

**BEFORE THE PENNSYLVANIA  
STATE HORSE RACING COMMISSION**

**In Re:** :  
**New Primary Racetrack Facility and** : **Administrative Docket No. 2017-9**  
**Pari-Mutuel License Application Procedures** :  
***New Application Submission Period*** :

**ORDER**

**AND NOW**, this 28<sup>th</sup> day of June, 2017, in accordance with the authority under the act of October 28, 2016, (P. L. No. 114) (“Act”) (3 Pa. C.S. §9301 et seq.) known as the Race Horse Industry Reform Act, the State Horse Racing Commission (“Commission”) intends to re-open the application process and ultimately award, if appropriate, the sole remaining Standardbred (harness) horse race meeting license (3 Pa. C.S. §§9315, 9318). The Commission hereby re-adopts the attached New Primary Racetrack Facility and Pari-Mutuel License Application (“Application”) Procedures as a temporary regulation. Pursuant to the statutory authority granted by the General Assembly and as more specifically set forth in §9311 (h) of the Act (3 Pa. C.S. §9311 (h)), the Commission’s temporary regulations shall not be subject to the Commonwealth Documents Law, the Commonwealth Attorneys Act or the Regulatory Review Act.

**FURTHERMORE**, as more fully set forth in the Application Procedures, the Commission hereby announces the following “**New Application Submission Period**” which shall commence on **August 1, 2017 (“opening date”)** and close on **November 28, 2017 (“closing date”)** at **4:00 p.m.** No application or documentation shall be submitted prior to the opening date. No Applications shall be accepted or docketed after the closing date and time.

**BY THE PENNSYLVANIA STATE HORSE  
RACING COMMISSION:**

  
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Russell C. Redding, Chairman

## NOTICE

### PENNSYLVANIA DEPARTMENT OF AGRICULTURE STATE HORSE RACING COMMISSION

#### New Primary Racetrack Facility and Pari-Mutuel License Application Procedures

#### NEW SUBMISSION PERIOD

The State Horse Racing Commission ("Commission") hereby provides notice that on June 28, 2017, it approved a new application time-period for the submission of Applications for the sole remaining Standardbred (harness) horse race meeting license and proposed new primary racetrack facility. The Commission previously adopted new primary racetrack facility and pari-mutuel application procedures and an "application submission period" which were published in the *Pennsylvania Bulletin* on February 11, 2017 (47 Pa.B. 922) and on the Commission's website at <http://www.agriculture.pa.gov/Protect/RacingCommission/Pages/Publications.aspx>.

As of June 14, 2017 - the end of the previous application submission period - the Commission received no application(s) for the sole remaining Standardbred license. Therefore, the Commission has determined the necessity to open a new application submission period.

As approved by the Commission, the new "Application Submission Period" shall commence on August 1, 2017 (opening date) and close on November 28, 2017 (closing date) at 4:00 p.m.

The complete text of the previously approved and published *New Primary Racetrack Facility and Pari-Mutuel License Application Procedures* is set forth below, with the following modifications/clarifications:

1. To avoid any confusion as to the closing date and time, the Commission has determined that the closing time for the new submission period shall be 4:00 p.m.
2. The Commission also hereby provides notice that the proposed racetrack facilities contemplated by the application process (See Section 3 and Appendix A) are for integrated facilities (i.e. the racetrack grandstand facilities and the prospective gaming facilities will be housed within the same building.)

#### NEW PRIMARY RACETRACK FACILITY AND PARI-MUTUEL LICENSE APPLICATION PROCEDURES

##### Section. 1. Preliminary Policy Considerations.

(a) The Commission has authority to issue licenses to conduct horse race meetings at which pari-mutuel wagering is permitted at racetrack facilities, including any new proposed "primary" racetrack facility. A race horse meeting is a specified period of time

and dates during which a licensed racing entity is authorized to conduct live horse racing at the location designated and approved by the Commission.

(b) Section 9318 of the Act, (3 Pa. C.S. §9318) provides that a person seeking to conduct horse race meetings at which pari-mutuel wagering is permitted shall first obtain a license from the State Horse Racing Commission. The license gives its holder the privilege to conduct horse race meetings at which pari-mutuel wagering is permitted. The license does not give its holder a property right.

(c) Applicants seeking to establish a new primary racetrack facility should be aware that the Racing Act authorizes a limited number of race horse meeting licenses to be issued. Sec. 9315 (a) of the Act provides that no more than five corporations shall be licensed by the Commission to conduct a Standardbred pari-mutuel meet. Only one remaining Standardbred harness horse racing license presently exists.

(d) Should the Commission receive more than one Application for the last remaining license, the Commission shall utilize the Comparative Consideration Group Process.

(e) The Commission will review and consider only timely, compliant and complete applications pursuant to the provisions of the Act. At its discretion, the Commission may hold any number of administrative hearings for the Applicant(s) and provide for public comment as necessary.

(f) The Commission is not obligated to issue any license despite the availability of a license.

## **Section. 2. Eligibility.**

In accordance with §§9315 and 9318 of the Racing Act (3 Pa. C.S. §§ 9315 & 9318) any person is eligible to apply for an available license to conduct horse race meetings with pari-mutuel wagering.

## **Section. 3. Application Submission Period and Requirements.**

The following administrative procedures and requirements are established for those persons seeking a license to conduct race horse meetings and to establish a new primary racetrack facility within the Commonwealth.

(a) The Commission hereby establishes the following "Application Submission Period" which shall commence on August 1, 2017 ("opening date") and end on November 28, 2017 ("closing date") at 4:00 p.m. No application or documentation shall be submitted prior to the opening date. No Applications shall be accepted or docketed after the closing date and time. The Commission will return any Application that is received after 4:00 p.m. November 28, 2017.

(b) Applications for a license to conduct live horse race meetings at a new primary racetrack facility shall be submitted in the following prescribed forms and format (1 original hardcopy; 1 electronic copy (CD); and 1 copy redacting information, if any, determined by the applicant to be "proprietary" in nature):

1. Petition for New Racetrack Facility (Numbered paragraphs detailing the project and setting forth why the Applicant satisfies the provisions of §9318 (3 Pa. C.S. §9318));
2. Entity Application (Including information in Appendix A);
3. Multi-Jurisdiction Personal History Disclosure Form(s);
4. Electronic Wagering Petition/Application (§§9351-9359);
5. All applicable license fees and costs of investigations.

(c) Applications must be submitted by the application "Closing" date and time as approved by the Commission and set forth above. An Applicant must follow the applicable procedures and requirements herein, including the applicable closing date, in order for the Application to be considered timely. Applications received after the "closing" date and time will be deemed untimely and will not be reviewed.

(d) The Commission's staff will review all initial submissions of the above Petition/Applications (including all applicable fees) and determine if an application is considered timely and complete. Only applications determined to be timely and complete shall move through the review/hearing process. The Commission may reject any incomplete application as deficient.

(e) The Commission or its Staff reserves the right at any time to:

1. Request additional information regarding any aspect of the application or the applicant's plan for a new racetrack facility, including but not limited to information set forth in Appendix A.
2. Require explanation or revision of the applicant's proposed plan.
3. Require clarification of any aspect of the applicant's proposed plan.

#### **Section 4. Interested Persons.**

Applications shall be submitted to the following address and shall be docketed by the Commission's staff:

State Horse Racing Commission  
c/o Stephanie Pavlik  
Department of Agriculture, Room 301  
2301 N. Cameron Street  
Harrisburg, PA 17110

#### **Section 5. Comparative Consideration Group (If Applicable).**

If the Commission receives more than one (1) Application to conduct race horse meetings at a new racetrack facility and all such submitted Applications are deemed timely and complete, the following policies and procedures shall be applicable:

(a) All Applications received by the application "Closing" date/time set forth in the Application Notice and determined to be timely and complete shall be placed into a collective group for purposes of administrative review and consideration ("Consideration

Group") by the Commission's staff. Untimely or incomplete Applications shall not be placed into the consideration group.

(b) No final license shall be approved or issued until all Applications within the consideration group have been thoroughly reviewed, vetted and considered by the Commission.

(c) At its discretion, the Commission may hold any number of administrative hearings for the Applicants and provide for public comment. The Commission may also hold any other type of hearing(s) it deems necessary and appropriate to allow participation by other interested persons in this matter.

(d) At the conclusion of all administrative proceedings as determined by the Commission, it shall issue an Order and Adjudication (Findings of Fact/Conclusions of Law) supporting its determination to grant a license, if appropriate, to conduct a horse race meeting at a new racetrack facility to one of the enumerated Applicants.

(e) The Commission is authorized and empowered not to grant a license to the participating Applicants. There is no statutory time frame within which the Commission must render a determination on a license application.

#### **Section 6. Public Comment Hearing Notice.**

(a) Upon the filing of an application by any person, and after the application Closing date, the Commission shall place the following notice or a similar notice in a newspaper of general circulation in the county in which the facility is to be located, if the Commission deems a hearing necessary:

**TO WHOM IT MAY CONCERN:**

The State Horse Racing Commission hereby gives notice that an application was filed by \_\_\_\_\_ which seeks approval to conduct pari-mutuel wagering horse race meetings at \_\_\_\_\_ (location) \_\_\_\_\_. A public hearing concerning this matter will be held at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_. Public comment is requested. Interested persons are invited to submit written comments to the Pennsylvania State Horse Racing Commission, Department of Agriculture Building, Room 301, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408. Public comments may be submitted up to 48 hours prior to the date set for public hearing. The purpose of the public hearing is to assist the Commission in assessing the impact the proposed racetrack facility will have on the local community and to assist the Commission in determining whether the public interest, convenience or necessity will be served by approving the license application. Persons who believe the proposed facility will affect his or her business or residence and who wish to speak at a public hearing must submit their names, addresses, telephone number, and a brief summary of their statement to the Commission at the address set forth above at least 72 hours prior to the time of the public hearing.

(b) The notice of public hearing will be published in a prominent section of a newspaper of general circulation (or if necessary a similar medium) for the county in which the facility is to be situated.

(c) The purpose of the public hearing will be to assist the Commission in assessing the impact a proposed facility will have on the local community as required by the Act. The public hearing shall be held in the county in which the proposed facility is to be situated.

(d) A person who wishes to speak at the public hearing shall submit name, address, telephone number and a brief summary of his statement at least 48 hours prior to the time of the public hearing to the respective Commission at the following address: State Horse Racing Commission, Agriculture Building, Room 301, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408

(e) The Commission may set reasonable limits upon the time allowed for oral statements, may disallow statements not offered for the purpose set forth in subsection (c) and may set general rules for the conduct of the hearings, including how presentations may be made, testimony given, examination and cross-examination of witnesses or any other matter.

Contact Information for Public Comment Hearings.

State Horse Racing Commission  
c/o Stephanie Pavlik  
Department of Agriculture, Room 301  
2301 North Cameron Street  
Harrisburg, PA 17110


APPENDIX A

In order for the Commission to conduct a thorough and meaningful review of the proposed project, each Application must submit all the necessary and applicable forms set forth above in Subsection 3 (b) (relating to Application Requirements) and the following:

1. Documentation of an ownership interest (copy of a lease, purchase option, or purchase agreement, title) in the proposed land;
2. A pro-forma financial statement projecting among other things track attendance, live and simulcast handle and projected revenues at the proposed racetrack facility;
3. The financial projection for the total cost for the completed **integrated** racetrack/casino facility, excluding any license fees, gaming fees or other associated fees;
4. A detailed itemized list of projected costs of operation for the proposed racetrack facility;

5. A complete and accurate listing of all funding sources, including any and all financial documents and letters and personal contacts;
6. A complete listing of officers, directors, shareholders or other persons having a beneficial or equitable ownership in the applicant or its parent organization;
7. A correct and detailed description of the acreage for the proposed facility, including a detailed description of the physical facility and architectural renderings, where the applicant proposes to conduct live horse race meetings with pari-mutuel wagering;
8. The number of proposed live race days;
9. A detailed and accurate assessment of the horse population expected to race at the proposed facility;
10. Attach detailed and updated studies relating to racing handle, horse population, wagering trends within Pennsylvania and nationwide, traffic, and general population;
11. A detailed construction/project timeline for completion of the proposed facility.

The Commission has posted this Notice and the Application Procedures, including the new "Application Submission Period" on its website for the public's convenience. The website address is: <http://www.agriculture.pa.gov/Protect/RacingCommission/Pages/Publications.aspx>



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Brett Revington, Director  
Bureau of Standardbred Horse  
Racing