  
ORS 462.010, ORS 462.270 (3)

**RULE SUMMARY**

Rule allows the agency to govern the Instant Racing 1-2-3 with Pick N wager. This wager will be offered on a pari-mutuel wagering device with historic races.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

11-17-2014 10:00 a.m.  
Last Day (m/d/yyyy) and Time for public comment

Karen Parkman  
Rules Coordinator Name

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Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form

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Oregon Racing Commission

462

Agency and Division

Administrative Rules Chapter Number

Rule implements regulation of mutuel wagering for "Instant" or historical racing.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopt: 462-200-0700 (Instant Racing 1-2-3 with Pick N)

**Statutory Authority:**

ORS 462.270 (3)

**Other Authority:**

N/A

**Statutes Implemented:**

ORS 462.010, ORS 462.270 (3)

**Need for the Rule(s):**

Allows the agency to govern the Instant Racing 1-2-3 with Pick N wager.

**Documents Relied Upon, and where they are available:**

Staff and stakeholder knowledge, analysis of current practice of instant racing wagering in other jurisdictions and need and analysis of current licensee. Available for review in the Administrative Office of the Oregon Racing Commission.

**Fiscal and Economic Impact:**

None.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

No additional costs.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

One business will be affected by the rule and it is part of the pari-mutuel sector of the horse racing industry.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

the additional reporting, record keeping or other administrative activities required for compliance including costs of professional services will be minimal.

**c. Equipment, supplies, labor and increased administration required for compliance:**

Nothing additional is required for compliance.

**How were small businesses involved in the development of this rule?**

Stakeholders will be invited to provide comment during a stakeholder meeting (to be scheduled on or before October 30, 2014) and at the Hearing to be held on November 17, 2014.

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

Rule was promulgated in another jurisdiction.

11-17-2014 10:00 a.m.

Karen Parkman

karen.parkman@state.or.us

Last Day (m/d/yyyy) and Time  
for public comment

Printed Name

Email Address

**462-200-0700**

**Instant Racing 1-2-3 with Pick N**

(1) Instant Racing 1-2-3 with Pick N is mutuel wagering which requires selection of the first three finishers for a single contest selected from a historical library of previously run contests that are replayed from a central video server according to the following procedures:

(a) The contest from the historical library is selected at random before the player enters any selection.

(b) The player may examine one or more charts including past performance information showing the relative merits of the contestants as they actually were on the day of the contest.

(c) After examining one or more charts the player has the option to proceed with the selected contest (in which case the player selects three horses) or to bypass the selected contest (in which case a new contest from the historical library is selected at random and the process begins again).

(d) After the player's selections are registered, the identity of the contest is revealed, a video segment of the contest finish is shown, and the actual official results are displayed.

(e) A player wins by matching some or all of the first three finishers in one of several different ways. Any winnings may be collected instantly.

(f) A player must risk a second unit bet in the wager to qualify for the highest value pool(s) (for example the Pick N, matching the first finisher in N consecutive contests).

(2) Wager Amount:

(a) Acceptable wagering units shall be no lower than \$0.05 and no higher than \$20.

(b) The player may enter only one or two unit bets per play.

(3) Pool Split: After the applicable takeout has been deducted from the wager, the remaining amount shall be apportioned among several separate pools which have been carried over from previous contests played by all players:

(a) The remaining amount (after takeout) of the first unit bet shall be apportioned among the first unit bet pools, including one pool for each of several ways to win, and to the first Seed Pool when it is below its designated cap amount.

(b) The remaining amount (after takeout) of the second unit bet, if wagered, shall be apportioned among the second unit bet pools (for example the Pick N), and to the second Seed Pool when it is below its designated cap amount.

(4) Ways to Win for the First Unit Bet: For players who risked either one or two unit bets in each wager, some or all of the following ways to win, or other similar ways approved by the Commission, may be declared:

- (a) 3 Exact Order: The player's selections correctly match the first three finishers in exact order.
  - (b) 3 Any Order: The player's selections correctly match the first three finishers in any order.
  - (c) Top 2 Exact Order: The player's top two selections correctly match the first two finishers in exact order.
  - (d) 3 to get Top 2: Any of the player's three selections correctly match the first two finishers in any order.
  - (e) Top Pick Wins Contest: The player's top selection correctly matches the first (winning) finisher.
  - (f) Any 2 of 3: The player's selections correctly match any two of the first three finishers in any order.
  - (g) Second Pick Wins Contest: The player's second selection correctly matches the first (winning) finisher.
  - (h) Any Pick Wins Contest: Any one of the player's selections correctly matches the first (winning) finisher.
- (5) Ways to Win for the Second Unit Bet: For players who risked two unit bets in each wager, some or all of the following ways to win, or other similar ways approved by the Commission, may be declared:
- (a) Pick N: The player has won the Top Pick Wins Contest pool in N consecutive plays, with two unit bets in each wager. After winning the Pick N pool, the player must start over accumulating wins to be eligible for either the Pick N pool or the Pick N-1 pool again.
  - (b) Pick N-1: The player has won the Top Pick Wins Contest pool in N-1 consecutive plays, with two unit bets in each wager.
  - (c) Pick N Consolation: The player has won the Top Pick Wins Contest pool in N-1 consecutive plays and then has lost in the next, with two unit bets in each wager. The Pick N Consolation shall be declared as a way to win only when the Pick N-1 pool has not been.
- (6) Payment Calculation:
- (a) For each way to win except the Pick N Consolation, the winning price shall be the entire amount in the pool for which the wager qualifies, less the price round-off (breakage).
  - (b) For the Pick N Consolation, the winning price shall be a designated percentage of the amount in the Pick N pool, less the price round-off (breakage). The remaining amount of the Pick N pool carries forward for the next Pick N winner.
  - (c) When the first unit bet qualifies to win more than one of its ways to win, only the largest single pool amount qualified for shall be paid.

(d) When the second unit bet qualifies to win more than one of its ways to win, only the largest single pool amount qualified for shall be paid.

(e) When the second unit bet qualifies to win, its winning price shall be added to the winning price from the first unit bet.

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

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

(h) If two players qualify to win the same pool within a short time, the first winner shall be paid the current pool and the second shall be paid the new pool, which begins with the minimum payout amount.

(7) Dead Heat: A contest that has a dead heat for first, second, or third shall not be used for Instant Racing 1-2-3 with Pick N wagering.

(8) Coupled Entries, Mutuel Fields:

(a) A contest involving coupled entries or mutuel fields shall not be used for Instant Racing 1-2-3 with Pick N wagering if there are two or more betting interests live for a single contestant number.

(b) The one remaining live betting interest of a coupled entry or mutuel field shall be represented by its contestant number without a letter. For example, contestant number "1" represents either contestant "1" or "1A".

(9) Seed Pool: To cover the cases when one of the minimum payout amounts is paid, the Seed Pool is accumulated from a designated percent of wagers.

(a) Each time a pool's minimum payout amount is paid in excess of the actual amount available in the pool, the shortfall shall be deducted from the Seed Pool.

(b) After a pool is paid, the actual amount of the pool may be seeded from the Seed Pool to a specified initial amount less than or equal to its minimum payout amount.

(c) While the Seed Pool is below a designated cap amount, the allotments to the other pools are each decreased and the difference shall be allotted to the Seed Pool.

(d) The Seed Pool of the first unit bet shall be kept separate from that of the second unit bet.

(10) Commission Approval:

(a) The takeout rate may not exceed a maximum rate approved by the Commission. Subject to that restriction, the takeout rate shall be set by the race meet licensee and reported to the Commission.

(b) The method of apportioning wagers to each of the pools shall be approved by the Commission.

- (c) The method of seeding pools shall be approved by the Commission.
- (d) The number of pools and specific "Ways to Win", declared from time to time by the race meet licensee from the list set forth above or other similar ways, shall be approved by the Commission.
- (e) When a Pick N Consolation has been declared as a way to win, the percentage of the Pick N pool to be paid as a consolation shall be approved by the Commission.
- (f) Should the Instant Racing 1-2-3 with Pick N pools be designated for termination or mandatory distribution on a specific date, a method approved by the Commission shall be used.
- (g) The method for selecting contests and past performance charts shall be certified by an independent authority that is approved by the Commission.

(11) Additional Requirements:

- (a) Contests shall be randomly selected from a historical library of actual contests that were previously held. Only contests that were held at licensed racetracks may be used. The contests contained in the historical library need not all have the same number of entrants.
- (b) The total amount in each mutuel pool shall be posted at all times.
- (c) Minimum payouts shall be posted at all times.

(12) Interpretation:

- (a) Instant Racing 1-2-3 with Pick N shall be considered a form of interstate simulcast wagering.
- (b) In the event of any inconsistency between the provisions of this rule regarding Instant Racing 1-2-3 with Pick N and the provisions of any other rule, the provisions of this rule shall control.