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TO: Governor Tim Pawlenty
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Senator Ann Rest, Chair, State & Local Government Operations & Oversight Committee
Senator Chris Gerlach, Ranking Minority Member, State & Local Government Operations & Oversight Committee
Senator Don Betzold, Chair, State Government Budget Division Committee
Senator Claire Robling, Ranking Minority Member, State Government Budget Division Committee
Representative Joe Atkins, Chair, Commerce and Labor Committee
Representative Kurt Zellers, Lead-GOP, Commerce and Labor Committee
Representative Phyllis Kahn, Chair, State Government Finance Committee
Representative Chris DeLaForest, Lead-GOP, State Government Finance Committee

DATE: October 10, 2008

FROM: Tom Barrett, Executive Director

RE: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by Minnesota Statutes, Section 14.05, Subdivision 5

Attached is an amended obsolete rules report. The previous report was filed on June 27, 2007.

The Board's last rules changes became effective on March 19, 2007 and eliminated all obsolete rules. However, since that time legislation was passed that has created obsolete rules as noted in the attached report.

If you have any questions regarding this report, please contact:
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Encl.

Minnesota Gambling Control Board
 Obsolete Rules Report – Amended July 1, 2008

The following rules are obsolete or technically inaccurate based on legislative changes that occurred in 2007 and 2008. The Board will delete or amend the obsolete rules in its next rules process. At this time the Board has not authorized a new rules process, as it completed an extensive two year rules process on March 19, 2007. Further, the Board is required to conduct a lawful gambling study of the industry and report to the Legislature by January 15, 2009 with recommendations for changes.

Current Rule	Current Rule Language	Change
7861.0210 Subp. 23 Definitions	Subp. 23. "Fraternal organization" means a nonprofit organization that is a branch, lodge, or chapter of a national or state organization and exists for the common business, fraternal, or other interests of its members. The term does not include college or high school fraternities and sororities.	Effective August 1, 2007, "fraternal organization" is defined more specifically in Minn. Stat. 349.12, Subd. 16a, making this rule obsolete.
7861.0230, Subp. 2, item E Gambling manager qualifications – training	Subp. 2. In addition to the qualifications in Minnesota Statutes, sections 349.155, subdivision 3, and 349.167, a person does not qualify for a license if the person is any of the following... E. a person who failed to complete the education requirements in subpart 3.	Effective May 2, 2008, training requirements for gambling managers are contained in Minn. Stat. 349.167. - Item E points the reader to 7861.0230, Subpart 3, which is now obsolete because of this legislative change.
7861.0230, Subp. 3, item A Gambling manager training	A. To qualify for a new gambling manager license, a person must have attended within the last 12 months a board-authorized gambling manager seminar and passed a board examination that tests the person's knowledge of gambling manager responsibilities, and lawful gambling procedures, laws, and rules. This item does not apply to an emergency gambling replacement as allowed under subpart 6, item E.	Effective May 2, 2008, the training requirement for a new gambling manager was changed from having received training within the preceding 12 months to the preceding 6 months, per Minn. Stat. 349.167, Subd. 4, clause (1). Therefore this rule item is obsolete.
7861.0230, Subp. 3, item B Gambling manager training	B. To qualify for a gambling manager license renewal, the gambling manager must attend board-authorized continuing education classes as follows: (1) For a gambling manager with a two-year license term the gambling manager must attend a class during each year of the two-year license term. When no other board-approved training is available before the end of the 12 th or 24 th month of the gambling manager's two-year license, the gambling manager must pass a special gambling manager's examination administered by the board. (2) For a replacement gambling manager whose license term is 13 months or greater but less than 24 months the gambling manager must attend a class in the last 12 months of the license term. (3) For a replacement gambling manager whose license term is 12 months or less, the gambling manager seminar and examination in item A qualifies as a continuing education class for the license term.	Effective May 2, 2008, the training requirement for gambling managers is outlined in Minn. Stat. 349.167, Subd. 4. Training must now be completed with a calendar year, not within each year of the license term. Item B is therefore obsolete.

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Current Rule	Current Rule Language	Change
7861.0230, Subp. 6, item D Gambling manager training	D. A gambling manager whose application was denied for failing to comply with this part may not apply for a license or for an emergency replacement gambling manager's license. The person may apply for a new gambling manager's license if the person attended the board-authorized gambling manager's seminar and passed the examination within the 12 months immediately preceding the effective date of the new license.	Effective May 2, 2008, a person who will be a gambling manager must have attended a seminar within the previous 6 months, per Minn. Stat. 349.167, Subd. 4, paragraph (1). Therefore the rule is in conflict with statute and must be amended.
7861.0230, Subp. 6, item E, subitems (1) and (2) Gambling manager training	E. If a gambling manager quits, dies, or is unable to perform the duties, the organization must stop gambling until a replacement emergency gambling manager has applied for and received a license from the board. (1) The replacement emergency gambling manager must attend the board-authorized gambling manager seminar and pass the examination within 90 days of being issued a gambling manager's license. (2) If the person fails to pass the examination or fails to comply with the licensing qualifications contained in subpart 2, the board may summarily suspend the gambling manager's license under Minnesota Statutes, section 349.1641.	Minn. Stat. 349.167, Subd. 4, clause (2) and Subd. 7 contain training requirements for replacement emergency gambling managers. Minn. Stat. 349.167, Subd. 7 requires the board to revoke, not suspend, a replacement gambling manager's license for failing to pass the examination within 90 days of being issued a license. Therefore the rule language in item E, subitem (2) pertaining to the examination and summary suspension is in conflict with statute and is obsolete. The remaining language in item E, subitem (2) is also obsolete as Minn. Stat. 349.1641 provides the parameters for summary suspensions.
7861.0240, Subp. 3, item A, subitem (6), unit (d) Lease information - participation in bar bingo	Lease information Item A, subitem (6), unit (d): " the lessor, the lessor's immediate family, and any agents or gambling employees of the lessor will not participate as players in the conduct of lawful gambling on the premises;"	Effective May 2, 2008, the lessor's immediate family and employees may participate in bar bingo if they are not involved with the sale or operation of bar bingo, per Minn. Stat. 349.17, Subd. 7, clause (4). Therefore the rule is in conflict with statute and needs to be amended.
7861.0260, Subp. 4, item C Raffle prizes	C. The total value for all raffle prizes awarded by a licensed organization must not exceed \$100,000 in a calendar year.	Effective May 2, 2008, the Board may not impose an annual limit on raffle prizes. Therefore the prize limit in rule is obsolete, per Minn. Stat. 349.211, Subdivision 2d and Subdivision 3.

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Current Rule	Current Rule Language	Change
7861.0270, Subp. 3, item E Linked bingo	Item E. Linked bingo paper sheets must not be included as part of a packet or package. All linked bingo paper sheets must be sold as a separate item.	Effective May 2, 2008, electronic bingo devices may be used for linked bingo games, per Minn. Stat. 349.17, Subd. 8, paragraph (c). Therefore, the second sentence in item E must be amended to include " or facsimiles of bingo paper sheets."
7861.0270, Subp. 10, item A. Linked bingo	A. An organization must not conduct more than one linked bingo game at each bingo occasion.	Effective May 26, 2007, Minn. Stat. 349.17, Subd. 8, paragraph (a) was amended to state, "A licensed organization may conduct or participate in not more than two linked bingo games per occasion, one of which may be a progressive game in which a portion of the prize is carried over from one occasion to another until won by a player achieving a bingo within a predetermined amount of bingo numbers called." The statutory change makes the rule obsolete as the rule is now in conflict with statute.
7861.0270, Subp. 10, item B Linked bingo	B. Linked bingo prize pools must not be carried over from one bingo occasion to another.	<ul style="list-style-type: none"> - Effective August 1, 2007, the definition of "linked bingo prize pool" was amended in Minn. Stat. 349.12, Subd. 25d to allow for progressive prizes. - Effective May 26, 2007, Minn. Stat. 349.17, Subd. 8, paragraph (a) was amended to allow for progressive linked bingo games. - These statutory changes make the rule obsolete as it is in conflict with statute that now allows for linked bingo games with progressive prizes.
7861.0270, Subp. 10, items C, H, and I Linked bingo	<p>C. An organization must only sell approved linked bingo paper sheets for a linked bingo game. Duplicate linked bingo paper sheet faces are not allowed in the same linked bingo game. An electronic bingo device may not be used for a linked bingo game.</p> <p>H. Sales of linked bingo paper sheets must be stopped at least 15 minutes before the first bingo number is selected. The organization must report the sales to the linked bingo game provider before the first bingo number is selected.</p> <p>I. After a winning combination of bingo numbers has been declared by a player, the winning linked bingo paper sheet face must be verified by the participating organization and confirmed by the linked bingo game provider.</p>	<p>Effective May 2, 2008, electronic bingo devices may be used for linked bingo games, per Minn. Stat. 349.17, Subd. 8, paragraph (c).</p> <ul style="list-style-type: none"> - The first sentence in item C must be amended to include "or facsimiles of bingo paper sheets" after "paper sheets." - The second sentence in item C must be amended to include "or facsimiles of bingo paper sheet faces" after "sheet faces." - The third sentence in item C prohibiting electronic bingo devices is in conflict with statute, is obsolete, and must be deleted from rule. - The first sentence in Item H must be amended to include "or facsimiles of bingo paper sheets" after "bingo paper sheets." - Item I must be amended to include "or facsimile of a bingo paper sheet face" after "bingo paper sheet face."

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Current Rule	Current Rule Language	Change
7861.0290, Subp. 3, item B Tipboard game	B. An organization must sell the tipboard tickets for the price printed on the flare. A tipboard ticket or group of banded tickets may not be sold for more than \$2. A tipboard ticket may not be given to a player free of charge or for any other consideration.	Effective May 26, 2007, the maximum tipboard ticket price was established for the first time in statute and increased to \$5, per Minn. Stat. 349.211, Subd. 2c. Therefore the second sentence in item B is obsolete as it is in conflict with the statute.
7863.0220, Subpart 16, item A Delinquent organization (payment to distributor)	A. If a distributor has not received payment from an organization within 35 days of the invoice or lease agreement date, the distributor must report the delinquency to the board in writing, by e-mail, or by facsimile. The distributor must ensure that the board will receive the notice by the 36th day, or the next business day, after the invoice date for the sale or lease of the gambling equipment...	Effective May 2, 2008, the payment must be received by the 30 th day, and if not received by the 30 th day the board must receive the delinquency notice by the 31 st day. Therefore, the rule must be amended to change “35” to “30”, and to change “36 th ” to “31 st .” The rule is currently in conflict with Minn. Stat. 349.191, Subd. 1a.
7863.0260, Subpart 7, item A Delinquent organization (payment to linked bingo game provider)	A. If a linked bingo game provider has not received payment from an organization within 35 days of the invoice date, the linked bingo game provider must report the delinquency to the board in writing, by e-mail, or by facsimile. The linked bingo game provider must ensure that the board will receive the notice by the 36th day, or the next business day, after the invoice date for the sale of the linked bingo paper...	Effective May 2, 2008, the payment must be received by the 30 th day, and if not received by the 30 th day the board must receive the delinquency notice by the 31 st day. Therefore, the rule must be amended to change “35” to “30”, and to change “36 th ” to “31 st .” The rule is currently in conflict with Minn. Stat. 349.191, Subd. 1a.
7864.0230, Subp.1, item F, subitem (2) Progressive pull-tab game	F. For a separate progressive jackpot flare, the minimum information printed on the front of the flare must include:(2) cost per play, which may not exceed \$2;	Effective May 26, 2007, the maximum pull-tab ticket price was increased to \$5, per Minn. Stat. 349.211, Subd. 2a. Therefore the rule is in conflict with statute and must be amended.
7864.0230, Subp. 3, item C, subitem (1) Tipboard tickets	C. Tipboard tickets must be manufactured and packaged according to the following: (1) the standards in subpart 1, item C. The cost per play must not exceed \$2.	Effective May 26, 2007, the sentence “The cost per play must not exceed \$2” is obsolete, as Minn. Stat. 349.211, Subd. 2c was amended to state “An organization may not sell any tipboard for more than \$5. ” Therefore, the rule must be amended to be consistent with statute by pointing the reader to the statutory cite.
7864.0230, Subp. 3, item D, subitem (7) Tipboard flare	D. The front of a tipboard flare must include: . . . (7) cost per play, which may not exceed \$2;	Effective May 26, 2007, the maximum tipboard ticket price was established for the first time in statute and increased to \$5, per Minn. Stat. 349.211, Subd. 2c. Therefore the rule must be amended to be consistent with statute and point the reader to the statutory cite.

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Current Rule	Current Rule Language	Change
7864.0240, Subp. 7, item A Delinquent distributor or linked bingo game provider (payment to manufacturer)	A. If a manufacturer has not received payment from a distributor or linked bingo game provider within 35 days of the invoice or lease agreement date, the manufacturer must report the delinquency to the board in writing, by e-mail, or by facsimile. The manufacturer must ensure that the board will receive the notice by the 36th day, or the next business day, after the invoice date for the sale or lease of the gambling equipment...	Effective May 2, 2008, the payment must be received by the 30 th day, and if not received by the 30 th day the board must receive the delinquency notice by the 31 st day. Therefore, the rule must be amended to change “35” to “30”, and to change “36 th ” to “31 st .” The rule is currently in conflict with Minn. Stat. 349.191, Subd. 1b.
7865.0230, Subpart 1 Board sanctions	Subp. 1. Imposition of civil fine by board. The board may impose a civil fine upon any licensee for violation of any provision of Minnesota Statutes, sections 349.11 to 349.23, or a violation of the board’s rules. The civil penalty may not exceed \$500 per violation.	Effective May 2, 2008, the Board may impose a civil penalty that exceeds \$500 for a violation of the expense limits, per Minn. Stat. 349.15, Subd. 5, paragraph (c). The current rules language in Subpart 1 needs to be amended to include this change.
7865.0230, Subpart 2 Board sanctions	Subp. 2. Imposition of fines and sanctions by board or director for violation of Minnesota Statutes, section 349.15, subdivision 1 (expense calculations). The following apply to a proposed fine issued and sanctions imposed by the board or director under Minnesota Statutes, section 349.16, subdivision 2, paragraph (h). If an organization exceeds expense calculations for the 24 th month, the organization is subject to a fine of up to \$500 or suspension or revocation of the organization’s license, in addition to reimbursing the excess expense as required by part 7861.0320, subpart 11 or 12.	Effective May 2, 2008, the criteria for determining a suspension or penalty for a violation of the expense limits is prescribed in Minn. Stat. 349.15, Subd. 5, paragraphs (a) and (b). This change makes Minn. Rule 7865.0230, Subpart 2, obsolete.