



**State of Minnesota • Gambling Control Board**

Suite 300 South  
1711 W. County Road B  
Roseville, MN 55113  
612/639-4000

November 14, 1994

Ms. Maryanne V. Hruby, Executive Director  
Legislative Committee to Review Administrative Rules  
55 State Office Building  
100 Constitution Avenue  
St Paul MN 55155

Re: In the Matter of Proposed Rules of the Gambling Control Board  
Relative to Licensed Distributors and Licensed Manufacturers

Dear Ms. Hruby:

The Minnesota Gambling Control Board intends to adopt rules relating to distributors and manufacturers of lawful gambling equipment. The Notice of Intent to Adopt Rules was published in the November 14, 1994 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Board has prepared a Statement of Need and Reasonableness which is now available to the public. Also as required, a copy of this Statement is enclosed with this letter.

For your information, we are also enclosing a copy of the Notice of Intent to Adopt Rules and a copy of the proposed Rules in this matter.

If you have any questions about these rules, please contact me at 639-4091.

Sincerely yours,

A handwritten signature in cursive script that reads "Sharon A. Beighley".

Sharon A. Beighley  
Rules Program Coordinator

enclosures: Statement of Need and Reasonableness  
Notice of Intent to Adopt Rules  
Rules

cc: Bernice Caruth, Executive Assistant, Gambling Control Board



STATE OF MINNESOTA  
MINNESOTA GAMBLING CONTROL BOARD

STATEMENT OF NEED AND REASONABLENESS

**In the Matter of the Proposed Adoption of the Rules  
of the Minnesota Gambling Control Board Relating to  
M.R. 7861.0010, DEFINITIONS  
M.R. 7863.0010, DISTRIBUTORS  
M.R. 7863.0020, DISTRIBUTOR OPERATIONS, ACCOUNTS AND REPORTS  
M.R. 7864.0010, MANUFACTURERS  
M.R. 7864.0030, MANUFACTURER OPERATIONS, ACCOUNTS AND RECORDS  
M.R. 7865.0020, SUSPENSIONS AND REVOCATIONS**

**I. INTRODUCTION AND BACKGROUND**

The nature of the proposed rules of the Gambling Control Board (Board) contained in Minnesota Rules, parts 7861.0010, 7863.0010, 7863.0020, 7864.0010, 7864.0030, and 7865.0020 is to define commonly used terms within the industry, establish qualifications for licensure for distributors and manufacturers of gambling equipment, to fully set out the parameters under which those licensees must function in the conduct of their business, and to establish reporting and accountability standards. As a result of discussions among staff members, licensed distributors and manufacturers, and Gambling Control Board members, a decision was made to undertake a comprehensive review of the rules with the goal of revising and streamlining them wherever possible, and to clarify legislative changes made during the 1994 Legislative session.

A Notice of Solicitation of Outside Information and Opinion regarding proposed rules relating to licensed distributors and manufacturers, including license qualifications, licensing procedures, sale of gambling equipment, registration of gambling equipment, standards of gambling equipment, and records and reports required of licensed distributors and manufacturers, was published in the State Register on July 6, 1992 and again on August 16, 1993.

In addition, certain legislative changes were made by the 1993 Legislature, resulting in increased license fees for both manufacturers and distributors. Hence, the portion of the rules dealing with the license fees has been amended. Changes made by the 1994 Legislature necessitated extensive rule changes for both manufacturers and distributors. Included in those statutory amendments were changes to registration systems for gambling equipment, broader authority given to the Board in the area of license issuance, denial, revocation, and suspension, and changes in credit delinquency reporting.

The Board is also planning to include rule language in this revision dealing with standards for the manufacture of gambling equipment. These standards have not previously been dealt with in rule form, and the Board has determined that such rules need to be promulgated.

There are many other proposed changes to the existing rules. Interested parties should refer to the entire proposed rule amendment for the proposed language on specific rule amendments. The rules are published in the State Register on November 14, 1994 and are also being mailed to all persons on the Board's mailing list who have expressed an interest in

the rulemaking activities of the Board. Discretionary notice and a copy of the rule amendment is also being mailed to all licensed manufacturers and distributors who will be affected by this rule.

The proposed amendments are necessary to properly regulate licensed distributors and manufacturers of gambling equipment. The Board, on a periodic basis, will undertake review and revision of different parts of its Rules. The Board feels that such periodic review and revision are necessary to the viability of its rules, to ensure that rules remain compatible with statutory requirements, and to make sure that its rules continue to meet the needs of the industry as well as the regulatory mandates of the Board.

## **II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY**

The Board's statutory authority to adopt these rules is set out in Minnesota Statutes, section 349.151, subdivision 4(a), (1994), which lists the powers and duties of the Board. Section 349.151, subdivision 4(a), clause (1) authorizes the Board to regulate lawful gambling to ensure that it is conducted in the public interest; clause (5) authorizes the Board to make rules authorized by this chapter; and clause (17) authorizes the Board to take all necessary steps to ensure the integrity of and public confidence in lawful gambling. M.S. 349.151, subd. 13 (1994) authorizes the Board to adopt rules when necessary or proper in discharging the Board's powers and duties.

M.S. 349.12 (subd 32a); M.S. 349.151 (subd. 4); M.S. 349.151 (subd. 4b); M.S. 349.151 (subd. 7 and subd. 8); M.S. 349.151 (subd. 13) M.S. 349.152 (subd. 2(6)); M.S. 349.155 (subd. 2 and subd. 3(6)); M.S. 349.155 (subd. 4); M.S. 349.155 (subd. 8); M.S. 349.161 (subd. 1); M.S. 349.162 (subd. 1); M.S. 349.162 (subd. 5); M.S. 349.163 (subd. 3); M.S. 349.163 (subd. 5); M.S. 349.163 (subd. 8); M.S. 349.169 (subd. 1); M.S. and 349.191 (subd. 1a and 1b) were amended by the 1994 Legislature.

Interested parties are advised to refer to Section X. of this Statement (Detail Of The Proposed Rule and Statement of Need And Reasonableness) for specific statutory authority as it relates to each rule amendment.

## **III. PUBLIC ADVISORY COMMITTEE**

The Board formed a Public Advisory Committee to assist in researching the distributor and manufacturer rule issues. The Public Advisory Committee met on two different occasions for the purpose of reviewing and suggesting revisions to the proposed rule drafts. Members of the Public Advisory Committee were as follows:

**Sgt. Steve Erickson**  
Minneapolis Police Department  
Licensing Division  
350 S 5th Street #1A  
Minneapolis MN 55415  
612-673-3805

**Roger Franke**  
Arrow International, Inc.  
11975 Portland Avenue S #126  
Burnsville MN 55337  
612-890-7180

**Roger Hirsch**  
Universal Manufacturing  
5450 Deramus  
Kansas City MO 64120-1278  
816-231-2771

**Ken Lien**  
Lien Games  
PO Box 564  
Fargo ND 58107  
701-232-7755

**Mary Magnuson**  
Jacobson, Buffalo, Schoessler & Magnuson  
10 S 5th Street #700  
Minneapolis MN 55402  
612-339-2071

**King Wilson**  
Allied Charities of Minnesota  
PO Box 21264  
Minneapolis MN 55421-0264  
612-571-7495

**Susan O'Brien**  
Club Supplies  
3443 N 2nd Street  
Minneapolis MN 55412  
612-522-7138

**Norm Pint**  
State of Minnesota, Department of Public Safety  
Gambling Enforcement Division  
1600 University Avenue  
St Paul MN 55104  
612-643-3006

**Valerie Siegrist**  
Bingo King  
3211 Nebraska Avenue  
Council Bluffs IA 51501  
712-323-1488

**Roger Swanson**  
State of Minnesota, Department of Revenue  
Special Taxes Division  
10 River Park Plaza  
St Paul MN 55146  
612-297-2149

Gambling Control Board members participating in the Advisory Committee meetings were Mary McLeod, Chair of the Rules Committee, John Breon, Rules Committee member,

and Allan Fonfara, Rules Committee member. JoAnne Zoff Sellner (Senate Counsel) and John Williams (House Research) were also invited to attend the meetings and were furnished with copies of all rule drafts and pertinent documents. Gambling Board staff members participating were Harry Baltzer, Executive Director, Sharon Beighley, Rules Coordinator, Bernice Caruth, Executive Assistant, Sandra Loney, Licensing Technician, and Mike Strauss, Compliance Agent. E. Joseph Newton, Assistant Attorney General, also attended all meetings.

#### **IV. SMALL BUSINESS CONSIDERATIONS**

Minnesota Statutes, section 14.115 requires an agency, when proposing a new rule or amending an existing rule that may affect small businesses, to consider certain methods of reducing the impact of the rule on small businesses.

The proposed rule amendments may affect small business distributors or manufacturers. The Board carefully considered the impact of the proposed amendments on small business and concluded that it cannot be less stringent in its regulation of small businesses as opposed to large businesses. Many of the proposed amendments will actually have the effect of reducing the impact of these rules on small business and protecting small businesses from possible marketing control by larger businesses.

The proposed new definition of "consultant" (M.R. 7861.0010, Subp. 3) may have an impact upon small business inasmuch as many of the consultants to the lawful gambling industry act as individuals, or small companies employing only a few people. This rule will also impact on licensed distributors and manufacturers who will now be required to submit additional documentation along with their new or renewal license applications to include any consultants that they may contract with.

A positive impact on small business will be the promulgation of M.R. 7863.0010, Subp. 4(D), which will serve to create a more level playing field among small and large licensees by prohibiting the practice of providing, or engaging "third parties" to provide, gifts or other items to value to lessors of gambling premises.

The 1994 Legislature enacted a law that requires licensed manufacturers to place an "outline of the State of Minnesota with the letters MN inside the outline" (M.S. 349.161, subd. 5(i) (1994) on the flares of all pull-tab and tipboard deals shipped to Minnesota for sale to lawful gambling organizations. This requirement will extend to master flares for paddletickets in 1995. This provision in the law also requires the manufacturer to make the geographic symbol invisible on gambling equipment shipped to Minnesota which is destined for sale to an Indian Tribe. This will cause some difficulty for the licensed distributors, in that they will now have to stock two types of each game that they sell: one type with the geographic symbol on the flare for sale to lawful gambling organizations, and one type without the geographic symbol for sale to to Indian Tribes. In addition, they will have to use extreme caution in shipping to insure that the wrong product does not get shipped to the wrong destination. Licensed distributors have expressed concern about this provision, explaining that in many instances the manufacturers may not be able or willing to make "product runs" of a small number of games without the geographic symbol. The Board and the Public Advisory Committee considered this very carefully, but in light of statutory provisions no allowances could be made for the licensed distributors in this area.

There are many other impacts on small businesses, both negative and positive. They are discussed in greater detail in Section X. of this Statement (Detail of the Proposed Rules and Statement of Need and Reasonableness). Interested readers are encouraged to refer to that section of this statement for more specific discussions of the impacts on small businesses.

## **V. COSTS TO LOCAL PUBLIC BODIES**

The Dual Notice of Intent to Adopt a Rule does not contain a statement of estimated costs to local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1, because there is no cost to local public bodies and, therefore, the reasonable estimate of the total cost to public bodies to implement the rule for the two years following the adoption of the rule is less than \$100,000 and section 14.11, subdivision 1 is not applicable.

## **VI. AGRICULTURAL LAND IMPACT**

Minnesota Statutes, section 14.11, subdivision 2, is inapplicable because the proposed rule does not have a direct and substantial adverse impact on agricultural land.

## **VII. DEPARTMENTAL CHARGES IMPOSED BY THE RULES**

Minnesota Statutes, Section 16A.128, subdivision 1 does not apply inasmuch as the rules do not set fees or departmental charges

## **VIII. FISCAL IMPACT**

A fiscal note is not required pursuant to section 3.892 as the rule will not force any local agency or school district to incur costs.

## **XI. WITNESSES**

If these rules go to a public hearing, the witnesses listed below may testify on behalf of the Board in support of the need for and reasonableness of the rules. The witnesses will be available to answer questions about the development and the content of the rules.

**Harry W. Baltzer, Executive Director, Gambling Control Board**  
**Sharon A. Beighley, Rules Coordinator, Gambling Control Board**  
**Mike Strauss, Compliance Agent, Gambling Control Board**  
**Roger Swanson, State of Minnesota, Department of Revenue**

The Gambling Control Board will be represented by E. Joseph Newton, Assistant Attorney General, at the Rules Hearing.

## **X. DETAIL OF THE PROPOSED RULE AND STATEMENT OF NEED AND REASONABLENESS**

### **DEFINITIONS**

#### **M.R. 7861.0010, Subp. 2a, Consultant:**

The Board's statutory authority to adopt this rule is found at M.S. 349.151, subd. 4(a)(1) and subd. 4(a)(17) (1994); and M.S. 349.155, subd. 3 (1994)

This definition is being proposed to establish a definition for "consultant". Licensees of the Board frequently contract with independent firms or individuals to assist them in the operation of their business, i.e., design and/or marketing of games. The Board currently has no oversight authority over these individuals or firms, even though those individuals or companies have the potential to make a great impact on the industry in total. That impact may

be negative or positive. The Board has very strict licensing requirements and standards for organizations, gambling managers, manufacturers, distributors, and bingo hall owners, as well as any employees of those licensees. The consultants tend to "fall through the cracks" under the present system.

The proposed rule amendments for licensing of distributors and manufacturers would, if adopted, require them to submit personnel forms for consultants who assist them in the design or marketing of gambling equipment. The Board believes that it is necessary to have oversight authority over these individuals who may exert a great influence on the industry, but who are not licensed (or subject to regulation) by the Board. To more efficiently regulate the lawful gambling industry in Minnesota and to protect its integrity as well as increasing and fostering public confidence in the regulation of the industry, the rule is necessary.

The proposed rule is reasonable because it will not unduly hamper distributors and manufacturers in the submittal of license applications and personnel forms. The rule is also reasonable because it will help to protect the distributor and manufacturer license applicants from becoming involved with companies or individuals whose actions might place their company's license in jeopardy, or otherwise cause harm to the integrity of the industry as whole in Minnesota.

There may be some impact upon small business by defining the term "consultant". Many times, consultants act as individuals. The Board considered the impact upon these individuals, but decided that in the interest of protecting the integrity of the entire industry, it could not be less stringent in its regulation of these individuals, or small businesses, than in any other segment of the industry.

**M.R. 7861.0010, Subp. 2b, Family:**

The Board's statutory authority to adopt this rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.151, subd. 13 (1994).

The Board proposes to define by rule the commonly used term "family". "Family" appears frequently throughout the rules, especially in M.R. 7864.0030 (Manufacturer Operations, Accounts and Records). While "family" is a common term to those familiar with the gambling industry, it may not be as understandable to others using the Board's rules or attempting to understand what a "family" of games is. The definition is necessary to provide for a more clear understanding of the Board's rules in total. The rule is reasonable because the definition is commonly accepted throughout the industry and widely understood by those who manufacture and sell gambling equipment.

**M.R. 7864.0010, Subp. 2c, Family Member:**

The Board's authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.151, subd. 13 (1994).

The Board is proposing to promulgate a rule defining "family member". This definition will go hand-in-hand with the definition of "family" discussed above. The rule is necessary to clearly define what a member of a family of games is. This term is used throughout the industry, and necessary to define similar types of games with the same name, but with different characteristics such as number of tickets, payout structure, etc. The rule is reasonable because it has no measurable impact on the industry, and it is widely accepted and understood throughout the industry

**M.R. 7863.0010, Subpart 2d, Form Number (Part Number):**



The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.151, subd. 13 (1994).

After discussion with the industry and other agencies of state government, the Board elected to define the term "form number" in its rules. The term, as it is used throughout the industry and various agencies of state government, has been subject to different interpretations at times. Therefore, the Board (in conjunction with industry representatives and officials of the Department of Revenue) have arrived at a definition that suits the purposes of this rule. The definition is necessary in order to remove existing confusion regarding what "form number" actually means. The rule is reasonable because all affected parties have agreed on the definition. Meetings were held with the affected parties, i.e., representatives of the Department of Revenue and representatives of licensed manufacturers. It is necessary to define form number in order to insure that all affected parties are aware of the meaning given it in rule form. The form number is an alphanumeric number that is assigned by a manufacturer to identify a specific game within a family of games. It is used for identification purposes in tracking the game, and works in conjunction with the serial number assigned to the game. In the past, persons have referred to this number as a part number, or as a form number. To persons outside the industry, this issue is confusing and might lead persons to believe that form number and part number were two different numbers assigned by the manufacturer when, in fact, this is not so. The rule will have no adverse impact on the industry, and provides clear information for those persons referring to the Board's rules.

**M.R. 7861.0010, subp. 3c, Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.151, subd. 4(b) (1994) and M.S. 349.12, subd. 32a (1994).

The Board is proposing to add language to the existing rule, which will further define the difference between "disposable" and "permanent" gambling equipment. The Board's rules often refer to "disposable gambling equipment" and "permanent gambling equipment". It is also proposing to refer to the new statutory definition of "pull-tab dispenser" as gambling equipment.

It is necessary to expand the present definition because there are different registration requirements for disposable and permanent gambling equipment and, in some instances, different reporting requirements for the two types of equipment. Because of the two separate categories of gambling equipment, it is necessary to inform distributors, manufacturers, and organizations of what is included in each category of gambling equipment. Referring to "disposable" and "permanent" gambling equipment in other chapters of the Board's rules without expanding the definition of "gambling equipment" would lead to confusion for the Board's licensees and other users of the rules.

The rule amendment is reasonable because it does not increase the regulatory burden on licensees, it serves to inform the licensees with regard to what is considered "disposable" and "permanent" gambling equipment, and it will contribute to more efficient regulation of the lawful gambling industry.

**M.R. 7861.0010. Subp. 3e, Jar Ticket.**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.12, subd. 18 (1994).

The Board proposes to adopt a definition for "jar ticket". Jar tickets are, essentially, pull-tabs. They are smaller than most pull-tabs and are purchased in packets of one to four tickets, held together with a single fold or band. M.R. 7861.0010, Subpart 3c (Gambling Equipment) refers to jar tickets but does not define them. This definition is necessary in order to clearly state what a jar ticket is. Proposed new sections in M.R. 7864.0030, Subparts 1 and 2, deal extensively with jar tickets, therefore it seems necessary to define the term in this chapter. The rule is reasonable because the definition is widely accepted and understood throughout the industry, and it does not create any adverse impact. On the contrary, it serves to make the Board's rules more readable and understandable.

#### **M.R. 7861.0010, Subp. 4, Lawful Gambling.**

The Board's statutory authority to adopt the rule is found at M.S. 349.12, Sec. 20, Subd. 35 (1994) and M.S. 349.151, subd. 4(a)(5) (1994).

The 1994 Legislature amended the statutory definition of tipboard ticket to include a multi-ply card. A multi-ply card is a pull-tab. What the new definition will allow is a type of hybrid game, wherein a pull-tab ticket may be attached to a tipboard, thus serving as a tipboard ticket.

It is necessary to amend the Board's definition of lawful gambling to allow for the use of multi-ply tickets in conjunction with a tipboard game. The rule change is reasonable in that it serves to bring the Board's definition of lawful gambling into conformance with the statutory definition of a tipboard ticket.

#### **M.R. 7861.0010, Subp. 6, Master Flare:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subd. 5 (1994).

The Board is proposing to delete existing language and refer only to the statutory definition of Master Flare. Doing so will allow the Board's rules to remain consistent with statute, even though the statutory definition of a master flare may change over the years. The rule change is necessary so that the Board does not have to amend its rules whenever a Legislative change is made to the definition. The rule change is reasonable because the meaning of the term "master flare" will not change, and the Board is insured that its rules will remain consistent with statutory definitions.

#### **M.R. 7861.0010, Subd. 9, Paddleticket:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

The rationale for this rule change is basically the same as discussed in the definition of "master flare" above. The Board proposes to delete existing language, which is very specific and narrow, and refer to the statutory definition of "paddleticket". The change is necessary in order to assure consistency with statutory definitions. The change is reasonable because it will allow the rule definition of "paddleticket" to remain current with statutory definition, even though the statutory definition may change in future years.

#### **M.R. 7861.0010, subp. 10, Paddleticket Card:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

Again, the Board is proposing to delete existing rule language and replace it with a reference to the statutory definition of "paddleticket card". The existing language is very specific, and tends to be limiting in nature. With the proposed change to referring to the statutory definition of "paddleticket card", the rule will be consistent with statute. The change is necessary in order to avoid conflicting definitions of "paddleticket card" in the Board's rules and in the statutes. The change is reasonable because it will allow the Board's rule definition to remain consistent with future statutory definition changes, and avoid the potential for confusion.

**M.R. 7861.0010, Subp. 11, Paddleticket card number:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

The Board proposes to delete existing language in the rule, and replace it with a reference to the statutory definition of "paddleticket card number". The change is necessary so that the Board's rule definitions remain consistent with statute. The change is reasonable because it removes the potential for rule and statute definitions of paddleticket card number to be inconsistent and, therefore, confusing to licensees of the Board.

**DISTRIBUTORS**

**M.R. 7863.0010, Subp. 2, License Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 2. (1994) and M.S. 349.151, subd. 4(a)(2) (1994).

The Board is proposing to add language to this rule to make it clear that the restrictions imposed on distributors regarding the sale or furnishing of gambling equipment pertain only to a distributor's activities in the state of Minnesota and, further, only insofar as the sale or furnishing of such equipment is made to licensed, exempt, or excluded organizations who are permitted to conduct lawful gambling. Existing rule language is somewhat unclear in this regard, and simply makes a very broad statement regarding the sale or furnishing of lawful gambling equipment.

59 The Board is also proposing to delete the words "having obtained" (a distributor's license), and substituting the word valid. Again, this is intended to make it perfectly clear that the sale or furnishing of lawful gambling equipment by a distributor cannot take place unless that distributor has a current and valid license. Existing language could possibly be interpreted to mean that at some point in time the distributor had obtained a license to sell lawful gambling equipment, and was continuing to sell equipment even though the license had lapsed or not been renewed.

The changes to this subpart are necessary for the sake of clarity in the rule, and to remove the potential for confusion or misinterpretation on the part of new or existing licensees. The changes are reasonable because they make the meaning of the rule clearer, and insure that licensees are fully informed.

There will be no impact upon small business as a result of this rule.

**M.R. 7863.0010, Subp. 3, Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 3 (1994) and M.S. 349.155, Subd. 4 (1994).

It is being proposed to add defining language to the first paragraph in this subpart. Past experience with the existing rule indicates that many license applicants (both for new licenses and renewals) have difficulty in determining who the Board is actually referring to in this subpart. The current language is somewhat vague in that it merely states that a "license cannot be granted to a person, corporation, or firm that has any officer, director, or other person in a supervisory or management position or employee eligible to make sales...". By adding explanatory language at the beginning of this subpart, with the caveat that it pertains to this subpart only, the Board believes that the existing confusion will be removed, and the distributor will be able to quickly ascertain which individuals in its employ the subpart is referring to. Also, by adding the language "on behalf of the distributor", more clarity is given to the phrase "eligible to make sales...". This will enable the Board to be aware of any consultants that the distributor has employed to make sales (marketing), i.e., sales agents or representatives who are not employees, per se, but who in all other respects represent the distributor.

The changes to the rule are necessary in order to provide guidance to the license applicant when completing the application, and to insure that the Board is aware of all persons who are making sales for that distributor. Under the present rule, it is entirely possible for a distributor to contract with an individual to serve as a sales rep or agent, when that person would not otherwise be eligible for licensure as an employee under the Board's rules or the lawful gambling statutes. The rule is necessary in order for the Board to be absolutely sure of the integrity of all persons involved in the distributorship, and to prevent individuals with a criminal history from becoming involved in the lawful gambling industry in Minnesota.

The rule change is reasonable because it serves to aid the distributor in making application for a license, it imposes no undue burden on the licensees, and it serves to allow the Board to regulate this industry with greater efficiency.

The board considered the impact of this requirement on small business. Distributors who employ marketing or sales consultants will be required to submit documentation on those consultants along with their application under this rule. Because the small business distributors need to comply with the same licensing requirements as larger businesses, the Board cannot be less stringent in its application of this rule for small distributors than for large businesses. The integrity of the industry as a whole could be compromised if the Board elected to exempt small businesses from this requirement. The potential for damage to the integrity of the industry is just as great with small businesses as with large businesses.

**M.R. 7863.0010, Subp. 3(C)(3), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. (3) (1994) and M.S. 349.155 (1994).

The Board is proposing a technical change to the rule. We plan to include the word "making" to insure that the rule is in technical conformance with the present statute. The change is reasonable because it does not change the meaning of the rule or exceed the Board's rulemaking authority.

There will be no impact on small business as a result of this rule.

**M.R. 7863.0010, Subp. 3(D) (Qualifications):**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, Subd. 3(a)(3) (1994), M.S. 349.155 (1994), and M.S. 349.161, subd. 3 (1994).

The Board plans to amend the rule to include the statutory language "or connected with" (an illegal business). The change is necessary in order to insure that the Board's rules do not conflict with statute, and to insure that license applicants are fully aware of the requirements for licensure. The rule is reasonable because it serves to insure consistency between rule and statute, it does not exceed the scope of the Board's authority, and it serves to clarify the meaning of the rule for license applicants.

There will be no impact upon small business as a result of this rule.

**M.R. 7863.0010, Subp. 3(E), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 3 (1994) and M.S. 349.155 (1994)

The Board proposes to make a change to this item to clarify the intent of the rule. The current rule contains a qualification that an applicant for a distributor's license may not owe more than \$500 in delinquent taxes. It does not specify which taxes. Since the Board has no jurisdiction outside the state of Minnesota, language has been added to spell out that the rule applies only to taxes owed to the State of Minnesota. The rule change is necessary in order to make the rule clearer. The rule is reasonable in that it does not cause any undue hardship to the licensee, and provides clarification to those applying for licensure.

This item bears no impact on small business.

**M.R. 7863.0010, Subp. 3(G), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, Subd. 3(6) (1994) and M.S. 349.155 (1994).

The Board proposes to amend the rule to include statutory language adopted by the 1994 Legislature. It is necessary to include the statutory language so that new or renewal license applicants are fully aware that this mandatory disqualification also applied to entities who directly or indirectly hold more than a five percent interest in the applicant or licensee. The rule amendment is reasonable in that it serves as an informational tool for the applicant, and it imposes no new or undue burdens on the applicant.

The impact on small business will not be increased or affected as a result of this rule.

**M.R. 7863.0010, Subp. 4, Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 5 (1994), M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155 (1994).

At the beginning of this subpart, the Board is proposing to add new language to make it clear that the restrictions apply only to the licensee's activities within the State of Minnesota, or while conducting business with Minnesota lawful gambling organizations. The current rule does not make this distinction, and could possibly be interpreted to apply to distributors' activities outside of Minnesota. The rule change is necessary as a matter of clarification. The rule is reasonable because it serves to remove uncertainties about the jurisdictional reach of the rule. Further, the rule does not impose any additional burdens on license applicants.

This rule will not have an impact on small business.

**M.R. 7863.0010, Subp. 4(D), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.151, subd. 4(a)(1) (1994), and M.S. 349.161, subd. 5(c)(1994).

The Board is proposing to add language to the existing rule which would, in essence, prohibit a distributor from engaging a third party to offer a gift to a lessor of a gambling premises. The existing rule could possibly be interpreted by a licensee to mean that such a "third person" (who is not a representative, agent, affiliate, or employee of the distributor) could attempt to influence a lessor on behalf of a distributor. The additional language will make it clear that activity of this type is not permitted.

The rule change is necessary to insure that activity of this type does not take place. Such activity would be harmful to the integrity of lawful gambling in general, and also harmful to the public perception of the regulation of lawful gambling. The rule is reasonable because it will not impair the distributors' ability to compete in the marketplace. The rule will apply equally to all distributors licensed in Minnesota. The rule is also reasonable because it serves to enhance the Board's ability to protect the integrity of lawful gambling in Minnesota.

The Board considered the impact of this item on small business, and determined that no substantial impact will occur. Any noticeable impact will be positive, inasmuch as the rule will tend to create a level playing field for all distributors, both small and large. Large businesses would be more likely to have the financial resources to provide gifts or compensation to lessors of gambling premises through third parties. By stating this prohibition clearly, all distributors will be subject to the rule thereby ensuring that small businesses have an opportunity to remain competitive.

**M.R. 7863.0010, Subp. 4(E), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, Subd. 13 (1994) and M.S. 349.151, subd. 4(a)(1) (1994).

The Board is proposing to add a new item to this subpart, which will prohibit licensed distributors from giving gifts or other items of value to gambling organizations, or employees of gambling organizations, which exceed \$25 per organization in any calendar year. The rule also defines the term "market value".

The Board realizes, however, that individual employees of distributors as well as the distributorship itself may wish to make contributions to charitable organizations throughout the course of a year. The Board does not wish to prohibit this activity, so the last sentence of this item will permit such gifts and donations provided that the activity is not connected to any lawful gambling operation of that specific charity. This provision of the rule also establishes a "threshold" value of \$250 per calendar year for these types of donations.

The new item is necessary in order to prevent distributors from attempting to influence purchasing decisions made by organizations. It is very important to the integrity of the lawful gambling industry in Minnesota that organizations be able to freely select which distributors they will do business with, and that purchasing decisions made by organizations are based solely on product, cost of product, and service provided by the distributor rather than on "placing an order as repayment for a gift, donation or other item of value from that

distributor". It is necessary to remove any form of pressure on an organization insofar as purchasing decisions are concerned.

The rule is reasonable because it will apply equally to all distributors in Minnesota, it will tend to protect the smaller distributorships who could not compete with larger businesses in terms of giving gifts and items of value, and it also tends to protect the integrity of the industry as a whole. The distributor is not harmed by this restriction, and it helps to insure a level playing field for all licensed distributors. The rule is also reasonable because it is not overly restrictive to distributors.

There will be no impact upon small business as a result of this rule. Again, it will create a level playing field by making the prohibition "across-the-board", thus affecting both large and small business distributorships.

**M.R. 7863.0010, Subp. 4(G), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subp. 5(e) (1994), M.S. 349.151, subd. 4(a)(1) (1994) and M.S. 349.151, subd. 13 (1994).

The Board is proposing to add language to the existing rule that will allow licensed distributors to make repairs to gambling equipment that they have sold. Under the present rule, distributors are prohibited from making repairs to equipment. This has caused hardship for some licensed organizations in attempting to have their gambling equipment serviced. The rule change is necessary in order to allow distributors to make repairs to equipment, and thus provide an easier means for organizations to have repairs done. The rule is reasonable, because the organizations should have the right to contact the distributor who sold the equipment if that equipment is faulty or needs repair. It is unreasonable to require them to have equipment repaired by persons who may not be skilled in repairing gambling equipment. The rule is also reasonable because it imposes no undue burdens on either the distributor or the organization, and may save organizations money by allowing them to repair rather than replace inoperable equipment.

The Board is also proposing to delete and replace language referring to "last sale stickers". The new language is more easily understood within the industry and makes the rule easier to read. The change is necessary for the sake of clarity. The change is reasonable because it does not change the meaning of the rule, or make any changes in the restriction discussed in this item.

This rule will have no impact on small business.

**M.R. 7863.0010, Subp. 4(L), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(1)(1994), M.S. 349.161, subp. 5(d) (1994) and M.S. 349.151, subd. 13 (1994).

It is being proposed by the Board to add new language which would expand the restriction to include individuals acting as employees or volunteers of gambling organizations. It also will specifically refer to "licensed, exempt, or excluded" organizations, in addition to adding the caveat "in its conduct of lawful gambling". The present rule restricts distributors from serving as officers and directors of organizations. The Board feels that the rule change is necessary in order to prevent licensed distributors or their employees from active involvement in the actual conduct of lawful gambling in Minnesota. The rule is necessary to prevent possible "conflict of interest" situations from arising, which could lead to disciplinary action for the distributor. The rule is reasonable because it allows the Board to more effectively

regulate the conduct of lawful gambling, while not imposing any undue hardships on licensed distributors who may also be officers, directors, employees or volunteers of lawful gambling organizations.

The rule will not have an impact on small business.

**M.R. 7863.0010, Subp. 4(M), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(1)(1994), M.S. 349.161, subd. 5(d) (1994) and M.S. 349.151, Subd. 13 (1994).

The Board proposes to add this new subpart to clearly delineate that no licensed distributor (or its representatives, agents, affiliates or employees) may simultaneously participate, either directly or indirectly, in the ownership or management of a licensed bingo hall. The rule is necessary in order to clarify that it would be a conflict of interest for a licensed distributor to also be involved in the ownership or management of a bingo hall to which that distributor may sell gambling equipment. The inclusion of this rule will also clarify the statutory prohibition against bingo hall owners found in M.S. 349.164, Subd. 6(1) (1994) being also licensed as distributors or manufacturers. The rule is reasonable in that it represents no significant difference from other "conflict of interest" restrictions that currently apply by rule to licensed distributors.

The Board considered the impact of this item upon small business, and decided that there would be no impact upon small business.

**M.R. 7863.0010, Subp. 4(N), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.151, Subd. 13 (1994).

The Board is proposing to add this new subpart to restrict licensed distributors (or their representatives, agents, affiliates or employees) from providing gifts, premiums, or other things of value to Board members or to employees of the Board. The new rule is necessary in order to protect the public interest and the integrity of lawful gambling. The rule is reasonable in that it does not differ significantly from other restrictions placed upon licensed distributors. The rule is also reasonable in that the public has a reasonable right to expect that Board members and Board employees will not accept gifts, gratuities or other things of value from those entities that the officials regulate.

There will be no impact upon small business.

**M.R. 7863.0010, Subp. 4(O), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 5(i), (1994) and M.S. 349.151, Subd. 13 (1994).

This is a new item that the Board proposes to include, in keeping with a restriction imposed by the 1994 Legislature. New legislative requirements dictate that manufacturers must now place an "outline of the State of Minnesota with the letters MN inside the outline" on all disposable gambling equipment destined for sale in Minnesota. This rule will prohibit licensed distributors from selling or otherwise providing equipment so marked to anyone in Minnesota other than a licensed or exempt organization. The rule is necessary in order to fully inform the distributors of the restrictions placed upon them by law, and to insure that the legislative intent of the new law is correctly interpreted by the licensees.



The rule is reasonable because it does not impose any restrictions not found in statute, and it serves to inform the licensees of the applicable restrictions regarding the sale of the equipment.

The Board considered the impact of this rule upon small business distributors. Distributors may only sell gambling equipment to licensed, exempt, or excluded organizations in Minnesota; or to Minnesota Indian Tribes. This rule will require that the distributor only sell its approved equipment (as defined in M.R. 7864.0030, Subp. 2) to licensed, exempt or excluded organizations. M.R. 7863.0020, Subp. 2(D) will, however, allow distributors to have unapproved equipment (equipment without the Minnesota geographic boundary symbol) in their warehouses for sale to Indian Tribes, provided that the equipment is stored in a separate area of the warehouse and it does not bear the Minnesota geographic symbol. The Board considered prohibiting distributors from having unapproved equipment in their warehouses at any time, and having product destined for Indian Tribes drop-shipped from the manufacturer directly to the Tribe. However, the Board ultimately decided that this was too restrictive to distributors, and would ultimately lead to Indian Tribes purchasing their equipment from out-of-state distributors in order to expedite service. The best course of action is to allow the distributors to continue shipping unapproved equipment directly to the Tribes from their warehouses. However, the statutory prohibition found in M.S. 349.163, Subd. 5 (1994) will require the manufacturer to render the geographic symbol invisible prior to shipping the equipment to the distributor. This could conceivably lead to some time delays in distributors ordering and receiving unapproved product from a manufacturer. The Board considered this problem, but because of statutory prohibitions this burden could not be eased for the distributors. It should be pointed out, however, that manufacturers may now have storage facilities in Minnesota, pursuant to M.S. 349.162, subd. 5(b) (1994). Therefore, it could be argued that this entire issue boils down to a business decision on the part of manufacturers whether or not to operate storage facilities in Minnesota, and if distributors could successfully persuade manufacturers to open and operate such facilities.

**M.R. 7863.0010, Subp. 4(P), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(1), (1994) and M.S. 349.151, Subd. 13 (1994).

The Board is proposing this new rule which will prohibit licensed distributors from entering into any agreements with other licensed distributors that would restrict either of them in the sale of gambling equipment. The rule is necessary in order to protect the public, as well as licensed organizations, from any possible attempts by distributors to control the market for certain gambling equipment, by "dividing up" geographic areas or certain gambling organizations. The rule is reasonable in that organizations have a reasonable right to purchase their equipment from licensed distributors at the best possible market value, and to obtain price quotes from as many distributors as they wish. It is also reasonable to regulate the licensed distributors in this regard, which instills greater public confidence in lawful gambling in Minnesota. The rule does not place any undue demands on the licensed distributors.

The rule will have a positive impact on small business distributors, in that it will tend to protect them from large business distributors who may attempt to control certain markets.

**M.R. 7863.0010, Subp. 4(Q), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(1), (1994) and M.S. 349.151, Subd. 13 (1994).

This new rule is being proposed by the Board to prohibit licensed distributors from engaging in price-fixing for gambling equipment. The rule is necessary in order to prevent licensed organizations from being subjected to inflated prices, which may result from licensed distributors entering into agreements among themselves as to what prices they will charge for certain items of gambling equipment. The rule is reasonable in that it does not place any undue burden on the licensed distributors, and it serves to protect the organizations from inflated prices. The rule is also reasonable because it allows the Board to protect the integrity of lawful gambling and to enhance the public perception of that integrity.

Again, there will be a positive impact on small businesses in that the rule will tend to protect the smaller distributors from attempts by larger businesses to engage in price-fixing, or undercutting prices in an attempt to force smaller distributors out of business.

**M.R. 7863.0010, Subp. 5, Length of License:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.151, Subd. 13 (1994).

It is being proposed to delete this requirement as subpart 5, and relocate it later in the chapter as subpart 13. The Board believes that the change is necessary in order to make the rule as a whole flow more smoothly, and to have a better order. The rule change is reasonable because it is consistent with the format of other licensing rules of the Board.

There is no impact on small business as a result of this technical change.

**M.R. 7863.0010, Subp. 6(E), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5), M.S. 349.12, subd. 30 (1994) and M.S. 349.155, subd. 1 (1994).

It is being proposed to change the word "partnership" to "proprietorship" in this item, and to include new statutory language relative to limited liability companies. The rule change is necessary to correct a grammatical error in the existing rule, and to include the statutory reference to limited liability companies. The 1994 Legislature amended the legal definition of "person" to include limited liability companies. The Board believes it is prudent to include limited liability company in this rule to insure that the applicant knows that limited liability companies are now encompassed by the application rules. The rule change is reasonable because it removes an inaccuracy in the current rule, and serves to insure that the rule remains consistent with statutory provisions.

There will be no impact upon small business as a result of this rule.

**M.R. 7863.0010, Subp. 6(G), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subd. 3(a)(6) (1994) and M.S. 349.155, Subd. 1 (1994).

The Board proposes to amend this rule in two ways: one, by adding the words "or entities"; and, two, by defining in rule format the legislative requirement that applicants identify individuals with a financial interest of 5% or more in the distributorship. The addition of "entities" will allow the Board to obtain a much more accurate picture of the true ownership of the license applicant. The current language ("persons") could be interpreted to mean that companies, holding companies, etc. may be exempt from disclosure on the application form. The other additional language reflects changes made in M.S. ch. 349 by the 1994 legislature.

That language states that persons or entities with a 5% or more financial interest in the applicant must be included in the application process.

The rule is necessary for the Board to have complete and accurate knowledge of all owners of a distributorship. The Board needs to know this information to adequately evaluate license applications, and to assist it in deciding whether or not to issue or deny an application.

The rule is reasonable because it is within the bounds of the Board's statutory authority, it allows the Board to have accurate information before issuing or denying licenses, and it serves to protect the integrity of the charitable gambling industry in Minnesota.

The rule may have a minor impact on small business, in that it may require an applicant for a distributor license to submit additional information as part of the contents of its application. However, the Board cannot be less stringent in its application of law or rule when regulating small businesses as opposed to large businesses. The integrity of the industry needs to be maintained. To do that the Board needs to have true and complete ownership identification of all applicants.

**M.R. 7863.0010, Subp. 6(H), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5), (1994) and M.S. 349.155, subd. 1 (1994).

This rule amendment is being proposed to clarify which persons are eligible to make sales on behalf of the applicant. The rule amendment is necessary to eliminate possible confusion on the part of the applicant regarding which employees must appear on the list required under this item, and for the Board to be aware of those individuals who are authorized to make sales on behalf of the distributor, including any persons who may be employed as consultants to the distributor, but are not specifically included with the distributor's employees. The rule amendment is reasonable in that it places no undue burden on the applicant, and merely serves to clarify existing language.

Again, this rule may have a minor impact on small business distributors in that it may require the inclusion of more individuals on the license application form. As discussed previously, the Board cannot be less stringent in its regulatory application of law and rule to small businesses than it is in regard to large businesses.

**M.R. 7863.0010, Subp. 6(L), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 1 (1994).

This new item is being proposed to require that an applicant for a distributor's license acknowledge when filing its application that it will file the certified physical inventory being required under Mn. Rule 7863.0010, Subpart 16. It is necessary to get an acknowledgment at the time of application that the certified physical inventory will be properly filed, and to inform the applicant that such a filing will be required. The rule is reasonable because it places no undue burden on the applicant, and serves to let the applicant know that a certified physical inventory is required prior to ceasing business.

Merely acknowledging that it will file the required certified physical inventory will not impact small businesses. The impacts of the certified physical inventory will be discussed later in this statement, under M.R. 7863.0020, Subpart 16.

**M.R. 7863.0010, Subp. 6(M), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 1 (1994).

A new subpart is being proposed to require license applicants to submit an organizational (or flow) chart of their business structure. The Board believes that the rule is necessary in order to have full knowledge of who the officers, directors, managers and employees of the applicant are and whether or not the proper forms have been submitted for each position so identified on the flow chart. The chart will provide an aid to the Board for determining the completeness of the license application. The new rule is reasonable because it does not impose any undue hardships on the license applicant, i.e., most businesses have existing organizational charts. The applicant will simply have to make a copy of the chart to include with the application. The rule is also reasonable because it provides a further tool for the Board to use in determining the accuracy and completeness of a license application.

The rule may have a minor impact on small businesses in that some distributorships may need to devise organizational charts to submit along with their application. However, the chart need not be elaborate and can easily be done by hand or computer. The Board cannot require less of the small distributors in the area of license applications than it requires of the larger distributorships. Licensing is an area that must apply equally to all applicants across-the-board, inasmuch as the integrity of the entire industry could be easily compromised if the Board issued a license based upon inaccurate or incomplete information submitted with a license application.

**M.R. 7863.0010, Subp. 6, Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 1 (1994).

The Board proposes to delete the existing item (M) of this rule and incorporate some of its language into a new last paragraph of the subpart. The change is technical in nature, in that the "additional information" referred to is not submitted as part of the contents of the application itself. The Board cannot know if additional information will be required until it reviews the submitted application material. The additional information referred to may be used by the Board in evaluating or clarifying the merits of the license application.

The Board believes that the change is necessary in order to make sure that the rule is technically sound. The rule is reasonable because it does not change the meaning of the existing rule, or make any infringements on the rights of the license applicant.

The rule will have no impact on small business distributors.

**M.R. 7863.0010, Subp. 7, Attachments to Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, Subd. 1 (1994).

A change is being proposed to the first sentence of this subpart to remove the word "attorney" and include the word "license". The rule change is necessary because "attorney" was a typographical error when the rule was originally promulgated. The rule change is reasonable because it serves to remove confusing language.

The Board is also proposing to include language that would make it clear that the attachments must be included along with a distributor's license application. Current language is somewhat vague, and could be interpreted that the attachments could be submitted at a later date than the application itself. The addition of the new language is necessary in order to provide clarity to the rule. The new language is reasonable because it provides direction for the applicant, and makes the rule less confusing to read.

There will be no impact upon small business distributorships with the promulgation of this rule.

**M.R. 7863.0010, Subp. 7(A), Attachments to Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 1 (1994).

The Board is proposing to significantly rework this item to provide clarity and consistency. Existing rule provides a brief listing of persons required to fill out and submit personnel forms along with the distributor's license application. Subitems (1) through (8) of the proposed rule are new, and serve to provide a clearer definition of who must fill out personnel forms. Existing rule is somewhat vague and tends to generate more questions from applicants than it answers. The Board elected, instead, to "list" employment categories that would typically require the submission of personnel forms and, in some instances, provide examples of job titles that would fit within those parameters. Subitem (6) will require sales or marketing consultants to submit personnel forms. Inherent problems in the present rule are that job titles may differ from company to company, even though actual positions may be similar in nature.

The rule change is necessary to remove confusion, add clarity to the rule, and provide specific examples of who must submit personnel forms. The rule is necessary in order to streamline the application process for the applicant, and to ensure that the Board receives uniform information from all applicants.

The rule is reasonable because it does not impose any additional regulatory burden on the licensee, and it will answer questions that applicants ask regarding the submission of the forms.

The rule will not have a negative impact on small business. On the contrary, it should aid small distributorships by clarifying in rule format the persons who need to complete personnel forms. It will result in fewer phone calls to the Board for clarification, and will streamline the entire process for small and large distributorships.

**M.R. 7863.0010, Subp. 7(B), Attachments to Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 1 (1994).

This item prescribes the information that must be submitted on the personnel form identified in Item (A) of this rule. Subitem (1) has been modified to make minor technical changes, and to require the license number (if known) of the distributor that the individual will be performing services for. Subitem (2) has been modified to make it clear that the information being required pertains to the individual filling out the form. Present language could be interpreted to mean that all of the information requested in this subitem pertained to the spouse of the individual filling out the form. Subitem (3) is new, and simply asks for the full name of the individual's spouse. Subitem (11) has been modified to require reporting the

name and address of excluded organizations that the individual may belong to. This requirement was inadvertently omitted in the existing rule. Subitem (12) is new, and requires an individual to provide any past Minnesota tax ID numbers. This is necessary in order for the Board to know if the individual is in current good standing with the Department of Revenue. Subitem (13) is also new, and requires the individual to acknowledge reading a preprinted statement on the form regarding the restrictions contained in subpart 4 of the chapter and the qualifications discussed in subpart 3 of the chapter. Subitem (14) now requires the form itself to be notarized. Existing subitem (12) has been remodeled into a separate stand-alone paragraph of this subpart. Again, additional information cannot be required until the Board has reviewed the initial submission from the individual, and made a determination that additional information will be required. Including the language as a subitem to subpart B. could be confusing, and is technically not correct.

The Board believes that the above changes are necessary to more clearly state the information requirements on the personnel form, and who those requirements pertain to. The amendments are reasonable because they convey a clearer picture of what is required of the person filling out the form. All information requested on the form is necessary for the Board to complete a thorough investigation of the individual prior to issuing or denying a distributor's license.

The language in existing item B. is being deleted, as the requirement for a separate affidavit is no longer necessary. The form itself will now be notarized, making the affidavit an obsolete requirement. The change is both necessary and reasonable because it removes the need for a separate notarized affidavit, saves paper, and also saves time and effort for the applicant and the Board.

The existing language in item C. of this subpart, requiring a current photograph of the applicant, is being deleted from this subpart and relocated to subpart 8 (Identification card). The requirement actually belongs in the subpart dealing with identification cards, and not with personnel forms, as reflected in the existing rule. The change is necessary to achieve consistency in the Board's rules and to have the entire rule flow more logically. The change is reasonable, because it does not impact the distributor license applicant or the individual filling out the personnel form.

There will be some impact on small businesses - both negative and positive. Subitems (11) and (12) will require additional information on the personnel form. For instance, the Board needs to know if an individual previously owned a business that is in arrears with the Department of Revenue. Such information would impact upon the Board's decision to issue or deny that individual a license. On the other hand, the Board is reducing the impact on all license applicants by eliminating the need for a separately notarized affidavit. Since the form itself will now bear the acknowledgment and a notarized signature, the need for a separate affidavit is eliminated, thereby reducing the impact on small business distributors.

#### **M.S. 7863.0010, Subp. 8, Identification Card:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 8 (1994).

This rule will make it clear that the information required for the employee identification card must be submitted with the personnel form and filed concurrently with a new or renewal license application. This does not mean, however, that identification cards for personnel hired after the effective date of the license cannot be obtained. In this instance, the identification card must be submitted within ten days of being hired by the distributor, and the employee must have the card in his/her possession before performing any duties for the

distributor. The proposed amendment also substitutes the words "current photograph" for "picture", and provides more specific information on the requirements for the photograph required in item (A). The amendment also makes a clarification change in that it explains that the bearer of the card is responsible for returning the card to the board, and specifies that if the bearer is no longer eligible to conduct sales, the bearer must return it to the Board. New language at the end of the rule will allow the distributors to employ temporary personnel as long as those individuals are registered with the Board prior to beginning any duties for the distributor.

The rule changes are necessary to ensure that all documentation on existing personnel is submitted with the license application, and that all photographs submitted to the Board are uniform in size and nature, and suitable for mounting on the ID badge. It is also necessary to explain clearly who is responsible for returning the identification card to the board, and to state clearly that if the bearer is no longer eligible to conduct sales, he/she must return it to the board. The changes are reasonable in that they do not impose any burdens on the license applicant, and serve to protect the licensee from having ineligible personnel on staff. The rule is also reasonable because it requires that the identification card be submitted along with the personnel form, which will tend to remove some of the potential for errors to occur, i.e., matching the wrong photograph with the wrong identification card. The rule also insures that personnel are issued identification cards at the correct time, i.e., not prior to the effective date of the distributor's license.

The rule change will have a positive impact on small business and large business distributors alike, in that they will now be allowed to hire temporary personnel on an emergency basis. Existing rule language prohibited the distributor from employing temporary clerical or warehouse personnel in an emergency. The Board does not wish to make it difficult for a distributor to carry on its daily business, thus the inclusion of this new language will ease the burden on both small and large distributorships. The other changes to the rule are minor and will not impact small businesses.

#### **M.R. 7863.0010, Subp. 9, Changes in Application Information:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994).

It is being proposed to add clarifying language to this rule to make sure that licensed distributors are aware that, should any changes in license application information occur during the term that the license is effective, they must submit those changes to the Board within ten days of the change. Under the present rule, it could conceivably be argued that the distributor did not have to notify the Board of such changes until its license came up for renewal. The Board believes that the rule change is necessary to clarify when changes must be submitted to the Board. The rule change is reasonable because it serves to protect the integrity of lawful gambling in Minnesota and, to some extent, to protect the licensed distributor from potential problems in the area of personnel.

This rule will have no impact on small business.

#### **M.R. 7863.0010, Subp. 10, License Fee:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 4 (1994) and M.S. 349.151, subd. 4(a)(2) (1994).

The language in this subpart is being changed to delete the reference to the actual amount of the license fee. The new language will refer to the statutorily established license

fee. It is necessary to make this change to allow for license fees to be adjusted by the Legislature as it deems appropriate, and to simultaneously avoid having to amend the Board's rule to insure that it is in conformance with current statutes. The change is reasonable in that the amount of the license fee is established by the Legislature, the Board cannot independently adjust the fee, and changing the language will not change the meaning of the rule.

There will be no impact upon small business as a result of the change.

**M.R. 7863.0010, Subp. 11, Investigation:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 7 and M.S. 349.155, subd. 2 (1994).

This is a new subpart being proposed by the Board. The rule is informational in nature, in that it notifies potential license applicants that a background investigation will be conducted prior to granting a license. The rule is necessary to let potential applicants know that, to some extent, their personal and financial backgrounds may be subject to scrutiny. The rule is also necessary because the Board needs to thoroughly investigate the backgrounds of license applicants in order to protect the integrity of the lawful gambling industry in Minnesota. The rule is reasonable in that potential applicants have a right to know the extent to which they will be investigated. The rule is also reasonable because it imposes no undue hardship on the applicant, who has the option of not submitting an application in lieu of undergoing the background investigation.

The 1994 Legislature made a change in the law to provide that actual costs associated with background investigations may be charged back to the applicant. Inclusion of the last sentence in this rule is necessary in order for the rule to conform to the statute, and also to inform the applicant that it will be expected to pay for the cost of the investigation. The new language is reasonable because the applicant has a right to know that it will be responsible for costs incurred in the performance of the background investigation.

The rule will have an impact on small business distributorships. However, the additional fees that may be imposed would be imposed by the Department of Public Safety, and not the Board. The Board has no authority or discretion in determining the actual amount of any additional costs. The Board is including this language in its rule as a means of fully informing the applicant of the potential costs involved in applying for a license. The rule, in and of itself, does not set or establish the cost of the background investigation.

**M.R. 7863.0010, Subp. 12, Issuance and Denial:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd 4(a)(2) (1994), and M.S. 349.155, subd. 4, (1994).

This subpart is new, and is being proposed by the Board to make the distributor licensing rules more complete and accurate. Inclusion of the language makes the rule more complete, accurate, and informational for the licensees (or potential licensees) using the rules, as well as insuring consistency with new statutory provisions enacted by the 1994 Legislature. Item A clearly defines the situations under which the Board will issue a distributor's license; item B outlines the conditions under which the Board is required to deny a license application; and item C outlines broader authority given to the Board by the 1994 Legislature with regard to the issuance or denial of distributor license applications. Specifically, item C. allows the Board to consider an applicant's past activities or criminal record, and whether or not the applicant would pose a threat to the public interest, or otherwise create or enhance the dangers of unsuitable, unfair, or illegal practices incidental to the conduct of lawful gambling in



Minnesota. Item D. of the proposed rule outlines the procedures whereby an applicant may appeal the denial of a license application.

The new rule is necessary to fully inform the applicant of the conditions under which its license application will be approved or denied, and to further detail the applicant's remedies under the rule should its application be denied.

The rule is reasonable because it serves to inform the applicant of issuance, denial, and appeal procedures. The rule is also reasonable because it establishes clear parameters for the Board to abide by when considering applications, and issuing or denying distributor's licenses in Minnesota.

There will be no impact on small business as a result of this rule.

**M.R. 7863.0010, Subp. 13, Length of License:**

The Board's statutory authority to adopt the rule is found at M.S. 349.161, subd. 4 (1994) and M.S. 349.151, subd. 4(a)(2)(1994).

There is no change to the existing rule language. It is merely being relocated from subpart 5 in the existing rule to subpart 12 in the proposed amended rule. Again, this is being done in order to give the rule a more logical and continuous flow, and be consistent with the format of the Board's other licensing rules.

**M.R. 7863.0010, Subp. 14, License Effective:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994).

The Board is proposing to add a new subpart to make it clear when a distributor license is actually effective. The rule is necessary to add clarity to the rule, and to remove confusion over effective dates of licenses. The rule is reasonable in that it places no undue burden on the applicant, and serves to better inform the applicant regarding license effective dates, and it will also reduce the potential for errors made by licensees on when to submit renewal applications. It is reasonable for the licensee to know when its license will become effective, and to clearly state this in rule format.

There is no impact on small business as a result of this rule.

**M.R. 7863.0010, Subp. 15, License Renewal:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994).

The proposed new subpart outlines the steps necessary to renew a distributor's license at the end of the term. The rule contains language that will affect license renewals on a "one-time" basis for all distributors. Currently, distributor licenses may expire on any given day of a month. The rule will now work hand-in-hand with subpart 14 of this chapter, which states that licenses are effective on the first day of a month following board approval. If subpart 14 is promulgated, it is necessary to promulgate subpart 15 to insure that renewals are effective on the first day of a month also. In some instances, this will mean that the existing license and the new license will overlap, but never by more than 30 days, and never more than once for any license renewal applicant.

Discussions with industry representatives indicate that this is not a problem. The Board really had no other alternative, inasmuch as past practice was to give the renewal applicant "free licensing days" until the first of the following month. The Legislative Auditor informed the Board that it must collect all fees, hence, it became necessary to devise the new method for renewal licenses. The Board and members of the Advisory Committee explored different methods of solving the problem. One of the methods considered was to extrapolate from the annual license fee the amount that would represent the daily license fee, and then levy a fee in that "daily" amount from the date of expiration of existing license to the effective date of the renewal license. This idea was discarded, because it would amount to charging an "additional" license fee and creating a "license term" beyond the annual license fee & term discussed in statute, which the Board did not want to do. Another method considered was to leave the system as is, and allow renewals to become effective the date after expiration of the current license. This was not feasible because the Board's computerized license renewal and flagging systems are now designed for licenses to become effective on the first day of a month. The new rule is necessary to remove confusion regarding renewal requirements, and to clearly spell out for the applicant what is required. The rule is reasonable in that the applicant has a right to expect clear and concise procedures for renewal of licenses. The rule is also reasonable because it clarifies procedures, and does not place any additional burdens on the licensee.

The rule may have a financial impact on small business distributors. As stated above, distributors have indicated that the one-time license overlap is not a problem. They have stated that would rather have consistency in license expiration and renewal dates.

#### **M.R. 7863.0010, Subp. 16, License Termination:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.2123 (1994) and M.S. 349.2121 (1994).

The Board proposes to add this new subpart to require a licensed distributor to file a certified physical inventory with the Board at the time of license termination. The rule is necessary for the Board and the Commissioner of Revenue to account for the distributor's existing inventory at the time the certified physical inventory is submitted; to know the distributor's plans for disposal of all gambling equipment by the last day of business; and to ensure that the licensee agrees to keep all pertinent documents and invoices for three and one-half years after cessation of business, as is required by statute (M.S. 349.2121). The Board believes the rule is necessary to protect the integrity of lawful gambling. The certified physical inventory will be used by the Board and the Department of Revenue to verify that all equipment and inventory has been disposed of legally by the last day of business. After a distributor's license has expired, any gambling equipment in its possession is defined as contraband.

The rule is reasonable in that it places no undue burden on the licensee. The rule is also reasonable because it serves to enhance the Board's ability to insure the integrity of lawful gambling in Minnesota.

The rule will impact both large and small business, in that it will require the filing of additional information with the Board and the Commissioner of Revenue. The impact on small business cannot be avoided, however, in that the potential for harm to the industry as a whole is very great should a distributor cease doing business without accounting for its remaining inventory, and without making arrangements to insure that records are preserved. The board needs to be able to accurately monitor the movement of gambling equipment within the state, and if a distributor went out of business without making plans for disposal of equipment, this would mean that essentially no one was responsible for the remaining inventory of the distributor. As stated previously, after the date on which a distributor ceases doing business,

any gambling equipment in its possession becomes contraband. As such, the distributor could face discipline by the Department of Public Safety. In addition, contraband gambling equipment could unwittingly fall into the hands of lawful gambling organizations, who would also be held accountable for having contraband equipment in their possession.

Termination plans are required by law for licensed organizations, and the Board cannot be less stringent in its oversight of licensed distributors than with other segments of the industry. The Board carefully considered the regulatory impact upon the small business distributor, and deemed that it could not waive this requirement for small business distributors.

**M.R. 7863.0010, Subp. 17, License Suspension:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.155, subd. 4 (1994).

This new subpart is being proposed by the Board to require the licensee to submit a list of existing inventory to the Commissioner of Revenue on the day a license suspension begins. The rule is necessary for the Commissioner of Revenue and the Board to ensure that the licensee is not violating the terms of the suspension by doing business during the term of the license suspension. The rule is necessary in order to protect the integrity of lawful gambling in Minnesota. The rule is reasonable in that it places no undue burden on the licensee, and it is not unreasonable for the licensee to expect that the Board and/or Department of Revenue will verify that the licensee is abiding by the terms of a license suspension.

Again, there is some impact on the small business distributor in that the distributor will be required to submit a certified physical inventory. The impact should be minimal, in that the distributor should always have a current inventory available, and submitting it to the Commissioner of Revenue should not be a major undertaking for the licensee.

**DISTRIBUTOR OPERATIONS, ACCOUNTS, AND REPORTS**

**M.R. 7864.0020, Subp. 1, Purchase of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(1) (1994) and M.S. 349.161, subd. 5(h) (1994).

The Board is proposing to amend the rule to make it clear that licensed distributors may not buy, or otherwise obtain, gambling equipment from another licensed distributor. The amendment is necessary in order to prevent possible collusion among distributors which might result in unfair market prices to organizations purchasing gambling equipment. The rule is also necessary in order for the Board to effectively track all gambling equipment in Minnesota. The rule change is reasonable in that it does not place any undue burdens on the licensee, and it is reasonable to expect that licensed distributors would not attempt to manipulate the gambling equipment market, resulting in higher prices to licensed organizations.

The rule will have a positive impact on small business distributors, in that it will serve to prohibit the practice of large distributors purchasing gambling equipment from other distributors, thereby forcing smaller distributors into a noncompetitive pricing situation.

The Board is also proposing to make a minor language change in this rule to clarify that distributors may not purchase any gambling equipment from any manufacturer unless the equipment is manufactured in accordance with the standards set forth in M.R. 7864.0020. Existing language is somewhat unclear in that it states that the "manufacturer" needed to meet the standards. Substituting the word "equipment" will make the rule clearer. The current rule

language refers to pull-tabs and tipboards only, and the new language expands it to cover all gambling equipment. The rule change is necessary to clarify that gambling equipment must meet manufacturing standards established by Board rule before the distributors may purchase any gambling equipment from that particular manufacturer. The rule change is reasonable because it is a clarification and removes any confusion about the equipment distributors may purchase from the manufacturers.

This rule will have no impact on small business distributorships in Minnesota. Again, it may serve to protect them from purchasing unapproved or substandard equipment from licensed manufacturers.

The Board proposes to add a new paragraph to subpart 1 which would require distributors, when notified by the Board that a manufacturer's license has terminated, to furnish a list to the Board of all equipment it has in inventory that was manufactured by that particular manufacturer. The rule is necessary to insure that once a manufacturer's license has terminated, that no further product moves from that manufacturer to licensed distributors. It is conceivable that this could occur through any number of methods, including advance invoicing and back-invoicing. If a manufacturer repeatedly allows its license to lapse and then becomes relicensed, this could be a strong indication of financial difficulties which a manufacturer is having, which could derive benefit from such illegal sales. The rule is reasonable because it does not place an undue burden on the distributor, it will help to protect the distributor from receiving shipments of gambling equipment from manufacturers whose licenses have lapsed, and it is reasonable for the Board to have a mechanism in place to verify inventories when manufacturers cease doing business in Minnesota.

The rule will have a minor impact on small business distributors in that it will require them to submit additional information to the Board. However, the Board considered the impact of not requiring the small distributors to file such a report, and decided that it could not treat small distributors any differently than large distributors in this area.

**M.S. 7863.0020, Subp. 2(A)(1), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.166 (1994).

A change is being proposed to this rule to clarify that the exempt and excluded organizations referred to in this rule must hold valid permits and authorizations issued by the Board. The existing rule is unclear, and leaves open for interpretation how to recognize exempt and excluded organizations for purposes of this subpart. The rule change is necessary to make it clear to licensed distributors that such exempt and excluded organizations must have valid permits or authorizations that have been issued by the Board. The rule change is reasonable in that it places no undue burden on the licensee, and serves to protect the licensee from making improper sales to an organization that is not exempt or excluded.

There will be no impact on small business distributorships as a result of this rule.

**M.S. 7863.0020, Subp. 2(A)(2), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 4 (1994).

The Board is proposing to add a clarifying sentence to the rule to insure that exempt and excluded organizations can obtain gambling equipment prior to the effective date of their

authorization or permit. Effective dates for authorizations or permits are for the actual day of the event. Under the existing rule, for example, if an exempt organization had an event planned for a Sunday, the distributor would not legally be able to sell gambling equipment to that organization prior to that particular Sunday. Logistically, it is not possible for the distributor to comply with the existing rule. The proposed modification would allow prior sale of the gambling equipment, as long as the distributor has, in its possession, a copy of the exempt permit or excluded authorization for that organization at the time the order is placed and filled.

The rule is necessary to allow exempt and excluded organizations to receive gambling equipment in time for the event they are planning. The rule is reasonable because it does not harm the integrity of the lawful gambling industry in Minnesota, and allows distributors and lawful gambling organizations to conduct their business in an expeditious and appropriate manner.

The impact on small business will be beneficial, in that it will allow distributors a simpler method by which to make sales to exempt and/or excluded organizations. There will be no negative impact on small business as a result of this rule.

**M.S. 7863.0020, Subp. 2(A)(3), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

The Board proposes to modify the rule to substitute the words "gambling equipment" for "any deal of pull-tabs or tipboards". By law, all gambling equipment must be approved by the Board prior to being offered for sale in Minnesota. The modified language will make this requirement clearer for distributors, and help to insure that they do not sell or furnish unapproved gambling equipment (contraband) which could possibly have been shipped to Minnesota in error by a manufacturer.

The rule modification is necessary in order for the rule to properly conform to the statutory requirements for approval of gambling equipment, and to fully inform the distributors of those statutory requirements. The rule change is reasonable because it serves as an information tool for distributors, guards against contraband gambling equipment being sent out to organizations, and aids in assisting the Board in maintaining the integrity of the lawful gambling industry in Minnesota.

There will be no impact on small business distributorships as a result of this rule.

**M.S. 7863.0020, Subp. 2(B), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

The existing language in this subpart is being relocated to subpart 4, which deals with restrictions. It was inappropriately located in this subpart, and is being moved to add continuity to the rule as a whole. The change is necessary so that the rules have consistency from one chapter to another, and so that distributors know logically where to look for certain items in the rulebook. The change is reasonable, because the language is merely being moved, and not deleted from the rule.

Since this is a technical change to the format of the rule, there will be no impact on small business.

**M.R. 7863.0020, Subp. 2(B), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994).

The Board is proposing to remove the last seven words in this item. The requirement that the rebate or discount be "contained in the monthly pricing report" is redundant, inasmuch as the requirement is covered in the rule governing pricing reports (M.R. 7863.0020, subp. 6(C)). The rule is necessary in order that the Board's rules not be redundant, and to make the rule less confusing. The rule change is reasonable because it is technical in nature, the requirement is not being deleted, and there will be no impact on licensees.

There will be no impact on small business as a result of this rule.

**M.R. 7863.0020, Subpart 2(C) Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994).

The Board is proposing to amend this rule. In its present form, the rule is unworkable. Existing rule requires that gambling equipment must be delivered only to a gambling manager or a gambling manager's authorized representative. When distributors ship by UPS or other delivery services, restricted delivery of the type mandated in the rule is not possible. The delivery person will often leave the package unattended at the address, or leave it with a neighboring business. The existing rule requires the gambling manager (or authorized representative) to be available to all times to accept deliveries of gambling equipment. Many times, these individuals are "volunteers" for the organizations they belong to, they have other employment, and are simply not available to receive deliveries. By changing the rule to the language that the Board proposes, organizations will have the opportunity to designate who will receive, secure, and account for the equipment being delivered.

The rule change is necessary to establish a workable mechanism for the delivery of gambling equipment. The rule is reasonable because the equipment can be delivered through normal means, and yet still be delivered to the "organization" that ordered it. The change is also reasonable because current language in the rule does not work and, essentially, it forces the distributors and organizations to disregard the rule, thereby risking discipline from the Board.

The rule will have a positive impact on small business as it eases the burdens for delivery and receipt of equipment.

**M.R. 7863.0020, Subpart 2(D) Sale Of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), and M.S. 349.161, subd. 5 (1994).

The Board is proposing to delete the existing language in item (E) in its entirety and replace it with language in keeping with recent legislative changes regarding the use of the Minnesota geographic symbol with the letters MN inside the outline (M.S. 349.163, subd. 5(h) (1994)). Existing language seemed to indicate that distributors could sell any gambling equipment to out-of-state customers and warehouse that equipment in Minnesota. Nothing precludes a distributor from selling out of state, but the distributor would have to be licensed

in any other state where it was doing business and would probably have warehouse facilities in that state. The new language in M.S. 349.163, subd. 3(c) (1994) prohibits a manufacturer from selling or providing tipboard or pull-tab deals with the required geographic symbol to any person other than a licensed distributor without first rendering that symbol invisible. As such, there is no need for a distributor to have equipment designated for other states or jurisdictions in its Minnesota warehouse. The new language will allow distributors to sell gambling equipment to Minnesota Indian Tribes, provided that the equipment is stored in a separate area of the distributor's warehouse, and that the manufacturer has removed the Minnesota geographic boundary symbol from the equipment. This method will allow the Board and the Department of Revenue to insure that unapproved gambling equipment is not being shipped from the warehouses of licensed distributors to lawful gambling organizations in Minnesota, and will allow the Board to fulfill its statutory mandate to regulate the lawful gambling industry in Minnesota.

The new language is necessary to allow distributors to continue to sell equipment to Indian Tribes in Minnesota, while still insuring that the Board and the Commissioner of Revenue can accurately track the movement of all approved lawful gambling equipment in Minnesota, and to account for all equipment in a distributor's warehouse at any given time. The rule is necessary to insure the integrity of the entire lawful gambling industry in Minnesota.

The rule is reasonable in that it provides a mechanism whereby distributors may continue selling gambling equipment to Indian Tribes in Minnesota, it allows the Board to have regulatory oversight over all lawful gambling equipment sold in Minnesota, and it provides another means of protecting the lawful gambling industry, and the public at large, in Minnesota.

There will be an impact on small business distributors who sell gambling equipment to Minnesota Indian Tribes. In the past, the distributor placed state registration stamps on all equipment sold to lawful gambling organizations. It was a simple matter for the distributor to order gambling equipment in quantity, place registration stamps on the equipment that was being sold to lawful gambling organizations, and ship the unstamped product to Indian Tribes. New statutory requirements repealed the registration stamp system, and mandated that the manufacturers place a Minnesota geographic symbol on the flares of pull-tab and tipboard deals that they sell to Minnesota licensed distributors. That law also expressly prohibits the manufacturer from selling any gambling equipment to any person or Indian Tribe, other than a Minnesota licensed distributor, without first rendering the Minnesota geographic symbol permanently invisible. What this means, essentially, is that the distributors will now have to separately order gambling equipment for Indian Tribes from the manufacturer, and instruct the manufacturer to render the geographic symbol invisible. This may result in slower service from the manufacturer to the distributor, and may result in the Indian Tribes purchasing gambling equipment from out-of-state. The Board carefully reviewed the statutory requirements, and concluded that no accommodations could be made for small business in this area.

#### **M.R. 7863.0020, Subp. 2(E), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(b) (1994).

The Board proposes to add new language to this subpart referring to coin-operated or mechanical pull-tab dispensing devices. The 1994 Legislature passed a law authorizing the Board to promulgate rules regarding pull-tab dispensing machines. That law requires the Board to make a report to the 1995 Legislature on its proposed rule, together with a plan for

implementation. At this time, the Board is proposing to amend this rule to include language "except as otherwise permitted by law or rule." The new language will allow for the eventual promulgation of rules regarding pull-tab dispensing machines, when authorized by the Legislature.

The rule is necessary in order for the Board's rules to track with the current law. The rule is reasonable in that it imposes no standards or requirements on the licensee at this time, and is viewed as informational in nature.

There will be no impact on small business as a result of this rule.

**M.R. 7863.0020, Subp. 2(F), Sale of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994).

It is being proposed to add this new subpart to prevent licensed distributors from providing merchandise prizes, as part of the sale of a game, to licensed organizations for that organization's use as prizes to its customers. The rule is necessary in order to protect smaller distributors from unfair competition by larger distributors, and to prevent unfair marketing practices by the larger licensed distributors. The rule is reasonable because the Board must treat all of its licensees equally and fairly, and this rule removes any possible attempt to influence organizations by providing free merchandise prizes. The rule is also reasonable because it serves to enhance and protect the integrity of all forms of lawful gambling in Minnesota. It is important to point out that the rule does not prohibit distributors from selling merchandise prizes: they may continue to do so; however, the sale of the prize cannot be contingent upon the purchase of a game. The two items must be treated as individual sales, and the sale of the prize must not be contingent upon the sale of the game.

The rule will have no negative impact on small business distributorships, and will aid in insuring that all licensed distributors compete for customers on an even basis. Smaller distributors are unable to afford "giveaway" prizes as incentives for purchasing games, thereby giving the larger distributors a distinct advantage in the marketplace. This rule will prohibit that practice.

**M.R. 7863.0020, Subp. 3, Registration of Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.162, subd. 1 (1994).

The Board is proposing to delete all existing language and replace it with new language. This is a result of extensive changes made by the 1994 Legislature in terms of registration of gambling equipment. The Board determined that the rule should be divided into two parts --- one dealing with disposable gambling equipment and the other with permanent gambling equipment. It is necessary to delete the existing language because disposable registration stamps are being phased out, and many dates referred to in the existing language have become obsolete. It is reasonable to strike and replace language in order that the rules be more easily understood, that meaningless dates and references to registration stamps be removed, and to make the rule consistent with the 1994 legislation.

Item A. of the new language deals with registration of pull-tabs, jar tickets, tipboards, tipboard tickets, paddletickets and paddleticket cards. Subitem (1) outlines the current requirement that a state disposable registration stamp and a bar code be affixed to all



disposable gambling equipment. It also gives the option of selling disposable equipment with the new legislative requirement of a Minnesota geographic symbol as required by M.S. 349.163, subd. 5, paragraph h, and bar code affixed. The rule also establishes a date of 2/1/96, after which a distributor may only have in its possession disposable gambling equipment with the geographic symbol and bar code affixed. Gambling equipment with registration stamps affixed will not be permitted at all after 2/1/96.

The "sunset" date for the use of disposable registration stamps on paddletickets is later than for other types of disposable gambling equipment. Therefore, the language in item (2) will permit the Board to continue selling disposable registration stamps to distributors until 6/30/95, provided that those stamps are used only on paddletickets. Item (3) prohibits distributors from transferring or furnishing disposable registration stamps to any other person, manufacturer, or distributor. Item (4) requires the distributor to return all unused disposable registration stamps to the Board by 2/1/96 at the latest. After this date it will be illegal for distributors to have registration stamps in their possession. Item (5) states that the distributor may not possess any pull-tab or tipboard deals or paddleticket cards with registration stamps affixed to the flares after 2/1/96. Again, this is the date after which possession of such gambling equipment will be illegal for the distributor.

The rules are necessary to insure that the registration requirements for disposable gambling equipment as set forth in statute are clarified in the rules of the Board.

The rules are reasonable because they are consistent with statutory requirements, and serve as an informational tool for distributors. The rules are also reasonable because they assist in the tracking of gambling equipment, and enhance the Board's efficiency in regulating the sale of gambling equipment in Minnesota.

Item B. is new, and deals with registration of bingo paper sheets. Again, the purpose of this rule is to insure that distributors are accountable at all times for bingo paper which they may have in inventory. The board plans to require licensed manufacturers, in M.R. 7864.0030, subd. 1, with the effective date of this rule, to only manufacture bingo paper sheet packets for sale in Minnesota with the top sheet being blue. The effective date of 2/1/96 in this rule will allow distributors to dispose of existing inventory of bingo paper sheet packets. It is necessary to include an effective date in this item to prevent distributors from stockpiling bingo paper sheet packets immediately prior to the effective date of this rule.

Requiring the top sheet in the packet to be blue will assist the board in tracking the value of bingo paper brought into Minnesota, in the following manner. The manufacturer is required to state the price at which it sells bingo paper to the distributor on its sales invoice. In turn, the distributor's invoices to organizations must indicate the price at which the organization must sell the bingo paper sheet packets. When a compliance review is performed by the Board at the organization level, the Board can then verify that all bingo paper sheet packets in stock have blue top sheets. Packets without the blue top sheet may have been tampered with, separated, or sold for a price other than that invoiced by the distributor.

The rule is necessary for the Board to establish a mechanism to begin to track the value of all bingo paper shipped to Minnesota for use in lawful gambling operations. The rule is reasonable in that it places no undue burden on the distributor, it allows the distributor enough time to dispose of existing inventory, and it provides a mechanism for the Board to verify the amount of bingo paper sheet packets that an organization has on hand, what it paid for the packets, and how much money it has taken in on the sale of the packets.

This rule will have no impact on small business distributors. However, there may be an impact upon organizations using bingo paper sheet packets. Current practice in some

organizations is to offer different types of bingo games that may utilize different colors of bingo paper sheets. The new requirement will eliminate the use of "blue" bingo paper sheets except in instances where a packet is sold and the top sheet is blue. In other words, organizations will no longer be able to use blue bingo paper sheets except in conjunction with packets of bingo paper sheets.

Item (C) of this rule deals with registration requirements for permanent gambling equipment such as bingo ball selection devices, paddlewheels, and paddlewheel tables. Subitem (1) prohibits the distributors from selling, transferring, or otherwise providing permanent gambling equipment unless a permanent registration stamp has been affixed. Subitem (2) lists the types of permanent gambling equipment which must have permanent registration stamps affixed and, again, precludes the sale of such equipment without the permanent stamp affixed. Subitem (3) prohibits the distributor from transferring or furnishing permanent registration stamps to any other person, distributor, or manufacturer of gambling equipment.

The rule is necessary to formalize the current practice of registering permanent gambling equipment. This is an ongoing procedure that has been in place for sometime, but has not been promulgated in rule form. The rule is necessary in order for the Board to track any item of permanent gambling equipment at any time within the state. The rule is reasonable because it places no undue burden on the distributor, the procedure is already being carried out by the distributor, and it serves to protect the distributor from having unregistered permanent equipment in its possession.

There will be no negative impacts on small business distributorships as a result of this rule.

#### **M.R. 7863.0020, Subp. 3a, Return of Gambling Equipment:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.151, subd. 4(a)(16) (1994) and M.S. 349.152, subd. 2(6) (1994).

The Board believes it is necessary to establish by rule a procedure whereby organizations and distributors may return gambling equipment to the manufacturer. Many times, minor defects or departures from the normal manufacturing standards are the reason for the return. For example, the serial number on a deal of pull-tabs may not match the serial number on the flare for that deal. This would be considered a defect, and if the game were played by an organization, would result in reporting discrepancies with the Department of Revenue.

Item (A) of the rule deals with defective equipment being returned prior to being put into play. Subitem (1) requires the distributor to return the product to the manufacturer within seven business days of receipt from an organization, provided that the organization has been able to demonstrate that a defect, or manufacturing quality control problem exists. Subitem (2) requires the distributor to issue a credit invoice to the organization within seven days of receipt of credit from the manufacturer. The rule also provides for instances where legitimate business disputes between licensees may exist. If such is the case, the distributor is required to notify the Department of Revenue of the dispute, and advise that issuance of the credit invoice will be delayed until the dispute is resolved. It also requires that a copy of the credit invoice be filed electronically with the Department of Revenue according to procedures established by Revenue. Subitem (3) requires that, if a distributor ships a "replacement" deal to the organization, a new sales invoice will be prepared which is consistent with the requirements of M.R. 7863.0020, subpart 8(B). Subitem (4) will require the distributor to void the state registration stamp which may be attached to the flare for the deal, and to make appropriate

entries in its registration stamp number log. After February 1, 1996 this subitem will no longer be a requirement because registration stamps registration stamps will no longer be in use.

The rule is necessary to establish a procedure whereby unopened or unplayed equipment can be returned, and still be effectively tracked by the Board and Revenue. Subitems (2) and (3) are necessary to prohibit a distributor from shipping a replacement product without issuing a credit invoice and a new sales invoice for the new product. Again, product is tracked by serial number and/or family member number. Simply "exchanging" defective equipment without the appropriate credit and sales invoices being prepared would skew the tracking system, causing it to appear that an organization or distributor has product in inventory when, in fact, that product had been returned to the manufacturer. In addition, the "replacement" product would be found in inventory but there would be no supporting documentation, i.e., a sales invoice, for that product.

The rule is reasonable because it sets out a procedure for the distributor to follow when it accepts returned product from an organization. It imposes no undue burdens on the distributor, and will aid the distributor in assuring that defective product is promptly returned to the manufacturer, thereby lessening the chance for it to be inadvertently reshipped to another organization. The rule is reasonable because it enhances the integrity of the lawful gambling industry as a whole in Minnesota, and also permits the Board and Revenue to effectively track all gambling product that has entered the state. The rule is reasonable because it serves to protect lawful gambling organizations, the general public, and state regulatory bodies.

There will be some impact on small business as a result of this rule promulgation. However, the Board has attempted to mitigate the impact by allowing the distributor to delay issuing the credit invoice until it has received a credit from the manufacturer. The Board carefully considered all the factors, and determined that a mechanism needed to be in place to provide for the return of unopened or unplayed equipment to the manufacturer. In conjunction with this item, the distributor will be required to file a "returned equipment report". This report will be discussed later in this Statement.

Item B. of the rule is similar in nature to item A., but it deals exclusively with gambling product that is found to be non-conforming after it has been opened or put into play by an organization. Subitem (1) requires that the distributor return the equipment to the manufacturer within seven days of the receiving the equipment from the organization. It will also require that the manufacturer make a written determination as to whether or not the product was manufactured in accordance with the standards set forth in M.R. 7864.0030. Finally, it will require that the equipment be ultimately returned to the organization, who must retain the game as a "played game". Subitem (2) requires the distributor to issue a credit invoice to the organization within fourteen days of receiving a written determination from the manufacturer that the equipment was not manufactured according to the standards, and a credit from the manufacturer. This credit must also include reimbursement to the organization for any bona fide net losses it incurred over which it had no control or ability to prevent.

Item (C) of the rule requires the distributor to file the previously discussed "returned equipment report".

The rule is necessary in order to establish a procedure for dealing with returns of product after the product has been opened or put into play. It is necessary to include the Board in the notification process regarding the defect, inasmuch as the Board may opt to conduct an investigation and perhaps mandate a general recall of that product across-the-board in

Minnesota. The rule is necessary to protect the distributor in the event of an organization attempting to return a deal as defective when the organization is losing money on the deal for reasons beyond the control of the manufacturer or distributor. The rule is reasonable because it sets out a procedure for dealing with defective equipment once the deal has been opened and/or put into play. It is also reasonable because the Board will be notified, and can then determine whether this is a random occurrence or whether an investigation is necessary. The rule is reasonable because it places no undue burden on the distributor. The distributor will be reimbursed by the manufacturer (see M.R. 7864.0030, subds. 5(A)(1) and 5(B)(1)) for any reimbursements it makes to the organization.

Again, this item will have some impact upon small business distributors. It will require them to maintain records of returned equipment, and to file monthly reports with the Board. The Board carefully considered the impact of this rule upon small businesses, and determined that it could not be less stringent in its requirements of small business distributorships than of the larger distributorships.

### **M.R. 7863.0020, Subp. 3b, Corrective Action:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 7 (1994); and M.S. 349.151, subd. 4(a)(5), (16), and (17) (1994).

The Board proposes to promulgate this rule to deal with instances where a statewide recall of a certain product needs to be accomplished. Item A. of the proposed rule will require distributors to participate in a recall that the Board has mandated or that the manufacturer has voluntarily initiated. Item B. establishes a time frame of three business days for the distributor to begin the recall process once it has received notification from the manufacturer. Item C. requires that the recall be accomplished within 15 business days from the date of commencement, and that the Board and Revenue be notified that the recall has been completed. It requires that the notification include a complete inventory, bar code information, state disposable registration stamp numbers, if applicable, and license or exempt numbers of organizations that the equipment was recalled from. Item D. requires the distributor to issue credit invoices to organizations returning product under the recall within seven days of receiving a similar credit from the manufacturer. It requires the distributor to reimburse the organization for cost of freight, and any bona fide net losses that the organization may have incurred over which the organization had no control or ability to prevent.

The rule is necessary to establish a system whereby the Board can mandate a recall of product pursuant to M.S. 349.151, subd. 4(a)(16)(1994). The Board was given the authority to order corrective action by the 1994 Legislature in M.S. 349.151, subd. 7. It is necessary to involve the distributor in the recall process inasmuch as licensed manufacturers will not always know the end users of their product. Distributors have complete details on who purchased the product being recalled. It is necessary to establish a timeframe of three business days to begin the recall, because it is extremely important to get the defective product out of play before further damage is done to organizations or persons playing the game. Again, the timeframe of 15 days in item C is necessary to establish a finite time for the recall to be accomplished by the distributor. It is necessary that the Board and Revenue be notified of the completion of the recall, inclusive of all product information, to insure that information in the product-tracking systems is accurate and up-to-date. It is necessary to require the distributor to issue credit invoices to the organizations, and to include the cost of freight and substantiated losses because the cost of freight could be high for some organizations who may have a large quantity of the recalled games on hand. The organizations should not be placed in a position to lose money on a game because of a quality control problem on the manufacturing end.

The rule is reasonable because it establishes a procedure for the distributors to follow when a recall is ordered by the Board, or initiated by a manufacturer. It is reasonable because it places no undue burden on the distributor, and assists in ensuring that defective product is returned to the manufacturer as quickly as possible. It is reasonable for the distributor to be involved in recalls, as a common-sense issue, because the distributor has complete knowledge of the organizations to which it has shipped the product. It is also reasonable because the distributor will be reimbursed by the manufacturer, pursuant to M.R. 7864.0030, subp. 6(D) for its out-of-pocket reimbursements to organizations for freight, cost of product, and bona fide net losses. In general, the rule is reasonable because the Board needs to establish a mechanism for dealing with defective products and mandated recalls, as well as voluntary recalls by a manufacturer that all organizations can be aware of and can look to.

Again, this rule will have an impact on small business distributors in that they will be required, by rule, to participate in product recalls. The Board carefully considered all the ramifications of promulgating this rule, and concluded that it could not provide a mechanism to deal with recalls without involving the distributors. Again, it is impossible to exempt small business distributors from this requirement.

#### **M.R. 7863.0020, Subp. 4(A)(2), Records and Reports Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.162, subd. 2 (1994).

The Board proposes to strike and replace language in the existing rule to accurately reflect Department of Revenue requirements. Revenue no longer "prescribes a standard form" and is currently in the process of updating its computerized systems for receiving the data electronically sent by distributors regarding sales invoices. Therefore, we have simply substituted language "at a minimum.....as prescribed by the commissioner of revenue". The remainder of the rule deals with the individual components of the sales invoices issued by the distributors. Subitem (a) is new, and will require the invoice to bear the name and address of the distributor. At first glance, this seems to be a common-sense issue and not require promulgation as a rule; however, in the interest of having the list of required information be as complete as possible, the Board opted to include the requirement in rule form. Subitem (b) requires the license number of the distributor. Subitem (c) requires the name and address of the organization to which the equipment was sold. Subitem (d) will require the license number or exempt number of the organization or the expiration date of the excluded authorization. Subitem (e) will require the invoice number. Subitem (f) will require the identification (not necessarily the name) of the distributor's salesperson making the sale. Subitem (g) will require the distributor to identify the date of shipment of the gambling equipment. Subitem (h) will require the identification of the person who ordered the gambling equipment. Subitem (i) will require the reporting of local and state sales taxes. Subitem (j) will require the unit price, and Subitem (k) will require disposable registration stamp numbers, if applicable.

These subitems are a necessary component for any invoice that the distributor issues to an organization for the purchase of gambling equipment. The rule is necessary to insure that all distributors submit the same information in a uniform fashion. The rule is reasonable in that it places no additional burden on the distributor. During discussions with industry representatives, the distributors did not indicate that the inclusion of any of these items was unreasonable.

Item (3) of the rule deals with specific information required to be on invoices for pull-tabs, jar tickets and tipboards. Subitem (a) requires the quantity sold. Subitem (b) requires a complete description of the product. Subitem (c) requires the last sale sticker amount, if any. Subitem (d) requires the distributor to list the ideal gross receipts of the game being sold.

Subitem (e) requires the distributor to state the total gambling tax due. This rule is necessary in that subitems (a) through (e) are specific to pull-tabs, jar tickets, and tipboards. The rule is reasonable because it reflects current practice between the distributors and the Department of Revenue. It is also reasonable to provide the requirements in rule form in order to remove confusion and to provide information for newly licensed distributors relative to sales invoice requirements.

Item (4) of this rule deals with specifics for reporting sales of paddleticket cards. Subitem (a) will require the number of paddletickets sold. Subitem (b) will require the ideal gross receipts of each paddleticket game. Subitem (c) will require a complete description of each sealed grouping of paddletickets.

Again, the rule is necessary in order to establish specific reporting requirements for paddleticket card sales. The rule is reasonable because it reflects current practice between the distributors and the Department of Revenue, and it provides in rule format a complete listing of what must be included on sales invoices for paddleticket sales.

Item (5) delineates the requirements for reporting on bingo paper sheets and breakopen bingo paper. Subitem (a) will require the serial number, color, and price for breakopen bingo sheets. Subitem (b) requires serial numbers, color, cut, and quantity or series number for uncollated bingo paper sheets. Subitem (c) requires the price for every 100 bingo hard cards sold.

The rule is necessary in order to establish continuity among distributors filing sales invoices, and to insure that all distributors report the same information to the Department of Revenue. Again, these requirements have been established by Revenue, and the Board deemed it appropriate to include them in rule format. The rule is reasonable, because it reflects current practice between the distributors and the Department of Revenue. The rule is also reasonable because it serves as an informational tool for new distributors in Minnesota, and provides a complete list of requirements for reporting on sales invoices.

Item (6) of this rule deals with permanent gambling equipment, such as bingo ball selection devices, paddlewheels, and paddlewheel tables. It will require the distributor invoice to include the make, model, and serial number of the equipment being sold, as well as the permanent state registration stamp number affixed to the equipment.

The rule is necessary in order to establish parameters for reporting the sale of permanent gambling equipment to the Department of Revenue. It is necessary to track equipment of this nature in order to insure that it is being used only in lawful gambling operations, and to insure that all equipment is properly reported to the Department of Revenue by the distributor. The rule is reasonable because it imposes no undue burden on the distributor, and it serves as an informational tool for newly licensed distributors.

Item (7) of this rule will establish a timeframe for filing the sales invoices with Revenue. This rule is necessary in order to inform distributors of filing requirements. The rule is reasonable because it reflects current practice, and all distributors are capable of making the filings in the manner required by Revenue.

Item (A) of this subpart will have an impact on small business distributors in Minnesota. All distributors are currently required by rule to file copies of their sales invoices with the Department of Revenue. This rule modification will expand and/or refine the requirements listed in the current rule. The Board has attempted to require as few "generic" items as possible, and to make the rule specific to the various types of equipment sold by the distributors. Again, the Board is not able to ease the regulatory burden on small business

distributors. After careful consideration, the Board concluded that it could not require less of the small business distributors than it does of the large business distributors in this area.

**M.R. 7863.0020, Subp. 4(B), Records and Reports Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.162, subd. 1 (1994).

New language is found in item (1) of the rule, to clarify that this requirement pertains to registration stamp number usage on disposable gambling equipment. It requires that the distributor maintain the log until 2/1/96 (after which date disposable registration stamps are illegal), and also that the distributor retain the log for 3-1/2 years thereafter.

The rule amendment is necessary in order to insure that the distributor retains records of its disposable registration stamp usage for 3-1/2 years after it has ceased using stamps. The requirement for the distributor to retain all records for 3-1/2 years is found in M.R. 7863.0020, item G, as existing rule. It is necessary to make sure that this requirement carries over to the disposable registration stamp log, even though the distributor may no longer use the stamps after 2/1/96.

The rule is reasonable because it does not place a regulatory burden on the distributor. The distributor is already maintaining the requisite log. The rule is reasonable because it insures that the Board will be able to effectively track disposable gambling equipment for 3-1/2 years after it has been sold by the distributor to an organization.

The impact upon small business will be minor, in that the distributor is already maintaining the registration stamp number log. This rule will insure that distributors are aware that they must maintain the log for 3-1/2 years, even after the use of stamps is no longer required.

**M.R. 7863.0020, Subp. 4(C)(1), Records and Reports Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.162, subd. 2 (1994).

The Board is proposing a rather extensive modification to this rule in order to make the individual components of the rule more specific to the different types of gambling equipment on which the distributor files a monthly pricing report. The Board will no longer require the pricing report to be "on a form". The language has been changed to "in a format". Existing item (3) of this rule has been stricken in its entirety. The current language is too vague and ambiguous, and is not a generic "fit" for each type of equipment that the distributor is required to report on. In lieu of the existing language in item (3), the Board is proposing new subitems (c) through (j) to specify what is required for each type of gambling equipment.

The rule amendment is necessary in order to insure uniformity on pricing reports filed by all distributors. It is necessary to break the existing rule down into segments that pertain to specific types of equipment, inasmuch as the reporting requirements for each type of equipment are different. The rule amendment is necessary in order for the rule in its entirety to be consistent.

The amendment is reasonable, because it imposes no undue burden on the distributor, it simply rearranges in better fashion the information that the distributor already includes on its pricing report, and the amended language is a more informative tool for the distributors to use. The rule is reasonable because it allows the Board to remain aware of the prices that

distributors are charging for their gambling product, thus ensuring fair and competitive pricing throughout the industry as well as safeguarding against give-aways or other attempts to influence the market.

Item (2) of this rule is being amended, partially as a result of action by the 1994 Legislature. The Legislature, in M.S. 349.169, subd. 1 (1994), granted distributors the right to file a pricing report at any time during a month for gambling equipment which the Board has approved during that month. Under existing rule, the distributor must wait until the first of the following month after Board approval in order to start selling the equipment in Minnesota. The Board also proposes to amend its existing rule to allow distributors, after filing an initial complete report with the Board, to file future monthly reports that reflect only changes, additions or deletions to previously reported items. This will cut down the workload considerably for distributors, in that they must currently file a complete report every month.

The rule change is necessary in order to cut down the amount of paperwork that a distributor must file every month with the Board. The change is also necessary in order to allow the distributors to make sales of gambling equipment immediately after the Board has approved the equipment, in keeping with statutory changes. The rule is reasonable because it serves to ease the burden on the licensee, while it does not diminish the Board's authority to obtain information on distributor product prices.

The total impact of this rule change on small business distributors will be to remove the burden of filing comprehensive and repetitive monthly pricing reports every month. It will also allow the distributors to sell approved gambling equipment more quickly, and to file amended pricing reports which will enable them to sell previously approved equipment at any time during a month.

**M.R. 7863.0020, Subp. 4(D), Records and Reports Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.162, subd. 2 (1994).

Existing language in this item is being deleted, inasmuch as the requirements are now covered in item C(2) of this rule. Deletion of the existing language is necessary because it is redundant to the new language in item C(2). The change is reasonable in order that the rule retain clarity and not cause confusion.

**M.R. 7863.0020, Subp. 4(D), Records and Reports Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) and subd. 4(a)(17) (1994).

This is a new item, and pertains to records and reports required for the sale of permanent gambling equipment. Because previously discussed rule amendments now differentiate between disposable and permanent gambling equipment, it is necessary to promulgate a rule dealing with the reporting requirements for permanent gambling equipment. This item will require the distributor to provide certain information to the Board regarding the sale of permanent gambling equipment. Subitems (1) through (6) specify the information that must be submitted to the Board.

The rule is necessary in order for the Board to perpetually track all permanent gambling equipment in the state. The rule works in tandem with Subpart 3(C)(1) of this rule, which prohibits the distributor from transferring, furnishing, or providing permanent gambling equipment unless a permanent registration stamp has been affixed to the equipment.



The rule is reasonable because permanent gambling equipment needs to be tracked, similar to the requirements for tracking disposable gambling equipment. It is also reasonable because it uses the same format as the required reporting for disposable gambling equipment.

The impact of this rule on small business distributors will be minimal. Distributors already notify the Board of sales of permanent gambling equipment. The Board elected to put the requirement into rule format, to serve as an educational and informational tool for newly licensed distributors, and to provide a formal mechanism for reporting the sales of permanent gambling equipment to the Board.

**M.R. 7863.0020, Subpart 4(E) Records And Reports Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 394.151, subd. 4(a)(5) and subd. 4(a)(17) (1994), and M.S. 349.151, subd. 4(a)(16)(1994).

This is a new rule being proposed by the Board, which will require distributors to file "returned equipment reports" with the Board on a monthly basis. Item (1), subitems (a) through (f) of the rule outline what the report must contain with respect to the various types of gambling equipment being returned. Item (2) of the rule establishes time parameters for the filing of the report.

The rule is necessary inasmuch as the Board proposes to, by rule, establish a mechanism for the return of gambling equipment among organizations, distributors, and manufacturers. The Board believes it is necessary to be aware of all returned product in order to identify possible patterns, or problems that could necessitate a broader investigation or mandatory recall of product. The rule will establish a central repository (the Board) for all information on returned products which, again, will aid in identifying problems that may go beyond a random occurrence.

The rule is reasonable in that the report need not be complex, the distributor will not have to file the report if it has accepted no returns during the previous month, and it will serve to enhance the Board's ability to monitor product quality throughout the state.

There will be a minor impact on small business distributorships, because it will require the filing of another report. The Board reviewed the situation in light of its ramifications on small businesses, and concluded that it could not exempt small businesses from this requirement. Again, the impact will be matter of taking the time to prepare and file the report.

**M.R. 7863.0020, Subp. 4(F), Records and Reports Required:**

Statutory authority for the Board to adopt the rule is found at M.S. 349.191, subd. 1(a) (1994).

Extensive modification to this rule is necessary as a result of changes made during the 1994 legislative session. In item (1) the Board has opted to delete the requirement for the notification to be accomplished by registered mail, and instead has substituted the language "in writing". Pursuant to M.S. 349.191, subd. 1(a) (1994), a distributor must now notify the Board in writing if an organization has not paid for gambling equipment within 30 days of shipment of the equipment. Subitems (a) through (d) specify what must be included in the notice to the Board. The Board will then notify all licensed distributors that all future sales to the subject organization must be on a "cash only" basis. The Board has also determined that "cash" means a check drawn on the organization's gambling account. Organizations are not

allowed to pay for their gambling equipment through any mechanism other than a check from their gambling account. Pursuant to item (2), the Board will notify the organization to eliminate the delinquency if one exists. Item (3) requires the distributor to notify the Board if it still has not received payment from the delinquent organization within sixty days of the notice provided in item (1), and the Board must then notify all distributors that further sales to the delinquent organization are not permitted on any basis. Item (3) also expressly prohibits the sale of any gambling equipment to a delinquent organization in violation of items (1) and (2) of the rule until the Board has authorized the sale. Under item (5), the Board will notify all distributors when the delinquency has been paid.

The rule amendment is necessary in order for the Board's rules to remain consistent with the statute. The rule is also necessary in order to monitor organizations' activities in regard to purchasing on credit, and to protect distributors from organizations who may "jump" from one distributor to another and then quit gambling owing large debts to several distributors. The Board believes it is necessary to closely monitor credit activities of its licensed organizations, in order to ward off potential problems and to be made aware of possible irregularities with an organization's gambling operation. The previous requirement for the notification to be made by registered mail was costly. Thus, eliminating this requirement will ease the regulatory burden on distributors.

The amendments are reasonable because the requirement for notification of delinquent organizations is similar to the requirement in existing rule. The timeframes for notification have changed, and the rule has more specific language regarding dealing with delinquencies. The rule is reasonable because it enhances the Board's ability to effectively oversee and regulate the lawful gambling industry in Minnesota.

The rule will have very little impact on small business distributors, inasmuch as a similar delinquency reporting system now exists in present rule.

#### **M.R. 7863.0020, Subp. 4(I), Records and Reports Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subd. (8) (1994).

The Board proposes a new item I. for this subpart, which will require a licensed distributor to disclose to the board within thirty days if an administrative or criminal complaint has been sustained against it in another jurisdiction. The Board believes that this rule is necessary in order to remain fully aware of licensed distributors' activities in other states, and determine how those activities would affect the status of its license in Minnesota. For instance, if a distributor were found guilty of fraud or another crime in another state, the Board believes it is necessary to have that information in order to make more informed decisions regarding that distributor's licensure in Minnesota. The rule is also necessary in order to make the Board's rules consistent with new requirements passed by the 1994 Legislature. Authority to require this information was specifically granted to the Board in M.S. 349.155, subd. 4(6) (1994). The rule is reasonable because it is mandated by statute. It does not require them to report charges or indictments, but only to report when such a complaint has been fully adjudicated and sustained. The rule is reasonable because the Board, in order to fully protect the integrity of the lawful gambling industry in Minnesota, needs to know if a distributor has been the subject of discipline in another state. The new rule is also reasonable in that it fully integrates the Board's rules with statutory requirements

There will be a minor impact on small business distributorships, in that they will be required to notify the Board of the actions referred to in the rule. Again the requirement is for notification only, and should have relatively little impact.

## LICENSED MANUFACTURERS

### **M.R. 7864.0010, Subp. 2, License Required:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.163, subd. 1 (1994).

The Board is proposing to amend this subpart to state that it pertains only to the manufacturer's activities in Minnesota. Current rule language is very broad, and could be interpreted to mean that the Board is regulating manufacturers in other states or jurisdictions. The word "person" is also being changed to "licensed manufacturer". While "licensed manufacturer" may fit within the statutory definition of "person", the term "person" used alone could be interpreted to mean a wide range of other corporations or individuals outside the lawful gambling industry. Another change being made is substituting "valid" for "having obtained" in regard to the status of the license. Again, current rule language could be interpreted to mean that, at some point in time the manufacturer had obtained a license. The words "or otherwise furnish" are also being included to allow for instances other than "sale" when a manufacturer might furnish gambling equipment for use in Minnesota. Such an instance might be furnishing a gambling device to the Board for approval or inspection.

The rule changes are necessary in order to tighten up existing language, insure that the licensing requirements pertain only to a manufacturer's activities in Minnesota, and to make sure that manufacturers have, at all times, a valid license when conducting business in Minnesota.

The changes are reasonable because they represent no undue regulatory burden for the manufacturer, they add clarity to the rule, and remove the possibility for misinterpretation of what was originally intended by the Board.

There will be no impact upon small business as a result of this rule.

### **M.R. 7864.0010, Subp. 3, Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994), and M.S. 349.155 (1994).

The Board proposes to add a prefacing sentence to this subpart to further define the terms "Director", "Officer", and "Other person in a supervisory or management position". Current rule language prohibits the issuance of a license to an applicant who may have employees or persons in those job classifications who do not meet qualifications listed in the rule. Past experience with the rule indicates that the existing language has created confusion on the part of the applicant, and actually raised more questions than it answered. Key individuals have sometimes been inadvertently omitted from the licensing process because their specific titles did not "fit" within the categories established by rule. Conversely, the Board has also at times received documentation on individuals who, while supervisors or managers, were not connected with the manufacturer's lawful gambling operation.

The rule is necessary in order to provide the license applicant with more complete information when filling out a license application. It is necessary to let the manufacturer know which employees and directors will need to fill out personnel forms, as required by M.R. 7864.0010, subpart 7. The amendment is necessary in order to provide specific information, in rule form, relative to the requirements.

The rule is reasonable because it will result in fewer incomplete applications being submitted, (i.e., insufficient number of personnel forms filed with the application), and will also result in fewer telephone communications between the applicant and the Board in the course of preparing the application. The rule is reasonable because it imposes no undue hardship on the applicant, and will make the rule easier to understand.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 3(C)(2), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155 (1994).

The Board is proposing to make a minor technical change to the rule, changing "crime" to "criminal violation". This will make the language consistent with statutory language for the licensing of distributors, organizations, and gambling managers.

The rule change is necessary in order to provide consistency throughout the Board's rules. The rule change is reasonable because it does not change the meaning of the rule, and has no impact on the license applicant.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 3(C)(3), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155 (1994).

The Board proposes to make a minor technical correction, inserting the word "making", to insure that the rule is consistent with statute. The change is necessary in order to make the rule conform to the statutory language. The rule is reasonable because the meaning is not changed, and no additional burdens are placed on the applicant.

There will be no impact upon small business as a result of this change.

**M.R. 7864.0020, Subp. 3(D), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, Subd. 3(a)(3) (1994) and M.S. 349.155 (1994).

It is being proposed to include the words "or connected with" to this mandatory disqualification on connections to illegal gambling. The change is necessary to make sure that the rule language is consistent with statutory language. The change is reasonable, because it imposes no undue or additional burdens on the applicant, and serves as an aid in preserving the integrity of lawful gambling in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 3(E), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155.

The Board proposes a change to this item to reflect that the taxes referred to are "state" taxes. The present rule refers only to "taxes", and it may be interpreted that the meaning extends to other states and jurisdictions outside of Minnesota.

The rule change is necessary as a matter of clarity, in that the Board has no jurisdiction outside of Minnesota. The rule is reasonable because it serves to better inform the manufacturers what taxes are being referred to. The rule is also reasonable because it makes the rule clearer and more understandable to the reader.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 3(G), Qualifications:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subd. 3 (1994), and M.S. 349.151, subd. 4(a)(2) (1994).

The Board is proposing to delete existing language (as a result of a statutory change), and to add new language to the rule which would deny manufacturers licenses to applicants who have not, after demand, filed tax returns required by the Department of Revenue. The rule incorporates new statutory language making it clear that this mandatory disqualification also pertains to affiliates, or direct or indirect holders of more than a 5% financial interest in the application. Including this requirement in rule form is a means of more clearly informing the license applicant of entities that the prohibition pertains to.

The rule is necessary in order to insure that the rule is consistent with statute, and to require licensed manufacturers make timely filings of tax returns. The rule is reasonable because it places no new or undue burdens on the applicant, and aids in maintaining the integrity of lawful gambling in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 4, Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155 (1994), M.A. 349.151, subd. 13 (1994), and M.S. 349.151, subd. 4(a)(17) (1994).

The Board is proposing to include new language at the beginning of the subpart to make it clear that the restrictions listed in this part apply only to a manufacturer's activities within the state of Minnesota, or while it is doing business with licensed distributors authorized to sell gambling equipment in Minnesota. The new language also encompasses representatives, agents, affiliates, or employees of licensed manufacturers.

The rule change is necessary in order to make it clear that laws and rules governing manufacturers of gambling equipment apply only to lawful gambling activities in Minnesota. The Board has no jurisdiction over licensees' activities outside of Minnesota. It is also necessary to amend the language to include other individuals who may be associated with the manufacturer. The present rule might be interpreted to mean the corporate entity only, and not individuals working on behalf of the business. The new language will make it clear that individuals and/or employees are also governed by the rule.

The rule is reasonable because the Board has no jurisdiction outside of Minnesota, hence the clarifying language. It is also reasonable to ensure that the term "manufacturer", in this instance, refers not only to the corporate entity but also to individuals within the business.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 4(A), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.163, subd. 3 (1994).

It is being proposed to amend item A. of this rule to include the words "or entity". It is a clarification change which more clearly states who manufacturers may sell gambling equipment to. The rule change is necessary because it clearly notifies the licensee as to who they may sell gambling equipment to. The rule change is reasonable because it imposes no additional burdens on the licensee, and will serve to protect the licensee from making an inappropriate sale of gambling equipment.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subd. 4(B), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.163, subd. 3 (1994).

The Board proposes to add language to this item by inserting "unique" " prior to "serial number", and outlining the parameters for the length of the serial number. The reference to the length of the serial number is consistent with other rules of the Board, and it is logical to include the same language in this item in order to provide continuity throughout the entire rule. It is necessary to have this prohibition against repeating numbers for a three year period in order to comply with requirements of the Commissioner of Revenue, and to allow the Board to track the movement of gambling equipment within the state.

The rule amendment is reasonable because manufacturers have the technical ability to avoid repeating serial for a 3-1/2 year period, and some have been doing so for the past several years. The amendment is reasonable because the prohibition does not last beyond the 3-1/2 year period. It is also reasonable to facilitate the tracking of gambling equipment in Minnesota, and to assist the Commissioner of Revenue in its accumulation of data relative to the types and names of games that each manufacturer sells in Minnesota. The 3-1/2 year period is necessary and reasonable because it is the commonly used accounting period found elsewhere in the Board's rules and in the lawful gambling statutes pertaining to requirements for retaining and storing records.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subpart 4(D), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.151, subd. 13 (1994).

This item has been amended to prohibit licensed manufacturers, or individuals employed by or associated with that manufacturer who may also be members of charitable organizations, from participating in that organization's purchase of gambling equipment, or otherwise influencing the purchase of gambling equipment for that organization.

The rule is necessary and reasonable in order to avoid a conflict of interest situation between an individual and an organization to which that individual may belong. By removing the ability to participate in purchasing for an organization, the individual retains the right to

belong to the organization. The only other alternative is to prohibit membership in charitable organizations entirely, which the Board did not want to do.

The rule is reasonable because and it allows for individuals employed by the manufacturer to be members of charitable organizations. The rule is also reasonable because public perception of a conflict of interest is avoided.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 4(G), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.162, subd. 5(b) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.151, subd. 4(a)(17) (1994).

Statutory changes made by the 1994 legislature will now permit licensed manufacturers to have storage facilities in Minnesota. Both approved and unapproved gambling equipment may be stored at these facilities. The Board believes this new item, which will prohibit the manufacturers from leasing or renting the storage space from other licensees of the Board, is appropriate to avoid conflict of interest situations from arising.

The rule is necessary in order to insure that "conflict of interest" situations do not arise if a licensed organization, distributor, or employee of either, leased or rented storage space to a manufacturer. The rule is also necessary from a public perception point of view. There needs to a clear separation of activities that licensed manufacturers, distributors, and organizations are permitted to engage in.

The rule is reasonable because there is no shortage of rental storage space within Minnesota, and the manufacturer will not be harmed if it is excluded from renting or leasing from other licensees of the Board. It is reasonable for the Board to promulgate a rule in this regard, to protect the public interest, and to take all steps possible to insure that integrity of the lawful gambling industry in Minnesota is maintained.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subd. 4(H), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.155 (1994)

The Board proposes to amend this rule by deleting "appointed official" and substituting "board employee or member of the board". Existing rule language is very broad, and actually means any appointed official. The existing rule would prohibit contributions to political parties, individuals running for elected office, attending fundraisers for candidates, etc. This was not the Board's intent when the rule was originally adopted. By making the language specific to Gambling Control Board members and employees, the rule will function as it was intended.

The rule change is necessary in order to give clear direction to the licensee with regard to compensation, gifts, gratuities, premiums, etc. The rule change is reasonable in that it makes the rule specific to the licensee's activities with regard to lawful gambling officials, employees, and Board members in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subd. 4(I), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.164m subd. 6((1) (1994).

This is a statutory item which prohibits licensed manufacturers from participating, either directly or indirectly, in the ownership or management of a bingo hall. The rule is necessary in order to prevent a conflict of interest that may arise from a licensed manufacturer also owning or participating in the ownership of a bingo hall in Minnesota. The bingo hall, or organizations leasing the hall, may be pressured to buy equipment solely from that manufacturer. The rule is reasonable because it serves to protect the public interest, and allow the Board to effectively regulate the lawful gambling industry in Minnesota. The rule is also reasonable because it places no undue burdens on the licensee

There will be no impact upon small business in Minnesota as a result of this rule.

**M.R. 7864.0010, Subd. 4(J), Restrictions:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.151, subd. 13 (1994).

The Board is proposing to add this new item to the rule to prohibit licensed manufacturers from leasing premises to an organization for the conduct of lawful gambling. Again, the Board sees this rule as necessary to prevent a potential conflict of interest situation between the manufacturer and the organization. The rule is reasonable because it serves to prevent a potential conflict of interest situation from arising. The rule is also reasonable because it increases the public confidence in lawful gambling in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.S. 7864.0010, Subp. 4(K), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.151, subd. 13 (1994).

This is a new item being proposed by the Board, and is intended to prohibit manufacturers from giving gifts or other things of value to a gambling organization in an amount exceeding \$25 per calendar year per organization. The issue is one of creating a "level playing field" for all manufacturers when dealing with organizations. Large manufacturers have the financial capability to provide plane fares and accommodations for organization personnel to visit their factories to assist in designing exclusive games, or for other promotional reasons. Smaller manufacturers cannot compete. When the large companies have a disparate marketing advantage over the small companies, the opportunity exists for the large company to exert influence over purchasing decisions that organizations make. If they are able to successfully exert this influence, the smaller manufacturing companies may be driven out of business resulting in only one or two large manufacturers left to sell product in Minnesota. If this were to occur, the remaining large companies would then be free to raise their prices indiscriminately to organizations, which in turn would result in fewer dollars being available for the charities that the organizations support. It is this type of situation that the Board is trying to prevent. The Board believes that, as part of its charge to protect the integrity of the lawful gambling industry in Minnesota, this rule will make a definite impact on protecting the smaller manufacturing firms, as well as the organizations themselves, from potentially damaging behavior on the part of the larger companies.



The rule does allow, however, for a manufacturer (or employee, etc.) to make contributions of \$250 or less or participate in fundraising events for charitable organizations, provided that the contribution or fundraising event is unrelated to the organization's lawful gambling operations. The Board did not wish to preclude contributions in general to organizations, or prohibit employees from participating in 10K runs, etc., for charities. The Board believes that the \$250 cap per calendar year is fair and reasonable.

The rule is necessary in order to insure that all licensed manufacturers operate within identical parameters established by the Board. It is necessary to allow the Board to accomplish its mission of protecting the integrity of lawful gambling in the state. The rule is also necessary in order to protect organizations from inflated prices which may result.

The rule is reasonable in that it creates identical conditions under which all licensed manufacturers must operate in Minnesota. It causes no undue hardship to the larger manufacturers, while insuring that the smaller manufacturers can remain competitive in the industry. It is also reasonable in that the Board recognizes that companies and individuals may wish to contribute to charities or participate in certain events, and this rule will allow for that activity.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 4(L), Restrictions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), M.S. 349.151, subd. 13 (1994), and M.S. 349.211 (1994).

This is a new rule being proposed by the Board, to prevent manufacturers from providing merchandise prizes, as part of the sale of a game, to licensed, exempt or excluded organizations. The rule will prevent possible unfair marketing situations between large and small manufacturers, and will discourage possible conflict of interest situations from developing. The premise behind the rule is not unlike that of item (K) discussed above. Larger manufacturers may be able to substantially discount the price of a particular game if it is tied to the purchase of an accompanying merchandise prize. Organizations are required to accurately post the value of any merchandise prizes that players could win in a game. What could possibly occur is that the organization could buy a "game/prize" combination, pay considerably less than the market value of the item for the prize, and still post the prize at the market value. This would be unfair to persons playing for the prize. In addition, this could result in inaccurate reporting on the value of prizes to the Commissioner of Revenue and the Board. It is important to point out, however, that this rule does not preclude the manufacturer from selling merchandise prizes. The manufacturer must, however, sell the prize separately from the game.

The rule is necessary in order to insure that merchandise prizes are valued correctly by the organization, and to prevent larger manufacturers from creating unfair marketing situations for smaller manufacturing companies. It is necessary to have identical operating conditions for all manufacturers licensed in Minnesota, and this rule will help to assure that.

The rule is reasonable because it ensures that all manufacturers operate under the same set of rules. The rule is also reasonable because it will aid the organizations in establishing correct market values for the merchandise prizes that they offer in conjunction with their games.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 5, Length of License:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 2(a)(4) (1994) and M.S. 349.163, subd. 2 (1994).

The Board plans to relocate this subpart in order to provide more continuity and logic to the rule. It is being relocated to subpart 12. The rule change is necessary in order for the rule to have a logical flow from beginning to end of the entire licensing process.

The rule change is reasonable because the subpart is not being deleted. It is merely being moved to another section of the rule. It will aid persons using the rules in quickly finding certain sections of the rule.

There will be no impact upon small business as a result of this technical change.

**M.R. 7864.0010, Subp. 6(A), Contents of Application:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

The Board is proposing a minor technical change to the rule, to substitute the word "telephone" for "phone". The change is necessary to use the correct term "telephone". The change is reasonable because it does not change the meaning of the rule, or detract from the effectiveness of the rule.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 6(B), Contents of Application:**

The statutory authority for the Board to adopt the rule is found at M.S. 349.151, subd. 4(a)(1) and 4(a)(5) (1994), M.S. 349.155, subd. 1 (1994), and M.S. 349.162, subd. 5(b) (1994).

This is a new item, and relates to changes made by the 1994 Legislature. Inasmuch as the manufacturers are now permitted to have storage facilities in Minnesota, the Board needs to know the location of those facilities. From time to time the Board, or the Commissioner of Revenue, will conduct inspections of inventory to insure that the licensee is operating within all applicable laws and rules.

The rule is necessary in order to require the manufacturer to provide the Board with the requisite information on storage facilities at the time it files its application. The rule is reasonable because it aids in insuring the integrity of lawful gambling in Minnesota, and it enhances the Board's efficiency in conducting inspections and coordinating visits to registered storage sites in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 6(D), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.12, subd. 30 (1994) and M.S. 349.155 (1994).

The statutory definition of "person" was amended by the 1994 Legislature to include limited liability companies. The Board believes that it is wise to include a reference to limited

liability companies in this rule, as a means of informing the applicant that entities of that nature are now encompassed in the licensing rules of the Board. The rule change is necessary in order to insure that the Board's rules are consistent with all applicable statutes, and as a vehicle for informing license applicants of the parameters of the licensing rules. The rule change is reasonable because it imposes no new or undue burden on the applicant, and is intended to serve as an informational tool.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 6(E), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, Subd. 3 (1994) and M.S. 349.151, subd. 4(a)(5) (1994).

This is a new item being proposed by the Board, and will work in conjunction with new legislation passed in 1994. The rule will require the applicant to provide a list of persons or entities with 5% or more direct or indirect financial interest in the applicant. The issue for the Board is one of knowing the true and correct identity of the individuals who actually own the manufacturing company. Persons with a 5% or more financial interest in an applicant would certainly have some impact on management and marketing decisions made by the company, and would therefore have the ability to influence the licensee's decision-making processes.

The rule is necessary in order to carry forward the statutory mandate into rule format. It is necessary for the Board to ascertain the true and correct identity of the applicant before issuing or denying a manufacturer's license application. It is necessary to protect the integrity of the industry as a whole in Minnesota, and to insure that the Board will have access to all relevant data.

The rule is reasonable because it will not add to the regulatory burden on the licensee in any great fashion. It is possible, however, that additional persons or entities will need to be identified in the application documents. The rule is also reasonable because it may serve to assist the manufacturer from having a license suspended or revoked at some future time if it is determined that an individual with a felony conviction, or other disqualification, actually participates in the ownership of the company.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 6(G), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

The Board proposes to make a minor change in the language of this item to make it more clear who must be identified in the application for license. Existing language is somewhat ambiguous and confusing, and tends to generate many questions from license applicants. The rule change is necessary in order to make the rule easier to understand, and more user-friendly to those applicants reviewing the rules. The rule change is reasonable because it does not change the basic meaning of the rule; it merely explains in a better fashion who must be identified in the licensing process.

There will be no impact on small business as a result of this rule.

**M.S. 7864.0010, Subp. 6(J), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

Again, this is new item being proposed by the Board. It will aid the Board in determining the applicant's fitness for licensure, by allowing the Board to check with other states and jurisdictions where the applicant is currently licensed. Investigation is needed to determine whether the manufacturer has had regulatory problems in other states or jurisdictions, or has had quality control problems with the manufacture of its gambling equipment.

The rule is necessary in order for the Board to fully determine the applicant's fitness to hold a manufacturer's license. The rule is also necessary to insure that manufacturer license applicants with a history of problems in other states or jurisdictions are thoroughly reviewed by the Board during the licensing process.

The rule is reasonable because it has been applied successfully in other areas of state government, i.e., the Racing Commission, and because it will serve to insure the integrity of the lawful gambling industry, and enhance the Board's efficiency in processing license applications.

There will be no impact on small business as a result of this rule.

**M.S. 7864.0010, Subp. 6(K), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

This new item is identical to a proposed new rule in M.R. 7863.0010. The Board believes that the rule is necessary in order to accurately verify who the officers, directors, managers and employees of the applicant are, and whether the required personnel forms have been submitted for such individuals. The organizational chart will provide an aid to the Board in determining the completeness of the license application.

The rule is necessary in order to insure that the required individuals fill out personnel forms, so that the necessary background checks can be performed on those individuals. The rule is also necessary to provide an "at-a-glance" tool for the Board to use when reviewing the completeness of the application package.

The rule is reasonable because it does not impose any undue hardships on the applicants. Most manufacturing firms will already have organizational charts in place, and it will be a simple matter to include that along the application submittal. The rule is also reasonable because it provides an additional tool for the Board to use in determining the accuracy and completeness of the application.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 6(D), Contents of Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.155, subd. 4(a)(4)(1994) and M.S. 349.155, subd. 1 (1994).

The Board proposes to amend existing item I. of this rule and incorporate some of its language to serve as a new "stand-alone" last paragraph of the subpart. The change is really

technical in nature, in that the "additional information" referred to cannot be submitted as part of the contents of an application. The Board cannot know if additional information will be required until it has reviewed the initial submission from the applicant. The additional information that may be required would be used by the Board in reviewing and evaluating the merits of any particular license application.

The rule change is necessary in order to insure that the rule is technically sound, and to inform the applicants regarding who may request the additional information. The rule is reasonable because it does not change the meaning of the existing language, or make any infringements on the rights of the license applicant. Conversely, the new language will inform the applicant of who will have access to the information before the applicant submits it.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 7, Attachments to Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

Again, this rule is very similar to one being proposed in M.R. 7863.0010. Item (A) is being significantly reworked to provide clarity and consistency with other licensing requirements of the Board. Existing rule provides only a brief list of persons who are required to fill out and submit personnel forms to accompany the license application. Subitems (1) through (8) of the rule are new, and are accurate definitions of who must fill out personnel forms. Existing rule is very broad, and tends to generate many questions from license applicants during the course of preparing the application. Subitems (1) through (8) detail job categories that would typically require the submission of personnel forms and, in some instances, give representative job titles that would fit within those parameters. Subitem (8) will require any consultants that the manufacturer employs in the design or marketing of games to submit personnel forms, even though that individual may not be an employee of the applicant. A problem with the existing rule is that "job titles" usually vary from company to company, even though the actual work performed in those positions is similar.

The rule change is necessary in order to remove confusion, add clarity to the rule, and provide specific examples of who must submit personnel forms. The rule is necessary in order to streamline the application process for both the applicant and the Board, and to insure that the Board receives uniform information from all applicants.

The rule is reasonable because it serves to answer questions that have been raised by applicants in the course of completing their application. The rule is also reasonable because it enhances the Board's efficiency in processing license applications.

There will be no impact upon small business as a result of this rule.

**M.S. 7864.0010, Subp. 7(B), Attachments to Application:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 1 (1994).

This item prescribes the information that is required on the personnel form discussed in Subpart 7(A) above. Regarding subitems (1) and (2) in this subpart, the Board is proposing minor changes to insert the word "full" before name and address; and substituting the word "telephone" for "phone". Subitem (3) will require the submission of the individual's spouse's name, if married. In subitem (5) the word "information" is being deleted; in subitem (7) the

word "telephone" is being substituted for "phone" and the word "number" also included. Subitem (8) is new and requires the applicant to provide its Minnesota Tax Identification number, if applicable. Subitem (11) is being amended to include the word "number" after license, and to require the individual to supply names and addresses of any excluded organization that the individual may belong to. Subitem (13) is new, and will require the individual to sign a preprinted statement on the form regarding his or her qualifications for licensure, and an acknowledgment of the restrictions. Subitem (14) is being amended to require a notarized signature, and existing subitem (12) has been deleted as a "subitem" and included as a stand-alone last paragraph to the subpart. Technically, the information required in this paragraph cannot be required by the Board as part of the initial submission of the personnel form. The Board cannot know whether any additional information will be required until it has reviewed the initial submission. Subitem (14) will now require that the form itself be notarized, rather than submitting a separate notarized affidavit.

Many of these amendments are of a housekeeping nature, and are considered minor. The new requirement to provide the tax identification number is necessary in order to provide the Board with as much verifiable information as possible when considering the license application, and to ascertain whether the individual is in arrears to the Department of Revenue for past business taxes. The requirement for a notarized signature is necessary in order to eliminate additional paperwork in the form of a signed affidavit. Further, the language change regarding submittal of additional information is necessary to make it clear who may request such information, and serves to narrow the scope of what may be required.

These rule amendments are reasonable in that they are minor in nature, and serve to enhance the Board's ability to fully evaluate an applicant for a manufacturer's license.

The Board is proposing to remove existing item B. from this rule. The rule required personnel information forms to be accompanied by a notarized affidavit. Since the Board is proposing to adopt a rule to have the information forms themselves notarized by having the affidavit language incorporated into the personnel form, this will eliminate the need for a separate affidavit. The rule deletion is necessary in order to save the applicant an extra step in the process, and to avoid having excess paperwork to maintain and file. The rule is reasonable because it eases the burden on the applicant, while not interfering with the Board's ability to effectively evaluate an applicant for a manufacturer's license.

The Board is proposing to delete "or trademark" from item C. of the rule. This is confusing to the licensees, in that they tend to "trademark" their games, software, etc. By requiring the submission of the manufacturer's trademark, the manufacturer could interpret that to mean a copy of all trademarks on products, etc. This is not the Board's intent. After consideration by the Board, it was concluded that submission of the manufacturer's logo was sufficient for purposes of this rule.

The rule is necessary in order to remove confusion from the existing rule, which could result in unnecessary submissions on behalf of the manufacturer. The rule is reasonable because it makes it more understandable .

There will be no impact upon small business as a result of this rule being promulgated.

#### **M.R. 7864.0010, Subp. 8, Changes In Application Information:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994).

The new rule language will insure that the licensee is aware that personnel forms must be submitted for new hires during the term of the license period. Existing language could be interpreted to mean that the licensee did not have to file additional personnel forms until a renewal application was submitted. This is not the Board's intent, as the Board needs to be aware, on an ongoing basis, of who is working for the manufacturer.

The rule change is necessary in order to inform the licensee of the Board's intent and requirements. The rule is necessary in order for the Board to remain aware at all times of who is working for the licensee, inasmuch as key individuals within the company have the potential to exert great influence on the industry as a whole in Minnesota.

The rule is reasonable because it will ensure that the Board is aware of changes in the licensee's management structure at the time those changes occur. The rule is also reasonable because it will serve to protect the manufacturer from a possible license suspension or revocation by preventing an ineligible person from being employed in the first place. The rule is reasonable because it enhances the Board's ability to effectively regulate and oversee the manufacturers of lawful gambling equipment used in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0010, Subp. 9, License Fee:**

The Board's statutory authority to adopt the rule is found at M.S. 349.163, subd. 2 (1994).

The Board is proposing to remove all references to the actual license fee, which is set by the Legislature. Doing so will eliminate the need to revise and amend rules when the license fees are adjusted by the Legislature. The change is necessary in order to insure that the Board's rules remain in conformance with statute at all times. The rule change is reasonable because it will save time in amending the rule whenever a legislative change is made in the fee structure for manufacturers.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 10, Investigation:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subd. 2 (1994).

The Board is proposing to change the word "granting" to "issuing". The word granting seems to imply that the Board has indiscriminate authority in deciding whether or not an applicant is fit for licensure. This is not the case. The Board has established by rule, and the Legislature has established by statute, a very tight list of criteria that the applicant must satisfy in order to be licensed as a manufacturer. In M.R. 7864.0010, Subpart 11(A), the Board is required to issue a license if the criteria are met. While the change in language is not a major issue, it does serve to make the rule more consistent with other chapters of the Board's rules, and takes away the possible implication that the Board may decide licensing issues outside of the criteria established by law and rule. The last sentence of the rule is new, and is included as a result of statutory changes made by the Legislature in 1994. It should be noted, however, that any additional fees to be levied in connection with the background investigation will be levied by the Director of Gambling Enforcement, and not the Gambling Control Board. The Board has no authority to charge the additional fee, or to collect the funds. The reference to the actual costs being borne by the applicant are included in the rule as a means of informing the applicant of the possibility of additional charges.

The rule change is necessary in order to clean up questionable language in the existing rule, and to inform the applicant that actual additional costs associated with performing background investigations will be borne by the applicant. The rule is necessary in order that the applicant be fully informed regarding possible costs associated with the application.

The rule is reasonable because it does not impose a burden on the applicant. It is reasonable to expect the applicant to pay the cost of additional charges incurred as a result of an extensive background investigation, as anticipated by statute. It is not reasonable to expect that taxpayers will absorb the costs associated with issuance of a license, in that the license will directly benefit only the manufacturer involved, and not the taxpayers of Minnesota. The rule is also reasonable because it reiterates in rule form what the Legislature enacted, and it enhances the Board's ability to effectively and thoroughly conduct background investigations of applicants for a manufacturer's license.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 11, Issuance and Denial:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subs. 3 and 4 (1994).

This entire subpart is new and deals with the methods by which the Board will issue or deny an application for a manufacturer's license. Item (A) outlines the mechanism under which the Board is required to issue a license. Item (B) provides for the denial of a license application. Item (C) outlines in detail other reasons the Board may use in determining that a license application should be denied. The language in this item is a result of broader authority given to the Board by the 1994 Legislature. Essentially, this item will allow the Board to consider an applicant's past activities or criminal record, and whether or not the applicant would pose a threat to the public interest, or otherwise create or enhance the dangers of unfair, unsuitable, or illegal practices incidental to the conduct of lawful gambling in Minnesota. Item (D) outlines the procedure whereby an applicant whose license application has been denied can appeal that denial to the Board.

The new rule is necessary in order to fully inform the applicant of the conditions under which its license application will be approved or denied, and further outlines the applicant's remedies under the rule should its application be denied. It is identical to the rule being proposed in M.R. 7863.0010 for licensed distributors.

The rule is reasonable because it serves to inform the applicant of issuance, denial, and appeal processes. The rule is also reasonable because it establishes clear parameters for the Board to abide by when considering license applications. Further, the rule is reasonable because it enhances the Board's efficiency in regulating the issuance and denial of manufacturer's licenses in Minnesota. It also allows the Board to consider past evidence when considering the application, which will lead to enhanced integrity of lawful gambling in Minnesota.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0010, Subp. 12, Length of License:**

The Board's statutory authority to adopt the rule is found at M.S. 349.163, subd. 2 (1994).



This is not new language to the rule. In existing rule, this requirement appears as subpart 5. The language of the rule has not changed. It is being relocated to subpart 12 to provide for continuity in the rule itself, and to place it in a more logical place in the entire licensing process.

The rule change is necessary in order to provide continuity in the Board's rules, and to provide consistency with other similar chapters of rules promulgated by the Board. The rule is reasonable because it does not change the language of the existing rule, it merely moves the language to a more logical place within the rule.

This technical change to the rule will not impact small business.

**M.R. 7864.0010, Subp. 13, License Effective:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994).

The Board is proposing to add this new subpart to make it clear when a manufacturer's license is actually effective. The rule is necessary in order to clarify the matter for those applying for manufacturer's licenses, and to remove the potential for confusion over when a manufacturer may begin doing business in Minnesota. The rule is reasonable in that it serves to better inform the applicant regarding the effective dates of licenses.

The rule will have no impact on small business.

**M.R. 7864.0010, Subp. 14, License Renewal:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(2) (1994) and M.S. 349.155, subd. 4 (1994).

The Board proposes to add this new rule to outline the steps necessary to renew a manufacturer's license at the end of the term. As is the case with renewal of distributor's licenses, the Board is proposing that, on a one-time basis, a manufacturer's renewal license overlap with its existing license in order to insure that all following renewals expire on the last day of a month. Again, past practice of the Board had been to allow licensees existing licenses to continue in effect until the last day of a month, even though the official expiration date of the license may have been earlier in the month. The Legislative Auditor has informed the Board that it must collect all license fees. The Board has discussed the issue with industry representatives, and have been assured that the one-time occurrence of an overlapping license will not be a problem. In order for the proposed language in subpart 13 to function as intended, it is necessary that manufacturer licenses expire on the last day of a month.

The rule is necessary to remove confusion regarding renewal requirements, and to clearly spell out for the applicant what is required. The rule is reasonable in that the applicant has a right to expect clear procedures for license renewal, and it places no additional burdens on the licensee. The rule is also reasonable in that it has been discussed with industry representatives, it establishes a mechanism for the renewal of manufacturer licenses, and it allows for continuity in the Board's computerized license renewal systems. The Board considered charging a fee for the additional days between date of expiration of existing license and the effective date of the renewal, but decided against this inasmuch as it would be "imposing a fee" and creating an "additional licensing term", which the Board did not want to do. The Board also considered allowing renewals to become effective the day following expiration of the applicant's existing license. However, the Board's computerized license

renewal system is incompatible with this approach, and the manufacturers have indicated that they would all like to have uniformity in expiration and effective dates of licenses.

There will be no impact upon small business as a result of this rule.

### **MANUFACTURER OPERATIONS, ACCOUNTS, AND RECORDS**

#### **M.R. 7864.0030, Manufacturer Operations, Accounts, and Reports:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.151, subd. 4(a)(4) (1994).

The Board is proposing to repeal and rewrite all existing language in M.R. 7864.0020, and retitle the chapter as M.R. 7864.0030. The main reason for the repeal and rewrite is that many new subparts are being proposed, the existing subparts had to be extensively changed, and the logical order of the rule will flow more smoothly in the new format. For instance, Subpart (1) outlines the standards for manufacture of gambling equipment; Subpart (2) deals with the what the manufacturer must submit to the Board in order to have its gambling equipment approved for sale in Minnesota; Subpart (3) deals with the actual sale of gambling equipment in Minnesota; Subpart (4) deals with the storage of gambling equipment in Minnesota; Subpart (5) outlines a procedure for the return of defective equipment to the manufacturer; Subpart (6) deals with the recall procedures for defective gambling equipment; and Subpart (7) deals with records and reports required of manufacturers. The proposed new format of the rule is more logical, and will be easier for the licensees to follow when using the rules.

The repeal and rewrite is necessary in order to have a clear and concise rule that the licensees can easily understand. The change is reasonable, because the rules will be easier to follow, they will be consistent with other chapters of the Board's rules, and the new additions to the rule will allow the Board to more effectively regulate lawful gambling equipment in Minnesota.

There will be no impact upon small business as a result of this technical change.

#### **M.R. 7864.0030, Subp. 1(A), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subd. 6 (1994).

Item (A) of the proposed rule deals with the standards for manufacture of pull-tabs destined for sale and use in Minnesota. It is necessary to promulgate rules governing the manufacture of pull-tabs to insure that all pull-tabs offered for sale in Minnesota conform to statutory requirements, thereby protecting the organizations and, ultimately, the players who purchase the pull-tabs. The rule is reasonable because it outlines clearly and specifically for manufacturers the requirements it must use in its manufacturing and packaging processes to insure that its product will be approved for sale in Minnesota. The rule is also reasonable because the public has a right to expect that the pull-tabs they purchase have been manufactured in accordance with all applicable laws and rules in the state, and because manufacturers must know what standards they are expected to meet.

There will be no impact upon small business as a result of this rule.

#### **M.R. 7864.0030, Subp. 1(A)(1), Standard For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item requires that pull-tabs be manufactured so that winning numbers or symbols cannot be determined prior to opening the pull-tab, thereby establishing the protection requirements for construction of the pull-tab. The rule is necessary in order to insure that all pull-tabs are manufactured in accordance with standards established by rule. It is necessary to establish certain standards that manufacturers must adhere to in the manufacturing process in order to protect the public interest, to protect the organizations buying the pull-tabs for use in their lawful gambling operations, and to establish standards by which the Board can evaluate pull-tabs submitted for approval. It is also necessary to establish standards to insure uniformity among all pull-tab deals being offered for sale in Minnesota at lawful gambling sites.

The rule is reasonable because the manufacturers are presently able to construct pull-tabs with these safety mechanisms in place. The rule is reasonable because it will place no new constraints on the manufacturers, and it will protect the integrity of pull-tabs being sold in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(2), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

The subitem will require manufacturers to insure that winning pull-tabs are randomly placed throughout each deal of pull-tabs, and to assemble the deal in a manner that will prevent persons from being able to pick out winning pull-tabs. The rule is necessary to protect the public interest, to insure that pull-tab deals are assembled so that winners cannot be identified, and to establish the requirement in rule format for the manufacturer's use. The rule is necessary because random placement of winners is very basic to the integrity of the entire game of pull-tabs.

The rule is reasonable because manufacturers need to take precautions in the assembling of pull-tab deals, and to avoid establishing patterns of assembly that might facilitate the picking out of a winner by either a player, or a gambling employee who may be more familiar with pull-tabs in general. The rule is also reasonable because it establishes a standard whereby the Board can review and approve or deny the pull-tab deal, and it insures uniformity among all pull-tab deals shipped to Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(3), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item deals with the minimum amount of information that must be printed on the individual pull-tab tickets within each deal. (a) will require the manufacturer to print its name or logo on each individual ticket in the deal. This is necessary in order for the purchaser to be certain that the pull-tab ticket he or she is purchasing was actually manufactured by the same company whose name or logo appears on the flare for that deal. When multiple deals from different manufacturers are in play simultaneously at one site, it can be difficult for the player

to be certain that the individual tickets match the flare. (b) will require that the name of the game appearing on the ticket match the name on the flare for that game. In addition to providing additional security and information for the purchaser, this is an accountability and tracking issue for the state. Slight differences in game names from the ticket to the flare can be difficult to deal with in performing audits and in conducting compliance reviews. Subitem (c) requires the manufacturer's form number. Subitem (d) requires that the price for each individual pull-tab be printed on each pull-tab ticket. Subitem (e) will require that the serial number used for the tickets in the deal not be repeated for a period of 3-1/2 years. This is necessary in order for the Board and the Department of Revenue to accurately track the movement of all pull-tab games within the state for the past three and one-half years. Subitem (f) will require each pull-tab ticket to state the number of winners in each tier, and identify the winning numbers or symbols as well as the prize amounts.

The rule is reasonable because the manufacturers currently possess the technical capability to include the required information on each individual pull-tab ticket. Indeed, most of the licensed manufacturers currently print the requested information on the pull-tab tickets. The rule is reasonable because it aids organizations in auditing the games and complying with the requirements of the Board and the Department of Revenue. The rule is reasonable because it increases player confidence in the pull-tab games being offered, thus benefiting the entire industry. The rule is also reasonable because it will assist organizations in verifying winners and reducing the chances of an errors being made by the organization when paying out winners.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(4), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

Again, this item deals with certain minimum technical standards for the design and construction of the pull-tab deal. For example, it establishes a minimum standard for the glue to be used in assembling the ticket. It also specifies that there must not be more than one serial number used in each deal, and that each ticket in that deal must bear the same serial number.

The rule is necessary in order to inform the manufacturer of minimum technical standards for the design and construction of the pull-tab deal and the individual tickets within that deal. It is necessary for the Board to establish minimum technical standards in order to safeguard the integrity of the game, and to prevent persons from being able to detect a winning ticket because of a manufacturing defect. The requirement that only one serial number appear in each deal, and that each ticket have the same serial number, is necessary in order for the Board and the Department of Revenue to account for all tickets in each deal, and to track pull-tab games sold in the state.

The rule is reasonable because this procedure is being used by manufacturers of pull-tab tickets at the present time. The rule is reasonable because it enhances the Board's ability to effectively account for pull-tab ticket sales in Minnesota (through the serial number requirement). The rule is also reasonable because it will increase player confidence in the game, and enhance the public perception of lawful gambling as a whole in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(5), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This subitem is, essentially, a game security issue. It governs the placement of symbols or numbers in the window section of the pull-tab, and allows the manufacturer some leeway in the placement of numbers or symbols to increase the security of the game.

This rule is necessary in order to prevent persons from being able to pick out winners prior to opening the pull-tab, and to allow the manufacturer to occasionally vary the placement of the numbers or symbols within the window, provided that once the pull-tab is opened the symbol or number is fully visible. The rule is necessary in order to protect the integrity of pull-tab games in Minnesota, and to establish this requirement by rule.

The rule is reasonable because it is a current practice among the manufacturers, and it will not cause any increased burden in terms of re-engineering equipment or design of the games. The rule is also reasonable in that it adds to the security of the pull-tab games offered for sale in Minnesota, and establishes in rule form a standard that all licensed manufacturers must adhere to.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(6), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

The purpose of this rule is to establish a certain standard for the manufacturing process for all pull-tab games offered for sale in Minnesota. This rule will insure that the manufacturer establishes quality control procedures of sufficient capacity to insure that winners cannot be picked out due to color or graphics variations, or cut edges of pull-tabs. The rule is intended to be all-encompassing and cover all quality control issues regarding the manufacture of pull-tabs.

The rule is necessary in order to insure that manufacturers have quality control procedures in place, and that all pull-tabs manufactured by that company will pass certain quality control standards and checks prior to being shipped into Minnesota. The rule is necessary in order to hold the manufacturer accountable for any quality control defects in pull-tab games that have been shipped to Minnesota.

The rule is reasonable because manufacturers should have quality control standards, and physically check their games against those standards, before the games are shipped. The rule is reasonable because it does not impose an undue burden on the manufacturer. It is also reasonable because it enhances the integrity of pull-tab games offered for sale in Minnesota, and establishes a method by which the Board can measure the quality of the pull-tabs being submitted by a manufacturer for consideration.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(7), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This rule will require that all winning pull-tabs use a unique symbol or other printed security device in the window. This rule will essentially protect the person purchasing and opening the pull-tab. It is essential that winning tickets look sufficiently different from all other tickets in the deal, so that players can easily discern winners from losers. Many times, pull-tabs are played in bars with less than optimum lighting standards. Winning tickets are sometimes inadvertently discarded by the player, who assumes it was a losing ticket because "it looked the same". A printed security device could consist of a line or bar drawn through the window of the winner, or the use of a different color in the winning window.

The rule is necessary in order to protect both the player and the organization. The player will lose money if he or she throws away a winner; the organization, while making money on the error, will not be able to account for all winners in the deal which may cause a discrepancy in the audit of the game. The rule is also necessary in order to assist the pull-tab sellers in more quick and accurate identification of winning pull-tabs.

The rule is reasonable because it is a current practice of manufacturers, it adds to player confidence in the game, protects the organization from auditing discrepancies, and, in general, enhances the integrity of the game.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(8), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5), (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This subitem will serve to protect the organizations against possible counterfeit winners. Once players know what a winner from a particular deal looks like, it may be tempting to try to turn losers into winners by altering the ticket.

The rule is necessary in order to protect the integrity of the game, and protect organizations against losses incurred from paying out on counterfeit tickets. In addition to resulting in a net loss for that particular game, the organization would also not be able to audit the game correctly to meet the requirements of the Department of Revenue.

The rule is reasonable because manufacturers are currently using this practice. It is not a burden to the manufacturer. The rule is reasonable because it will aid in insuring that organizations only pay actual winning tickets, and in satisfying their audit requirements with the Department of Revenue.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(A)(9), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5(a)(h) & 6 (1994).

This item will fully inform the manufacturer of the information required to be printed on the flare for each deal of pull-tabs. As with the individual tickets, the Board is requiring that the name or logo of the manufacturer appearing on the individual tickets for that deal, be on the flare. Item (b) will require that the name of the game appearing on the flare be identical to the name of the game on the individual pull-tabs in that deal. Item (c) will require the form number. Item (d) will require the total ticket count in the deal. Item (e) will require

the prize structure of the game. Item (f) will require the cost per play. Item (g) will require that the manufacturer affix a bar code and the MN geographic symbol to the flare, as required by M.S. 349.163, subd. 5(h) (1994). It also specifically prohibits the manufacturer from placing the Minnesota geographic boundary symbol on pull-tab deals that are shipped to distributors for use by an Indian Tribe. Item (h) requires that the serial number imprinted on the bar code be in letters at least 1/2" high, and that it be identical to the serial number appearing on the tickets for that deal. Item (i) requires that the MN geographic symbol be at least 1" x 1". Item (j) requires the manufacturer to print a message on the flare informing players that the game is not legal in Minnesota unless the serial number on the flare matches the serial number of the ticket purchased.

The rule is necessary to remove possible confusion on the part of players when multiple deals of pull-tabs are in play at one location. It is also necessary to allow for accurate accountability and matching of tickets to games for auditing purposes. The size requirements for the serial number and bar code are necessary in order to insure that players will easily be able to read the information on the flare. The rule is necessary in order to inform manufacturers of the information required on the flare, so that their product can be approved for shipment and sale in Minnesota, and to provide uniformity for players and regulators. Further, the rule is necessary because it aids in enhancing the integrity of pull-tab games in Minnesota, and allows the Board to more efficiently oversee pull-tab games in operation in Minnesota.

The rule is reasonable because many of the items are currently included on flares for pull-tab games. The rule is reasonable because it serves to inform players of the game specifics before they decide to purchase a pull-tab from that deal.

There will be no impact upon small businesses as a result of this rule.

#### **M.R. 7864.0030, Subp. 1(A)(10), Standards For the Manufacture of Pull-Tabs:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item specifies for manufacturers the requirements for packaging pull-tab deals for shipment to Minnesota. Some of the requirements are already common practice among the manufacturers. Item (a) will require that the manufacturer place an "extra" bar code in the deal for the organization to use in its reporting requirements to the Department of Revenue. Item (b) will require that the deal be packaged with a "warning" to the purchaser that the deal may have been tampered with if the "seal" of the game is not intact. Item (c) will require the manufacturer to clearly print the deal's serial number on the outside of the container. Item (d) will require the manufacturer to place the flare for the game on the outside of the box or container that the game is shipped in. Item (e) will require that the entire sealed deal be placed in shrinkwrap prior to shipment. This will prevent the flare from becoming detached from the deal during shipment, or altered. Item (f) will require the manufacture to place a message, inside the shrinkwrap but outside of the sealed deal, informing organizations that the pull-tabs inside must be removed and thoroughly mixed prior to being offered for sale to the public. Item (g) will require that the outside of the sealed deal bear the same bar code as the bar code affixed to the flare.

The rule is necessary in order to insure that manufacturers take proper care in packaging and shipping pull-tab deals to Minnesota. Any error in packaging or shipping could result in a distributor or organization receiving a defective pull-tab deal, or a deal that has been tampered with. The rule is necessary in order to establish and maintain consistency among all manufacturers in the packaging and shipment of pull-tab deals.

The rule is reasonable in that the requirements are not burdensome for the manufacturer, many of them are already being complied with voluntarily, and manufacturers all have the technical capability to comply with this item. The rule is also reasonable because it will protect distributors and organizations from receiving defective pull-tab deals, it will enhance the integrity of the game of pull-tabs in Minnesota, and will aid the Board in overseeing compliance with law and rule.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item deals with jar tickets. Jar tickets are, essentially, pull-tabs. They are commonly sold by organizations in "jars" --- hence the name jar tickets. Jar tickets are defined in statute as "gambling equipment" in M.S. 349.12, Subd. 8 (18). The technical name for a jar ticket is single-folded or banded ticket. Even though they bear many of the characteristics of pull-tab games, the Board believes that it is necessary to establish a separate item in the rule to set out the standards for the manufacture of jar tickets.

The rule is necessary in order to establish minimum standards for the manufacture of jar tickets, and to ensure that all jar tickets manufactured for sale in Minnesota meet the minimum standards established by law and rule.

The rule is reasonable because manufacturers need to know the requirements the Board has set forth in this area, which will enable them to submit jar tickets for evaluation prior to sale in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(1), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item is identical to the requirement set forth in M.R. 7864.0030, Subpart 1(A)(1) for the manufacture of pull-tabs, with the exception of additional language referring to "winning colors". Jar tickets may differ from pull-tabs in that winners may be identified solely by the use of a different color in the winning window. The logic is identical to the logic applied to the pull-tab rule, i.e., it is important that banded jar tickets be constructed in such a fashion that winners cannot be picked out by the naked eye, or by using an illuminating device.

The rule is necessary in that the Board cannot be less stringent in establishing manufacturing standards for jar tickets than for pull-tabs or other types of lawful gambling equipment permitted in Minnesota. It is necessary to establish standards for the manufacturer to adhere to in its manufacturing process, so that its equipment can be submitted and evaluated prior to sale in Minnesota.

The rule is reasonable because it manufacturers are currently operating under this procedure. It is reasonable because it safeguards the integrity of the game by preventing the



detection of winners prior to purchase by the player. The rule is also reasonable because it provides the Board a standard by which to measure, and approve or deny gambling equipment for sale in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(2), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

Again, this requirement is identical to that found in M.R. 7864.0030, Subpart 1(A)(2). It requires the manufacturer of jar tickets to assemble the deal in such a fashion that winners cannot be picked out, or that other manipulation of the deal cannot occur which would result in winners being picked out prior to opening.

The rule is necessary in order to insure the integrity of jar ticket games in Minnesota. It is necessary in order to provide standards for the manufacturer to abide by during the manufacturing process, and it is necessary in order to establish criteria for the Board to review equipment and subsequently approve or disapprove it for use in Minnesota.

The rule is reasonable because manufacturers are currently following this practice. It will not cause any additional manufacturing burdens or changes. It is reasonable to establish criteria for reviewing equipment, which will help to ensure that all manufacturers are held to the same standards for manufacture of jar tickets.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(3), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item outlines the information that the manufacturer must place on each jar ticket. Since jar tickets are much smaller than other pull-tabs, the amount of information that can be included on the ticket is much less. The Board believes it is important that the individual jar tickets in each deal bear the name or logo of the manufacturer. The Board also believes it is necessary to require that the serial number not be repeated for a period of 3-1/2 years. The 3-1/2 year period is consistent with other requirements that licensees retain record for 3-1/2 years.

The rule is necessary in order to provide a means for the organization to audit the game, and for the Board and the Department of Revenue to properly track all gambling equipment in the state. The rule is necessary in order to provide the player as much information as possible prior to purchasing a jar ticket. Again, the rule is also necessary in order to establish criteria by which the Board can approve or disapprove jar ticket games submitted for approval.

The rule is reasonable for the manufacturer because it establishes necessary criteria. The establishment of criteria will assure that all manufacturers are treated equally when submitting equipment for approval. The rule is reasonable because it will enhance the integrity of the game, allow the player to know that the game is legal, and allow the organization to accurately audit the game.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(4), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item is identical, except for the added word "colors", to the pull-tab rule being proposed in M.R. 7864.0030, Subpart 1(A)(4). It sets out the parameters by which jar tickets must be manufactured, and mandates that they must be manufactured in such a manner so as to prevent the determination of winning tickets. The rule also establishes minimum standards for the strength of the glue or staples to be used in the deal, and requires that each ticket in the deal bear the same serial number, with only one serial number being allowed in each deal.

The rule is necessary in order to establish criteria for the Board to use when reviewing games submitted for approval. The rule is also necessary to protect the integrity of jar ticket games in Minnesota, and to insure that all manufacturers make jar tickets according to the same standards.

The rule is reasonable because it manufacturers are already complying with this requirement. The rule is reasonable because it insures that all manufacturers will be treated equally, according to the established criteria, when they submit gambling equipment to Minnesota for approval. Also, the rule is reasonable because it assists in ensuring the integrity of the lawful gambling industry in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(5), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This rule is identical to the requirement found in the pull-tab rule, M.R. 7864.0030, Subpart 1(A)(5). It will insure that jar tickets are manufactured in such a manner that persons cannot isolate or otherwise pick out winners through variations in manufacturing processes. Again, this is a game security/quality control issue on the part of the Board.

The rule is necessary in order to insure the integrity of the game, to establish uniform standards for all manufacturers to adhere to, and provide criteria for the Board to use in reviewing jar ticket games.

The rule is reasonable because it aids in insuring the integrity of the game, and insures that the Board will treat all manufacturers equally when reviewing jar ticket games.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(6), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item is identical to the standards established for the manufacture of pull-tabs in M.R. 7864.0030, Subpart 1(A)(6). It is important to establish the same manufacturing

standards for jar tickets as for other pull-tab games manufactured for sale in Minnesota. This item will require the manufacturer to establish sufficient quality control procedures to insure that winners cannot be identified through variations in size, appearance of cut edges, or variations in printing graphics, colors, or serial numbers.

The rule is necessary to require the manufactures to establish quality control procedures that are sufficient to prevent detection of winning jar tickets through variations in the manufacturing process. The rule is necessary to establish minimum standards for quality control procedures, and to insure that all manufacturers adhere to the standards required by this rule. The rule is also necessary to insure that the integrity of jar ticket games is maintained, which will increase the public confidence in the game and enhance the integrity of the entire lawful gambling operation in the state.

The rule is necessary because it serves to notify the manufacturers that they must establish and maintain quality control procedures. It is reasonable because it provides a mechanism for the Board to approve or disapprove games, it insures that all manufacturers will be treated equally and fairly in the game approval process, and it establishes criteria for the Board to use when reviewing submitted games.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(7), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This item is identical to the standards established for the manufacture of pull-tabs in M.R. 7864.0030, Subp. 1(A)(7). It will require that the manufacturer place a unique symbol, or other printed security device, in the winning windows of all jar tickets offered for sale in Minnesota.

The rule is necessary in order to safeguard players who may inadvertently throw away winning tickets because they were unable to identify them as winners, which may also help organizations in auditing games after the deal has been removed from play. The rule is also necessary to help protect against organizations mistakenly paying out on losing tickets.

The rule is reasonable because it informs the manufacturers that security devices must be included in winning jar tickets. It also provides criteria for the Board to considering when reviewing jar ticket games for sale in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(8), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, Subds. 5 & 6 (1994).

This item outlines for manufacturers the information that must appear on the front of flares for banded jar ticket games. Subitems (a) through (i) of this rule are identical to the requirements found the in the pull-tab rule, M.R. 7864.0030, Subpart 1(A)(9). The word "colors" has been added to the subitems where appropriate, in order to allow winning windows of jar tickets to be of a different color than the other windows of the jar ticket game.

The rule is necessary in order to establish criteria for the Board to use when reviewing jar ticket game flares submitted for approval. It is necessary that the manufacturer to be fully aware of the information required on the flare. The information required on the flare is necessary in order for the persons purchasing banded jar tickets to know the specifics of that particular game before deciding to purchase a ticket. The rule is necessary to insure the general, overall integrity of jar ticket games in Minnesota.

The rule is reasonable because many of the items are already being complied with by the manufacturers. Manufacturers have the technical capability to include this information on the flare. The rule is reasonable because it establishes criteria by which the Board can review and approve or deny jar ticket games, and it insures that all manufacturers will be treated equally and fairly in the game approval process.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(B)(9), Standards For the Manufacture of Jar Tickets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This section of the proposed rule deals with requirements for packaging jar tickets intended for sale in Minnesota. Subitems (a) through (g) of the proposed rule deal specifically with the packaging requirements, and are similar (if not identical) to the packaging requirements for pull-tab deals. Again, most (if not all) of these requirements are in common use throughout the industry at this time. Promulgating rules to deal with the requirements will not be a hardship or burden on the manufacturer, since the practice is already in place. Item (a) will require that the manufacturer place an extra bar code in the deal, as the organization will need this when fulfilling reporting requirements to the Department of Revenue. Item (b) specifies that the deal must bear a message warning that the game may have been tampered with if the seal is broken. Items (c) and (d) require that the serial number be placed on the outside of the box and that the flare for the deal be visible from the outside of the container. It is necessary to place the flare inside the container to insure that the game and the flare do not become separated during shipment. Item (f) will require the outside of the package to bear a message indicating that the tickets for the game must be mixed prior to being offered for sale. Item (g) will require the manufacturer to affix a bar code to the outside of the container.

The rule is necessary in order to fully inform manufacturers of the minimum packaging requirements for the shipping of jar ticket games into Minnesota. The rule is both reasonable and necessary because it places no undue burden on the manufacturer, it is an aid in insuring the integrity of jar ticket games shipped into Minnesota, and to serves to protect distributors and organizations from receiving defective games, or games that may have been tampered with.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(C)(1), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.12, subd. 35 (1994), and M.S. 349.163, subds. 5 & 6 (1994).

Subitem (1) of the proposed rule deals with a legislative action in 1994 (M.S. 349.12, subd. 35) concerning multi-ply tickets. Tipboard games that use multi-ply tickets are, essentially, tipboard games using pull-tab tickets. The tipboard is the flare, and the multi-ply ticket is really a pull-tab. The new legislative language will result in many new types of

games being submitted for approval in Minnesota. Thus, it is necessary to promulgate rules governing the manufacture of games with multi-ply tickets. This subitem will refer the reader to the section of the rule dealing with standards for manufacture of pull-tabs. Inasmuch as the multi-ply ticket is a pull-tab, it makes sense to refer to the standards for the manufacture of pull-tabs, rather than repeating the entire rule in this section. The item is necessary in order to direct the user of the rules to the section where the manufacturing standards are discussed. The rule is reasonable because it provides direction for the reader on how to access information on manufacturing standards for games using multi-ply tickets. The rule is reasonable because it places no new burdens on the licensee, and serves as an informational tool.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 1(C)(2), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.12, subd. 35 (1994), and M.S. 349.163, subs. 5 & 6 (1994).

This subitem will refer the user to part 7864.0030, subpart 1(B), the standards for the manufacture of jar tickets. As discussed in the preceding item, this is another type of game that can occur when the tipboard serves as the flare, and the is essentially a pull-tab. Subpart 1(B) of this chapter outlines the manufacturing standards for jar tickets which, in this instance, may be used as part of a tipboard game.

The rule is necessary in order to refer readers and users of the rule to the appropriate section of the rule for information on manufacturing standards for jar tickets that may be used in conjunction with a tipboard flare. The rule is reasonable because it serves to fully inform manufacturers of the manufacturing standards for these newly-permitted types of games, and it imposes no new regulatory burden on the licensee.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(C)(3), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

Items (a) through (f) of this part set forth the minimum amount of information that must be printed on the front of a tipboard. The Board believes that the items outlined in the rule are necessary in order for the general public to be fully informed about each tipboard game before deciding whether or not to play that game. The value and number of prizes (including the seal prize and any consolation prizes), the total number of tickets, and cost per play is information that needs to be available to the public. To deny the public this information is not in the best interest of insuring the integrity of tipboards in Minnesota. These requirements also assist the Board in maintaining the integrity of lawful gambling in Minnesota, and assist the organization in fulfilling its reporting requirements to the Department of Revenue.

The rule is reasonable because it does not contain any new requirements that are not currently in place governing the manufacture of tipboards. It assists in maintaining public confidence in the integrity of the game.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 1(C)(4), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subd. 5 & 9 (1994).

This proposed rule will require manufacturers to insure that deals of tipboard tickets are manufactured, assembled, and packaged so that winners cannot be determined prior to opening by the person purchasing the ticket. The rule requires at a minimum that winners cannot be determined by manufacturing patterns, differences in assembly or packaging, or by different markings or using a light. The rule is necessary in order to insure that minimum threshold standards are in place to safeguard against winners being identified prior to opening. The rule is necessary in order to protect the general public who buy tipboard tickets, and to insure the integrity of the game in Minnesota.

The rule is reasonable because manufacturers are currently adhering to these standards. The rule is also reasonable because it serves to establish criteria whereby the Board can review tipboard tickets, and insures that all manufacturers will use the same minimum standards when manufacturing tipboard tickets.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 1(C)(5), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), M.S. 349.163, subd. 5(f) (1994), and M.S. 359.163, subs. 5 & 6 (1994).

This item will require the manufacturer to affix bar codes to the front of each tipboard that it ships to Minnesota. The bar code requirement is a result of action taken by the 1994 Legislature in M.S. 349.163, subd. 5(f) (1994). The rule will also require the manufacturer to imprint on the tipboard a Minnesota geographic boundary symbol, now required by M.S. 349.163, subd. 5(h) (1994). The rule also allows for manufacturers to ship tipboards bearing the bar code, but not the Minnesota geographic boundary symbol to distributors for sale to Indian Tribes.

Reiterating statutory requirements in rule form is necessary in this case in order to insure that the Board's rules are in conformance with statute, and to provide manufacturers with access to all information they need to manufacture product that will be approved for sale in Minnesota.

The rule is reasonable because it serves as an information tool for the licensees. The rule is reasonable in that it will enhance the Board's ability to effectively oversee lawful gambling in Minnesota, and to insure that only approved product is brought into Minnesota for sale.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(C)(6), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

The Board proposes to promulgate this rule to insure that the serial numbers on tipboard tickets are identical to the serial numbers appearing on the bar code affixed to that particular tipboard. It is necessary for the organization to audit tipboard games, and to match

the correct tickets to the correct tipboard. The rule will also require that the serial number on the bar code be at least one-half inch high. This is necessary in order to insure the serial number can be easily read by the public, and by undercover investigators who verify the legality of tipboard games being played in Minnesota.

The rule is reasonable because it does not cause any manufacturing hardships for the licensee. In fact, many of the licensed manufacturers are currently complying with the requirement. The rule is also reasonable because it insures that the Board's rules are in conformance with state law regarding serial number use. It is further reasonable to insure that licensed manufacturers are fully informed about rules governing the manufacture of tipboard tickets for sale in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 1(C)(7), Standards For the Manufacture of Tipboards:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), and M.S. 349.163, subs. 5 & 6 (1994).

This item will require the manufacture to place a message on tipboard flares informing the general public that, unless the Minnesota geographic symbol is present on the flare, and the serial number on the ticket matches the one on the flare, that the game is not legal in Minnesota. The rule is necessary in order to protect the organization from buying and playing unapproved games, and to protect the public from perhaps unknowingly participating in an unlawful game in Minnesota. The rule is reasonable because it helps to protect both the organization and the public. It is not an undue hardship for the manufacture to fulfill the requirement, and it tends to increase public confidence in the game.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0030, Subd. 1(D)(1), Standards For the Manufacture of Bingo Hard Cards, Paper Sheets, and Breakopen Bingo Paper Sheets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

This is a new rule being proposed by the Board to outline the requirements for the manufacture of bingo paper sheets, hard cards, and breakopen bingo paper sheets. It is necessary to establish the requirements in rule form because, while the requirements may seem basic, the rule is designed to prevent "hybrid" or specialty types of bingo from being introduced in Minnesota. For instance, without this rule, a manufacture could produce a bingo card or sheet that substituted a different word for "BINGO", thus completely changing the structure of the game to suit an individual promotional or marketing purpose of a specific charity, or even allowing other forms of gambling, such as Keno.

The rule is reasonable because it serves to inform the manufacturers that no departure from the accepted definition of a bingo game is permitted, thus preserving the integrity of the game in Minnesota, and the public confidence in lawful bingo in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(D)(2), Standards For the Manufacture of Bingo Hard Cards, Paper Sheets, and Breakopen Bingo Paper Sheets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

This rule will require that bingo cards and sheets may not have repeating numbers on the same bingo face. If repeating numbers were allowed on the same bingo face, the potential for tampering with the outcome of a game would be very high, and bingo games could be "won" after calling five or six numbers. The rule is necessary in order to insure that all bingo sheets and cards manufactured for sale in Minnesota conform to the same standards, and to remove any possibility for manipulation of a bingo game. The rule is reasonable because it does not cause any undue hardship on the manufacturer, it protects the organization and the players, and adds confidence to the game in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(D)(3), Standards For the Manufacture of Bingo Hard Cards, Bingo Paper Sheets, and Breakopen Bingo Paper Sheets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

The board proposes to promulgate this rule to ensure that each bingo paper sheet used in Minnesota has its serial number and face number imprinted on the face. This is a tracking and audit issue for the organization and the state. It is necessary to promulgate the rule in order to track the movement of bingo paper in Minnesota from the manufacturer to the distributor to the organization.

The rule is reasonable because the manufacturers have the technical capability of placing the serial number on the face, and are already currently doing so in many instances. The rule is reasonable because it enhances the Board's ability to track the value of bingo paper, and to accurately determine if the organization's accounting of bingo paper usage matches the amount of bingo paper sold to that organization by a distributor. The rule is reasonable because it is a valuable tool for use in overseeing the integrity of charitable bingo operations in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(D)(4), Standards For the Manufacture of Bingo Hard Cards, Bingo Paper Sheets, and Breakopen Bingo Paper Sheets:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 5 & 6 (1994).

This proposed rule deals with bingo cards and sheets that are not preprinted with the standard numbers, but are filled in by the players in accordance with posted house rules for that particular bingo game. The rule is necessary in order to allow for the different games of bingo that particular organizations may wish to conduct. The rule is reasonable, because the Board does not lose any of its oversight authority in regulating the game. It also allows the organization to play different games of bingo provided that house rules are posted covering the conduct of the game. The rule is reasonable because "blank" bingo sheets are currently being manufactured for use in Minnesota, the rule will cause no undue hardship for the manufacturer, while at the same time establishing certain parameters that the manufacturer must adhere to when printing blank bingo paper.

There will be no impact upon small business as a result of this rule.



**M.R. 7864.0030, Subp. 1(D)(5), Standards For the Manufacture of Bingo Hard Cards, Bingo Paper Sheets, and Breakopen Bingo Paper:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

With the effective date of this rule, licensed manufacturers will only be able to sell bingo paper sheet packets with the top sheet colored blue, except for paper sold to distributors for resale to an Indian Tribe. As discussed earlier in this statement, this is essentially the first step in the Board's goal of tracking the value of bingo paper. Distributor sales invoices must reflect the price at which the bingo paper sheet packets are sold to organizations. Organizations are required to sell the packets of bingo paper for the price stated on the distributor's invoice. When conducting compliance reviews or field audits, the Board can easily ascertain that all packets in the organization's inventory are "intact" with blue top sheets. This will prohibit the organization from "splitting" packets, removing sheets and selling them for separate prices, or otherwise manipulating the sale of bingo paper sheet packets in order to inaccurately report their sales of bingo paper packets.

The rule is necessary in order for the Board to take the first step toward a total accountability for the value of bingo paper coming into the state. The potential for large sums of money related to the sale of bingo paper to be unaccounted for is very high.

The rule is reasonable in that it will enhance the Board's ability to account for the monies taken in for the sale of bingo paper sheet packets. The rule is also reasonable because it will increase the security and integrity of charitable bingo conducted in Minnesota by gambling organizations.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(D)(6), Standards For the Manufacture of Bingo Hard Cards, Bingo Paper Sheets, and Breakopen Bingo Paper:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This proposed rule specifies requirements for manufacturing breakopen bingo paper. Breakopen bingo paper is essentially the same as other disposable bingo paper sheets, however, the entire sheet is sealed and the face is not visible until the player has purchased and opened the sheet. This rule will require that none of the 24 numbers on the face can be visible until the sheet is opened by the player, and it also requires that the numbers cannot otherwise be determined prior to opening the sheet.

The rule is necessary in order to preserve the integrity of breakopen bingo games, and to insure the randomness of bingo sheets available for sale at a breakopen bingo occasion. The Board adopted rules regulating breakopen bingo in late 1993, and this rule merely carries forward the manufacturing standards set forth in M.R. 7861.0070, Subp. 8, which governs the conduct of breakopen bingo. The rule is reasonable because it places no additional burdens on the manufacturer, and serves to include manufacturing standards for breakopen bingo paper sheets in the proper place within the Board's rules.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(E), Standards For the Manufacture of Bingo Ball Selection Devices:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This rule is being proposed in order to establish certain minimum standards for the manufacture of bingo ball selection devices. Organizations are required to use manual or electrical bingo ball selection devices in their conduct of bingo, in order to insure the randomness of each ball drawn during a bingo game. This rule is necessary in order to insure that the devices are manufactured in such a manner that random selection is insured, and so that the device cannot be manipulated or otherwise tampered with by the operator.

The rule will also require that the device be manufactured solely for the purpose of conducting a bingo game. This language realizes that, although the manufacturer has made every good faith effort to insure that the device cannot be used for other purposes, the manufacturer has no control over what others may attempt to use the device for. The words "manufactured solely" will serve to protect the manufacturer from possible repercussions, should an organization or individual succeed in using the device for purposes other than a bingo game, i.e., unlawful gambling activity. The requirement will insure that the manufacturer provide as many safeguards as possible to insure that the device cannot be used for other purposes.

The rule is necessary in order to insure that all bingo ball selection devices used in Minnesota conform to certain minimum standards, and that the board has a standard by which to formally approve or disapprove equipment submitted for approval. The rule is reasonable because it enhances the Board's ability to oversee and regulate charitable bingo in Minnesota. It is reasonable because it encourages the manufacturer to put in place quality control standards for the manufacture of its devices.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(F), Standards For the Manufacture of Paddlewheels Intended For Use Without A Paddlewheel Table:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subds. 6 & 6(a) (1994).

Items (1) through (4) of this rule outline the specifics for manufacturing paddlewheels that are used without paddlewheel tables in Minnesota. Minnesota currently permits two types of paddlewheels --- those used with and without paddlewheel tables. Paddlewheels used with tables may use paddlewheel chips, whereas those that do not use tables are prohibited from using paddlewheel chips in the play of the wheel. The rule is necessary in order to inform manufacturers of the minimum standards that must be adhered to when manufacturing paddlewheels that are intended for use without a table. The rule is also necessary in order to establish criteria for the Board to use when examining paddlewheels that have been submitted for approval.

The rule is reasonable because it helps to insure that all paddlewheels used without tables in Minnesota conform to the same standards, and will insure continuity among the organizations using paddlewheels in Minnesota. The rule is reasonable because manufacturers are able to manufacture paddlewheels to the proposed specifications. The rule is also reasonable because it provides basic minimum standards for the manufacturer to adhere to when manufacturing this equipment for use in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(G), Standards For the Manufacture of Paddlewheels Intended To Be Used With Paddlewheel Tables and Paddlewheel Chips.**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subs. 6 & 6(a) (1994).

This item sets forth the minimum manufacturing standards for paddlewheels that are intended to be used with paddlewheel tables and chips in Minnesota. There are seventeen subitems to the rule, which set forth in detail the requirements for manufacture of the paddlewheels. Paddlewheels that are designed to be used with tables and chips are more complex than the simpler paddlewheels, therefore, it is necessary to expand the minimum requirements in this rule. For instance, subitem (16) specifies that the table must have double or triple locking boxes to accommodate cash that players deposit for the purchase of chips used in play of the game.

The rule is necessary in order for manufacturers of paddlewheels and paddlewheel tables to be informed regarding the minimum standards for manufacture of the equipment. The rule is necessary in order to insure conformity among all paddlewheels of this nature used in Minnesota, and to effectively prohibit the potential for affecting the outcome of a paddlewheel game through a difference in the manufacture or design of the table or wheel. The rule is reasonable in that it establishes criteria for the Board to use when examining this equipment prior to approval, and it enhances the Board's ability to effectively regulate this game in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 1(H), Standards For the Manufacture of Paddletickets.**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994), and M.S. 349.163, subd. 8 (1994).

Subitems (1) through (6) of the proposed rule establish manufacturing standards for paddletickets, which are used in the game of paddlewheels in Minnesota. Subitem (5) deals specifically with new statutory requirements adopted by the 1994 legislature concerning paddletickets (M.S. 349.163, subd. 8 (1994)). The other subitems contain certain minimum manufacturing standards that the Board believes are necessary to insure the integrity of paddlewheel games in Minnesota. For example, subitem (6) outlines the information that the manufacturer must include on the flare for the game, subitem (3) requires that the numbers on a paddleticket cannot be duplicated on another paddleticket from the same card, and subitem (1) specifies certain information which must appear on the paddleticket.

The rule is necessary in order to adequately protect the players who participate in paddlewheel game in Minnesota, as well as protecting the organizations conducting the game. The rule is necessary in order to establish minimum standards to use when reviewing paddletickets submitted to the Board. The rule is necessary in order for manufacturers to be fully informed about the requirements for printing and manufacturing paddletickets coming in to Minnesota.

The rule is reasonable because it will hold the Board to the same criteria for all manufacturers when considering paddletickets that have been submitted for approval. The manufacturers are currently complying with these requirements, so no additional re-tooling or

re-engineering of production lines will be required, and no increased financial burden will be placed on the manufacturer. The rule is also reasonable because it enhances the Board's ability to effectively regulate paddlewheel games in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 2, Prior Approval of Gambling Equipment Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This subpart provides information to the manufacturer relative to the submittal of gambling equipment prior to sale in Minnesota. The rule will require that the manufacturer submit gambling equipment prior to the 15th day of each month to insure consideration by the Board during that particular month. The rule will also require the Board to notify each manufacturer within five days of Board action whether the equipment was approved or not. Another function of the rule is to notify the manufacturer that, even though the Board may have approved the equipment, it must still obtain approval of the required bar code by the Department of Revenue.

The rule is necessary in order to inform the manufacturers of the requirements for submittal for each type of gambling equipment, and to establish parameters for the Board to use in reviewing the submitted equipment. The rule is necessary in order to insure that all manufacturers are treated fairly and equally by the Board in the area of equipment approval. The rule is reasonable because it insures that gambling equipment is manufactured according to the standards set forth in subpart (1) of this chapter, and it establishes a basis by which to review the merits of the equipment submitted. The rule is also reasonable in that it protects organizations and players from using substandard, or unapproved equipment.

**M.R. 7864.0030, Subp. 2(A), Pull-Tabs Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

Subitem (1) of the proposed rule deals with new families of games that are already in production by the manufacturer. It will require the manufacturer to submit one complete deal for one of the family members, and a flare and twenty tickets for each additional family member. The reason for requiring that five of the twenty additional tickets be opened winners, is so that the Board may have an opportunity to look at winners from that deal and assure that the winners have been manufactured in accordance with the standards set forth in M.R. 7864.0020, subp. 1. Subitem (2) deals with submittal requirements for new members to a family that has already been approved in Minnesota. Again, this rule will require that five of the twenty additional tickets be opened winners. In an ideal situation, the Board would prefer to have "unopened" winners that could be opened during the review process. However, this is not possible due to manufacturing constraints and techniques. If the Board demanded that unopened winners be submitted, the manufacturer would be forced to print all winners for that game on a separate sheet in a separate printing process. This could cause irregularities in manufacturing on a day-to-day basis, and the possibility that winners would look significantly different from losers is too great. In addition, randomization of the winners throughout the deal would be impaired.

Subitem (3) deals with submittal requirements for new families of games that the manufacturer is proposing to manufacture for sale in Minnesota. In this event, the Board will

require that the manufacturer submit production copies or thermals of the flares, tickets, and payout slips for the proposed product. Subitem (4) will work in conjunction with subitem (3), and require the manufacturer to submit flares, tickets, and unopened winners for the game once it has actually gone into production. The Board can then compare the production copies or thermals to the manufactured product to insure that it is still in conformance with the standards set forth in M.S. 7864.0030, subp. 1. Subitem (5) will require that the game seal on the product arrive in the Board's office intact. If the seal is broken, the game will be automatically rejected and the manufacturer must make a new submission to the Board.

Subitem (6) states clearly that any changes to previously approved games must be cleared with the Board before the product is offered for sale in Minnesota. If the Board deems that the changes are significant, it may then require the manufacturer to repeat the entire submission process, and treat the product as a "new" game rather than a changed product. This is an important item, as it will allow the Board to give approval to minor changes to a game, such as changing the border on the flare from 1/2" to 1/4", or making other cosmetic changes that will not affect the play or outcome of the game.

The rule is necessary in order to establish parameters for the manufacturers to use when submitting pull-tab games to the Board. It is necessary to insure continuity among all licensed manufacturers, and to insure that the Board will apply the rules equally to all manufacturers when approving products. The rule is also necessary to insure that pull-tabs being offered for sale in Minnesota have been manufactured in accordance with the standards set forth in subpart 1 of this chapter, and to protect the organizations from receiving unapproved pull-tab deals.

The rule is reasonable because it does not pose a problem for the manufacturer. On the contrary, they serve to protect the manufacturer from the possibility of arbitrary decisions of product approvals, or treating one manufacturer differently from another. The rule is reasonable because it provides a tool for the Board's use in approving products, it is specific in what must be submitted, and it allows the Board to approve minor, cosmetic changes to existing games without requiring that the entire game be resubmitted for approval.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0030, Subd. 2(B), Jar Tickets Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subds. 5 & 6 (1994).

This rule is identical to item 2(A) of this subpart. The submittal requirements for jar tickets are the same, line for line. Therefore, please refer to the discussion on pull-tab submittals (immediately preceding this item) for the need for and reasonableness of this rule.

Again, there will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 2(C), Tipboards Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This proposed rule specifies what the manufacturer must submit in order to have tipboard games considered for approval in Minnesota. The rule is very similar to that proposed for pull-tabs and jar tickets, but will also require the submission of the numbered sign-up sheet for the seal prize which is associated with tipboard games. Again, the rule would allow the Board to approve insignificant changes to previously approved tipboards,

while allowing the Board to require resubmission of a tipboard as an entirely new game if the change(s) are deemed to be more than cosmetic. The rule is necessary in order to set forth standards for the manufacturer to use when submitting tipboard games to be approved for sale in Minnesota. The rule is necessary in order to establish criteria for the Board to use in considering games submitted for approval, and to insure that all manufacturers and products are treated on a fair and equal basis.

The rule is reasonable in that it provides, in rule format, the information a manufacturer must have in order to submit its tipboards for approval in Minnesota. The rule is reasonable in that it will insure that all manufacturers and products are treated equally, and provides for approval of minor changes to games without going through the entire submittal process for a new game. The rule is reasonable because it enhances the Board's ability to oversee and regulate tipboard games brought into Minnesota for resale by licensed distributors.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 2(D), Bingo Hard Cards, Paper Sheets, and Breakopen Bingo Paper Sheets Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, Subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This item is being proposed by the Board to specify what must be submitted to obtain approval for bingo hard cards, paper sheets, and breakopen bingo paper sheets. Rather than requiring the manufacturer to submit actual samples of the product, this rule will require the submission of a catalog or brochure illustrating the product. To require the submission of stock samples would result in the Board receiving thousands of samples of bingo cards and bingo paper sheets, which creates a storage problem as well as representing a tremendous waste of resources. After carefully reviewing the situation, the Board has determined that submission of a catalog will be sufficient. However, in the case of breakopen bingo paper, the Board will still require the submission of five cards of each color and format for which approval is being sought.

The rule is necessary in order to establish procedures for manufacturers to follow when submitting bingo cards and sheets to the Board for approval. It is necessary to approve bingo products in order to insure that the product has been manufactured in accordance with the manufacturing standards set forth in M.R. 7864.0030, subpart 1. The rule is reasonable because it eases the burden for manufacturers who currently must submit actual stock samples of bingo cards and paper sheets. The new procedure will save time and money for both the manufacturer and the Board, as well as resulting in less storage space costs for the state. The rule is reasonable because it enhances the Board's ability to effectively regulate and oversee the bingo cards and sheets used in lawful gambling operations in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 2(E), Devices For Selecting Bingo Numbers Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This proposed item establishes parameters for Board approval of bingo ball selection devices. Again, rather than requiring the manufacturer to ship a device to the Board for approval, we are requiring the submission of a catalog or brochure outlining the relevant

technical data that the Board needs to review in the approval process. Bingo ball selection devices are large, cumbersome objects. The cost of freight becomes problematic, as well as storage space in the Board's offices. The Board will be able to obtain all the data it requires on the device from the catalog or brochure that the manufacturer will submit. The Board still retains, however, in subitem (3) of this rule, the right to require the manufacturer to make the device available for inspection by the Board should questions arise during the approval process.

The rule is necessary in order to establish a procedure for the manufacturers to obtain approval to sell bingo ball selection devices in Minnesota. The rule is reasonable because it establishes criteria for the Board to use when reviewing the technical aspects of the bingo ball selection devices. The rule is also reasonable because it serves to enhance the Board's ability to regulate charitable bingo operations in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 2(F), Paddlewheels and Paddlewheel Tables Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This item deals with approval requirements for paddlewheels and paddlewheel tables manufactured for sale and use in Minnesota. The requirements are identical to the submission requirements for bingo ball devices, as discussed in the preceding paragraph.

The rule is necessary in that manufacturers need to know the procedure for submitting paddlewheels and paddlewheel tables for approval. Again, submission of the catalog or brochure will save time, money and storage requirements for both the Board and the licensee, without weakening the Board's ability to effectively review and approve the gambling equipment. The rule is reasonable because the Board retains the ability to actually see the device if questions arise during the review process, and the rule assures that minimum technical standards for paddlewheels and paddlewheel tables will be adhered to by the manufacturers of the devices.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0020, Subd. 2(G), Paddleticket Cards Submitted for Approval:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

The Board is proposing this rule to deal with paddletickets that are submitted for approval to the Board. The rule is similar to the submittal requirements for pull-tabs, jar tickets, and tipboards. The rule will require the submission of two paddleticket cards, and their accompanying paddletickets, for each series or form of paddletickets that the manufacturer plans to manufacture for sale in Minnesota. Should the manufacturer make any changes to approved paddletickets or paddleticket cards, it must obtain prior approval of the Board. If the Board decides that the changes are insignificant, and will not affect the play or outcome of the game, it may approve those changes; however, the Board does retain the right to require the manufacturer to resubmit the game for approval as a new game.

The rule is necessary in order to establish criteria for reviewing and approving paddletickets that are submitted to the Board for approval. The rule is necessary in order to

inform the manufacturers of what will be required in their submittal package. The rule is reasonable because manufacturers are currently following this procedure. The rule is also reasonable because it allows the Board to effectively regulate the manufacture and sale of paddleticket cards and paddletickets in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subd. 2(H), Changes to Previously Approved Games:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(7) & (17) (1994).

This item will require the manufacturer to resubmit any game to the Board for approval as a new game if the percentage payback or ticket count is changed. The rule will also require the assignment of a new form number for the changed game. The rule also mandates that each deal of pull-tabs, jar tickets, and tipboards include an "ideal" sales and prize payout structure to aid the organization in the play of the game. This is a very important rule. Percentage payback and ticket count are two very important facets of any game. Any change to either will result in an entirely different structure for the game. It is also important to point out that the manufacturer has no means of controlling the actual percentage payback of a game. Many variables come into play on the organization end of the operation that will determine whether or not the game, when played, attains the ideal percentage payback. A winning ticket may be inadvertently opened and discarded by a player, the organization may pull the game prior to selling all the tickets, etc. Either of these occurrences, or a myriad of other circumstances, could contribute to a game not attaining the ideal percentage payback. However, the ideal percentage payback is an important tool for the organizations when purchasing the game. It serves as a guideline for the organization as to how much revenue a particular game would generate under ideal conditions.

The rule is necessary in order to require manufacturers to resubmit games for approval should percentage paybacks or ticket counts change after the game has been approved by the Board. It is necessary in order to insure that both the organizations and the players are fully informed regarding ticket count, and what the game can be expected to earn for the organization.

The rule is reasonable because a manufacturer could easily change a form number and resubmit a game for approval as a new game; it will discourage indiscriminate changing of percentage paybacks and/or ticket counts within the games; and it serves to protect the organizations and the players from changes in games that they may not be aware of until the game has been played. The rule is also reasonable because it provides a valuable tool for the Board in regulating the many variations of games.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0020, Subp. 3(A), Sale of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.163, subd. 3(a)(1994).

This item will require the manufacturer to make sure that distributors in Minnesota to which it sells gambling equipment have valid licenses issued by the Board. Manufacturers are prohibited from making sales to entities other than licensed distributors pursuant to M.S. 349.163, subd. 3(a) (1994). Reiterating the item in rule format insures that all manufacturers are fully informed of statutory requirements regarding the sale of their products in Minnesota.



This is a necessary item in the Board's rules, in order to make sure that subpart 3, which deals with the sale of equipment, is complete, accurate, and conforms to current statutory requirements. The rule is reasonable because the manufacturer will merely need to insure, before it makes a sale to a distributor, that the distributor's license is current and valid. If the manufacturer should have questions about a distributor's license status, a quick telephone call to the Board office will answer those questions.

Adoption of this rule will have no impact upon small business.

**M.R. 7864.0030, Subp. 3(B), Sales of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 3(c).

This item prohibits manufacturers from selling gambling equipment to distributors unless the equipment has been manufactured in accordance with the standards set forth in subpart 1 of this chapter. The rule, however, allow a manufacturer to sell gambling equipment which is designated for sale to an Indian Tribe. M.S. 349.163, subd. 3(c) (1994) expressly prohibits manufacturers from furnishing unapproved gambling equipment (equipment without the Minnesota geographic symbol) to any distributor without first rendering that symbol invisible. Subpart 1 of this chapter will require the manufacturer to place the required symbol on all equipment sold to licensed distributors in Minnesota. A provision needed to be made in this rule in order to allow manufacturers to ship unapproved product to distributors, should distributors wish to make sales to Indian Tribes. Pursuant to statutory prohibitions, however, the manufacturer must first render the symbol invisible.

The rule is necessary in order to prohibit the manufacturer from selling unapproved product in Minnesota, except for games destined for sale to Indian Tribes. The rule is necessary in order for the Board's rules to be consistent with statutory requirements. The rule is reasonable in that it will allow distributors to obtain product without the Minnesota geographic boundary symbol that it can sell to Indian Tribes.

There will, in all likelihood, be an impact upon some distributorships as a result of this rule. However, due to statutory constraints and prohibitions, the Board cannot allow distributors to sell gambling equipment bearing the Minnesota geographic boundary symbol to an Indian Tribe. Distributors are unable to alter the flare pursuant to M.S. 349.161, subd. 5(e). The manufacturer must first render the symbol invisible. Discussions with some licensed distributors indicate that this will be problematic, in that manufacturers may not always be willing to remove the symbol and ship small quantities of any particular game to a distributor for use by an Indian Tribe. Manufacturers have indicated that it would not be profitable for them to do so in many instances, and making "special" printing runs of flares without the symbol would create production and scheduling problems for the manufacturers. In the final analysis, however, the Board cannot promulgate a rule to permit distributors to continue the present practice of warehousing and selling "approved" products to Indian Tribes. To do so violate M.S. 349.163, subd. 3(c).

**M.R. 7864.0030, Subp. 3(C), Sale of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994), and M.S. 349.151, subd. 4(b) (1994).

This rule prohibits the sale of coin-operated or mechanical pull-tab devices unless otherwise permitted by law or rule. M.S. 349.151, subd. 4(b) (1994) authorizes the Board to

promulgate rules which will allow the use of pull-tab dispensing devices. The Board proposes to promulgate such rules and make a required report on the rules to the 1995 Legislature. For the present time, the rule as proposed in this chapter is necessary in order to recognize that pull-tab dispensing devices may be authorized after the statutory date of 6/1/95. The rule is reasonable in that it is informative in nature at this time, places no burdens on the manufacturer, and insures that the Board's rules are in conformance with current statutes.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 3(D), Sale of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.163, subd. 3(c) (1994).

This rule merely reiterates the statutory provision against providing pull-tab or tipboard deals to any person other than a licensed distributor without first rendering the symbol permanently invisible.

The rule is necessary in order to insure that rules promulgated by the Board are consistent with current requirements of state law, and to inform manufacturers of prohibitions against sales to parties other than licensed distributors. The rule is reasonable because it will insure that unapproved product, i.e., gambling equipment without the Minnesota geographic boundary symbol, is not shipped into Minnesota, unless the product is destined for an Indian Tribe and the manufacturer has first made the symbol invisible. If distributors were permitted to sell approved product to Indian Tribes or other entities, the potential for that product to find its way back into use by lawful gambling organizations is very high. If this occurred, it would be very difficult to differentiate contraband equipment from equipment that has been sold through the proper channels.

Again, the likelihood of a significant impact on small business is quite high. Please refer to the discussion in subp. 3(B) above. However, the Board cannot make a rule that would conflict with the statutory requirements set forth in M.S. 349.163, subs. 3(c) & 5 (1994).

**M.R. 7864.0030, Subp. 3(E), Sale of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994).

This item will require the manufacturer to keep records that would enable it to identify persons purchasing gambling equipment from them, and to provide the identity to the Board upon request. The rule is necessary in order for the Board to effectively track gambling equipment which has been shipped into Minnesota. Tracking gambling equipment is a very important aspect of effective oversight of the industry. The rule is reasonable because it provides for the Board to learn the identity of the original buyer of contraband equipment. If the original buyer is an organization authorized by the Board to conduct lawful gambling, the Board could take disciplinary action. If the original buyer is identified as a unlicensed person or company, the matter would be referred to the Director of Gambling Enforcement for action. The rule is also reasonable because it will place no new constraints on manufacturers. They are currently capable of tracking this information.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 3(F), Sale of Approved Gambling Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.163, subd. 6 (1994).

This rule will require the manufacturer to place its logo, or other identification, on all gambling equipment that it ships into Minnesota for sale to licensed distributors. The rule is necessary in order to insure that the product can be easily identified as originating from that particular manufacturer, and to aid the organizations, distributors, and the Board in easily tracking gambling equipment in Minnesota. The rule is reasonable in that the manufacturers are currently complying with the requirement. It is also reasonable that the Board, distributors, organizations, and players be able to easily identify which licensed manufacturer has made any particular game.

There will be no impact on small business as a result of this rule.

**M.R. 7864.0030, Subp. 4, Storage of Gambling Equipment in Minnesota.**

The Board's statutory authority to adopt the rule is found at M.S. 349.162, subd. 5 (1994).

The 1994 Legislature enacted legislation which permits licensed manufacturers to have warehouse and storage facilities in Minnesota. The manufacturers may store both approved and unapproved gambling equipment at their Minnesota sites. The Board believes it is necessary to promulgate rules that will work in conjunction with the statute in governing these in-state storage facilities. Item (A) of the rule repeats statutory language authorizing the shipment of gambling equipment into Minnesota, and requires that the storage facility be owned or leased by the manufacturer, and the site must be registered in advance and writing with the director of gambling enforcement. Item (B) will require the manufacturer to report all shipments of gambling equipment (both approved and unapproved product) to the commissioner of revenue, and also requires that any shipments out of the storage facility be properly reported to revenue.

The rule is necessary in order to insure that manufacturers are fully informed regarding the registration of their storage facilities, and the notification requirements governing shipments into and out of the facility. The rule is necessary in order to allow manufacturers greater ease in servicing their Minnesota licensed distributor customers, to allow licensed distributors to be able to quickly obtain product for sale to Indian Tribes, and ultimately provide quicker service and response time to licensed organizations purchasing the products. The rule is necessary in order to establish a mechanism for the reporting and registration requirements.

The rule is reasonable in that by allowing storage facilities in Minnesota, the Legislature and the Board are being responsive to the needs of its licensees, in establishing a system whereby product can be quickly and easily shipped to Minnesota licensed distributors. The rule is reasonable in that the reporting and registration requirements are not onerous, and can be easily accomplished by the manufacturer.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 5, Return of Equipment:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subds. 4(a)(5), 4(a)(6) (1994), M.S. 349.151, subd. 7 (1994) and M.S. 349.152, subd. 2(6) (1994).

This item is being proposed by the Board to establish a system for the return of gambling equipment from the organization to the distributor to the manufacturer. It establishes a chain-of-custody of the equipment being returned, and outlines certain responsibilities incumbent upon each licensee during the return process.

Item (A) deals exclusively with gambling equipment that is returned prior to being opened or otherwise put into play by an organization. Subitem (1) will require the manufacturer to issue a credit invoice to the distributor returning the product within thirty business days of receipt of the gambling equipment. However, the distributor is required to obtain written proof from the organization returning the equipment that the equipment does not meet the manufacturing standards set forth in M.R. 7864.0030, Subpart 1. It also allows the manufacturer to delay issuing a credit invoice if a legitimate business dispute is involved in the return. Essentially, this will prohibit the indiscriminate return of product by distributors or organizations except in cases where the product has not been manufactured in accordance with the standards. Subitem (2) will require the manufacturer, if shipping replacement product to the distributors, to issue a new sales invoice covering the replacement equipment. Subitem (3) will require the manufacturer to destroy the returned equipment if it cannot be brought into conformance with the standards.

The rule is necessary in order to establish a system where substandard equipment can be returned to the manufacturer. It also insures that proper credit invoices will be issued where appropriate. It is necessary to require the manufacturer to destroy the product if it cannot be brought into conformance with standards, thereby insuring that the manufacturer will not simply reship the product to another distributor.

The rule is reasonable because safeguards have been built in to protect the manufacturer from indiscriminate returns of products; it allows the manufacturer thirty business days in which to make its determination on whether the product was manufactured in accordance with standards prior to issuing a credit to the distributor; and it provides a uniform policy for the return of gambling equipment which will be the same for all manufacturers, distributors, and organizations.

Item (B) of the rule deals exclusively with product being returned after the organization has opened the game, or has already put the game into play. Because organizations are required to retain opened but defective games as "played games", this rule will require the manufacturer to return the game to the organization after it has made its determination on whether or not the product was manufactured in accordance with the standards established in subp. 1 of this chapter. Subitem (1) is similar to the requirement in item (A), in that it will require the manufacturer to issue a credit to the distributor within thirty days of receipt of the equipment, if the manufacturer makes the determination that the game was not manufactured in accordance with standards established by rule. In this instance, the manufacturer will be required to reimburse the distributor for any documented losses which the distributor has reimbursed to the organization, that the organization incurred, and over which the organization had no control or ability to prevent. Subitem (2) will require the manufacturer to return the game to the distributor, who in turn will send it back to the organization, to be retained as a played game.

This rule is necessary in order to establish a uniform policy for the return of gambling equipment that has been in play, or removed from play by an organization. It is necessary that the organization not suffer a financial loss from playing a game with too many winners, or another quality control problem which would result in the organization losing money on the game. Therefore, it is necessary to include the requirement that the manufacturer reimburse these types of losses.

The rule is reasonable in that safeguards have been established that will protect the manufacturer from being required to reimburse losses to organizations in instances when the organization realized there was a problem, but continued to leave the game in play. The rule is reasonable in that it establishes uniform systems for all licensees to abide by when returning product to the manufacturer. The rule is also reasonable in that it enhances the Board's authority to oversee and regulate the return of gambling equipment from organizations to distributors to manufacturers.

Item (C) of the rule will require the manufacturer to file a "returned equipment report" with the Board on a monthly basis. The specifics of the report are discussed later in this statement. The rule is necessary in order to establish a reporting mechanism whereby the Board can be aware and informed of problems with gambling equipment sold in Minnesota. It is necessary in order to evaluate whether or not the problems are isolated instances, or whether the product is of greater magnitude.

The rule is reasonable in that the reporting requirements are not onerous. The manufacturers should be able to easily accomplish the report format and submittal requirements. The rule is reasonable because the Board needs to be aware of product problems in the field, and this rule is a vehicle for insuring that the Board will stay informed of product failures or problems with gambling equipment.

There will be no impact upon small business as a result of this rule.

#### **M.R. 7864.0030, Subp. 6, Corrective Action:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(16) & subd. 7 (1994) and M.S. 349.152, subd. 2(6) (1994).

This rule is being promulgated in response to legislation enacted in 1994 which allows the Board to order its licensees to take corrective action (M.S. 349.151, subd. 4(a)(16)(1994)). The Board believes that if a manufacturer ships gambling equipment into Minnesota that does not meet the standards established by M.R. 7864.0030, Subpart 1, that a Board ordered recall is a form of corrective action. Item (A) of the rule establishes criteria under which a recall could be ordered by the Board. Item (B) establishes a timeframe within which the manufacturer must initiate a recall if so ordered by the Board, and requires that the manufacturers recall product from distributors to which it has shipped the product. Item (C) establishes a timeframe within which the manufacturer must complete the recall and provide notification to the Board that the recall has been completed. It also lists the information that must be included in the notification to the Board. Item (D) will require the manufacturer to issue credit invoices to distributors for recalled product within 45 business days of completion of the recall. This item will also require that organizations be reimbursed for losses suffered if the recalled product had been put into play or removed from play by the organization. Item (E) will require the manufacturer to destroy the recalled product if it cannot be brought into conformance with the manufacturing standards established in M.R. 7864.0030, Subpart 1.

The Board believes the rule is necessary in order to firmly establish policies and procedures for a Board ordered recall of gambling equipment. It is necessary that the Board be able to order a recall, in order to preserve the integrity of lawful gambling in Minnesota and to protect organizations and players from being subject to defective games and potential financial losses as a result of the defect.

The rule is reasonable in that it establishes criteria for the Board to use in making a judgment on whether or not to order a recall. The rule is reasonable in that manufacturers should be required to remove defective equipment from play, and to reimburse losses suffered

by innocent parties as a result of the defect. The rule is reasonable because it is within the bounds of the Board's statutory authority and it serves to enhance the Board's abilities to effectively monitor the quality of gambling equipment sold in Minnesota, and to order corrective action if the product does not conform with established standards.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 7(A), Pricing Reports:**

The Board's statutory authority to adopt the rule is found at M.S. 349.169, subd. 1 (1994)

This item outlines in detail the information the manufacturer must supply on a monthly basis to the Board with regard to the prices of products that it intends to sell in Minnesota. Subitem (1) (a through i) outline the components of the report, and state that the report must be in a format approved by the Board. Existing rule language was very confusing, and required that the report be identical for all items sold by the manufacturer. That approach was not logical, in that different information is required for different types of equipment. The proposed new rule will require only what is needed for each type of game the manufacturer offers for sale. Subitem (2) of the rule establishes a timeline for the filing of the report, and allows manufacturers to make amendments within five days of filing. The language will also allow a manufacturer to file a new pricing report at any time during the month for gambling equipment approved by the Board after the first day of any month. In the past, if the Board approved equipment on the twentieth of the month, for example, the manufacturer was not allowed to sell that equipment in Minnesota until the first day of the following month when it filed a new pricing report.

Currently, manufacturers submit complete pricing reports every month, regardless of whether or not the information regarding that product has changed. This results in voluminous and unnecessary information being submitted to the Board every month. This rule will allow the manufacturer, once it has filed its initial pricing report, to report only changes, additions, or deletions in future reporting periods.

The rule is necessary because it establishes the information that the manufacturer must submit in its pricing report to the Board. It insures that all pricing reports received from manufacturers will be uniform as to content and information disclosed. The rule is necessary because it establishes a means whereby the Board can verify that the manufacturer is indeed selling the product at the filed price, and not giving special breaks or discounts to favored distributors.

The rule is reasonable in that the Board has eliminated many of the previously required components of the report. This was accomplished through making the report specific to each item, and not generic to all gambling equipment sold by that manufacturer. The rule is reasonable in that the Board needs to be aware of the prices that manufacturers are establishing for their products, and it also serves as a marker that certain manufacturers may be getting into financial difficulty. The rule is reasonable because it establishes a mechanism for the Board to verify prices, and to insure that all manufacturers are abiding by law and rule. Lastly, the rule is reasonable because it allows for a reduction in the volume of the report, which will save time and resources for both the manufacturer and the Board.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 7(B), Sales Invoice:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.191, subd. 1(b) (1994).

This item sets forth the information that a manufacturer must include on its sales invoices to distributors. Subitem (2) outlines the individual components of the sales invoices, and the information that must appear on all invoices that the manufacturer issues for any gambling equipment sold in Minnesota. This is information that required by the Commissioner of Revenue. Subitem (3) outlines specific information that the manufacturer must include with regard to invoices to pull-tabs, tipboards and jar tickets. Subitem (4) details the specific information required for sales of paddleticket cards. Subitem (5) discusses the information that the manufacturer must include with regard to sales of bingo paper sheets and breakopen bingo paper. Subitem (6) deals with bingo hard cards. Subitem (7) deals with various types of permanent gambling equipment, such as bingo ball selection devices, paddlewheels and paddlewheel tables. Subitem (8) establishes a timeframe for the filing of the sales invoice with the Commissioner of Revenue.

The rule is necessary in that it will insure that all manufacturers submit uniform information to the Commissioner of Revenue, and that all sales invoices for gambling equipment sold to Minnesota distributors will contain the same information. The rule is necessary in order to insure that manufacturers are selling equipment for the prices indicated on the monthly pricing report, and that no special discounts or rebates are being given to certain distributors. The rule is necessary to insure the overall integrity of the lawful gambling industry in Minnesota, and to establish a means whereby the Board can verify the prices charged by manufacturers for their equipment.

The rule is reasonable because it is not unlike the reporting requirement that the manufacturers must currently comply with. The rule is reasonable because the reporting requirements have been made specific to each type of gambling equipment sold, which will be easier for the manufacturers to deal with. The rule is reasonable because it places no undue burden on the manufacturer, and it aids in insuring the integrity of the sale of lawful gambling equipment to Minnesota licensed distributors.

There will be no impact upon small business as a result of this rule.

#### **M.R. 7864.0030, Subp. 7(C), Returned Gambling Equipment Report:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(16) and 4(a)(17) (1994).

This is a new reporting requirement for licensed manufacturers, and deals with returned equipment as discussed earlier in this statement. Subitem (1) will require that the report be filed on a monthly basis with the Board, and lists the information that must be included in the report. Items (a) and (b) of this subitem are generic to all types of gambling equipment, whereas items (c) through (f) discuss specifics for the various types of gambling equipment. Item (2) establishes a timeframe for the filing of the report with the Board.

The rule is necessary in that the Board needs to be aware of all equipment returned from an organization and/or distributor to a licensed manufacturer. These reports will provide valuable data on whether or not the return is the result of an isolated occurrence, or an indicator that the problem is more widespread and merits an investigation by the Board. The rule is necessary in order to insure the quality of all gambling equipment offered for sale in Minnesota, and to enhance the Board's abilities to oversee and regulate the activities of its licensees.

The rule is reasonable in that it does not impose an undue burden on the manufacturer. The format of the report need not be complex, and should be readily accomplished by the manufacturer. In many instances, manufacturers may already retain such data for their own in-house use and it would be fairly simple to convert the data into a report for the Board. The rule is reasonable in that the Board needs to be able to monitor and insure the quality of gambling equipment offered for sale in Minnesota, and to require manufacturers to adopt adequate quality control procedures. The rule is reasonable because it allows the Board to protect the integrity and quality of the gambling equipment being offered for sale in Minnesota.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0030, Subp. 7(D), Report of Delinquent Distributor Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.191, subd 1(b) (1994).

A manufacturer is required to notify the Board in writing if a distributor is more than 30 days delinquent in its payment to the manufacturer for gambling equipment. Subitem (1) of the proposed rule outlines the information that the manufacturer must include in this notification to the Board. It will also require the Board to notify all manufacturers that until further notice it may make sales to that distributor on a cash only basis. Subitem (2) requires the Board to contact the delinquent distributor, and notify it to eliminate the delinquency. Pursuant to subitem (3), the manufacturer must notify the Board if it still has not received payment within sixty days of the Board's initial notice to the Distributor. Subitem (4) will require the Board to order that no further sales be made to a delinquent distributor if the delinquency has not been paid pursuant to subitem (3). Finally, subitem (5) will require the Board to notify all manufacturers once the delinquency has been paid.

The rule is necessary in order to insure that Board's rules are consistent with statutory requirements. The rule is necessary in order to insure that distributors remain financially sound. Distributors who are in financial difficulty may be prone to pressure from manufacturers or other entities, and the Board needs to be aware of the potential for such situations to develop. The rule is necessary to insure the overall integrity of lawful gambling in Minnesota, and to insure that participants in the industry remain financially sound, thus, better able to resist pressures from outside influences.

The rule is reasonable in that it is not unlike the reporting requirement currently in place for reporting delinquencies. Pursuant to new statutory language, the time parameters have changed. The rule is reasonable in that it serves to protect manufacturers from distributors who may exhaust their credit line with one manufacturer and then move on to another manufacturer without paying bills.

The rule may have some impact on small business distributors, in that it will require more fiscal responsibility and promptness in order to avoid being placed on a cash-only or no-sales basis by the Board. In reviewing the impact on small business, however, the Board cannot adopt a less stringent method than that prescribed by statute.

**M.R. 7864.0030, Subp. 7(E), Examination of Books and Records:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(17) (1994) and M.S. 349.151, subd. 12 (1994).



This item currently exists in the present rule. In summary, subitem (1) will allow the Board to examine books and records of a licensed manufacturer at any time within normal business hours. Subitem (2) will require the manufacturer to pay reasonable travel and living expenses of board staff to examine books and records at the manufacturer's site if the manufacturer fails to comply with subitem (1). Subitem (3) requires the manufacturer to maintain records in relation to its use of disposable registration stamps for a period of 3-1/2 years.

The rule is necessary in order to require the manufacturer to comply with statutory requirements, and to insure that the Board's rules are consistent with statute. The Board believes that in order to insure the integrity of lawful gambling in Minnesota, it needs to be able to review books and records of the manufacturer, and to be able to require reimbursement for expenses that may be associated with that review of records. Since the vast majority of the Board's licensed manufacturers are out-of-state, it is reasonable and necessary to require them to pay reasonable living expenses for Board staff if the manufacturer fails to comply with the requirements of subitem (1) of this rule.

The rule is reasonable in that it currently exists within M.R. 7864.0020, it has worked well without problem, and no opposition has been voiced to it by the manufacturers. The rule is also reasonable because it allows the Board to establish by rule a procedure to deal with examination of books and records.

There will be no impact upon small business as a result of this rule.

#### **M.R. 7864.0030, Subp. 7(F), Records and Reports Required:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subd. 4(6) (1994).

This item is a result of action taken by the 1994 Legislature, and requires the manufacturer to notify the Board within 30 days if it has had a gambling-related license revoked or suspended in another jurisdiction, or been required to pay a monetary penalty, in another state or jurisdiction.

The rule is necessary because the Board needs to be aware of actions taken against manufacturers in other states or jurisdictions, in that the activities the manufacturer engages in in other states will, in all likelihood, reflect activities or situations that the manufacturer may be engaging in Minnesota. This is another way to safeguard the integrity of the industry in Minnesota, and to insure that all licensed manufacturers are operating within the bounds of established law and rule.

The rule is reasonable because it requires notification only by the manufacturer. It does not imply that the Board will take action, but it will serve as an indicator to the Board that perhaps an investigation should be undertaken into the manufacturer's activities in Minnesota. The rule is reasonable in that the reporting requirement will not be an undue burden for the manufacturer, it will assist in maintaining the integrity of the entire industry in Minnesota, and will enhance the Board's ability to monitor such situations and determine if further action is required.

There will be no impact upon small business as a result of this rule.

#### **SUSPENSIONS OR REVOCATIONS**

#### **M.R. 7865.0020, Subp. 1, Definitions:**

The Board's statutory authority to adopt the rule is found at M.S. 349.151, subd. 4(a)(5) (1994) and M.S. 349.155, subd. 4 (1994).

Subpart 1 of this chapter is new, and outlines the difference between a suspension or revocation. The need for the rule became apparent during meetings of the Public Advisory Committee, wherein statements were made that suspensions and revocations meant different things in different states, and were subject to differing interpretations by the licensee and/or the Board. Defining the difference is reasonable in that it serves to inform licensees of the differences between suspension and revocation, and thus inform them of the possible penalties associated with each type of disciplinary action that the Board may take.

There will be no impact upon small business as a result of this rule.

**M.R. 7865.0020, Subp. 1a, Grounds For Suspension:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, subds. 3 & 4 (1994).

This item contains new language as authorized by the 1994 Legislature, in M.S. 349.155, subd. 4 (1994). In essence, the Legislature granted the Board greater authority in determining the conditions under which a license may be suspended, or under which the Board may refuse to renew a license. If the Board determines that a suspension or refusal to renew a license is in the public interest, it may do so after a contested case hearing. Items (A) through (I) of the proposed rule are extracted verbatim from the 1994 Legislation, and included in rule form to insure that licensees are fully aware of the requirements. Many of the Board's licensed manufacturers are from out-of-state, and may not readily have access to copies of Minnesota law. While the Board realizes it is not incumbent upon it to insure that the licensees are fully informed of the law, the Board does believe that, whenever possible and practicable, such statutory requirements should also be included in the rule.

The rule is necessary in order to insure that the Board's rules are consistent with statutory requirements, to insure that the licensees are as fully informed as possible, and to serve as an aid to the Board in overseeing and regulating the lawful gambling industry in Minnesota.

The rule is reasonable because it is intended as an informational tool for the licensee, and will insure that the Board's rules are as complete and thorough as possible.

There will be no impact upon small business as a result of this rule.

**M.R. 7864.0020, Subp. 3, Grounds for Revocation:**

The Board's statutory authority to adopt the rule is found at M.S. 349.155, Subds. 3 & 4 (1994).

Again, the Board is amending this rule to bring it into conformance with statutory changes made in 1994 by the Legislature. As in the case of the rule governing suspensions, the Board may now revoke a license, after a hearing, if it issues an order determining that the actions of the licensee are not in the public interest. Items (A) through (I) of the rule list the situations that must have occurred in order for the Board to proceed with a revocation hearing.

The rule is necessary in order to insure that the Board's rules are in conformance with all laws regulating lawful gambling, and to inform licensees of the conditions under which

their licenses may be revoked. The rule is necessary as an aid to the Board in maintaining the integrity of lawful gambling in Minnesota.

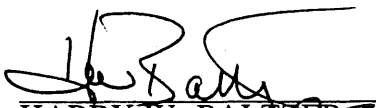
The rule is reasonable in that it does not exceed the limits imposed by the Legislature. It is reasonable to include the statutory language within the rule in order to better inform the licensees of the Board regarding disciplinary actions. The rule is also reasonable because it serves enhance the Board's ability to effectively oversee and regulate all aspects of lawful gambling in the state.

There will be no impact upon small business as a result of this rule.

**XI. CONCLUSION**

Based on the foregoing, the proposed Minnesota Rules Parts 7861.0010, 7863.0010, 7863.0020, 7864.0010, 7864.0030, and 7865.0020 are both necessary and reasonable.

DATED: 10 - 14, 1994

  
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HARRY W. BALTZER  
EXECUTIVE DIRECTOR  
MINNESOTA GAMBLING CONTROL BOARD

