

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the matter of the
Proposed Adoption of
Rules of the Minnesota
Racing Commission concerning
Amendments and Additions to
the Existing Rules
Governing Horse Racing.

STATEMENT OF NEED
AND REASONABLENESS

I. GENERAL

In an effort to improve the quality of horse racing in this state, the Minnesota Racing Commission ("Commission") proposes amendments to the rules of racing. The proposed amendments are consistent with rules in other racing jurisdictions and are necessary to make Minnesota competitive in the horse racing industry. The proposed amendments are reasonable because they are customary in other racing jurisdictions and respond to racing industry participant inquiry. The burdens imposed on the participants are not undue, and compliance with similar rules has been obtained in other jurisdictions.

II. STATUTORY AUTHORITY

The Commission is empowered by Minn. Stat. 240.03 to:

1. Regulate horse racing in Minnesota to ensure that it is conducted in the public interest,
2. Enforce all laws and rules governing horse racing,
3. Supervise the conduct of pari-mutuel betting on horse races, and
4. Take all necessary steps to insure the integrity of racing in Minnesota.

The Minnesota Racing Commission is also specifically authorized by Minn. Stat. 240.23 to promulgate rules governing the "conduct of horse racing held at licensed racetracks, including but not limited to the rules of racing, and any other aspect of horse racing or pari-mutuel betting, which in its opinion, effects the integrity of racing or the public health, welfare, or safety".

RULE BY RULE ANALYSIS

7869.0100 DEFINITIONS

7869.0100 Subp. 51 (O)

This subpart adds the definition of a "Mixed Race". This proposed addition is necessary to provide a definition of a race of more than one type of breed of horses. This addition is reasonable because it explains to the public that there are two types of breeds of horses competing against each other in the same race.

7873.0110 APPROVAL OF PARI-MUTUEL POOLS

7873.0110 Subp. 3

It is proposed to this subpart delegates authority to the Director of Pari-Mutuel Racing to approve changes to previously approved pari-mutuel pools, placement of pools in the program, and simulcasts, and allows the offering of pari-mutuel pools requiring the selection of more than two horses in a race. This proposed change is reasonable in that it allows flexibility for the Commission and a licensed racetrack to respond to patron preference for varieties of pari-mutuel pools and changes in pools offered by a racetrack. This change specifically responds to patron preference for the opportunity to wager in trifecta pools.

7873.0120 PARI-MUTUEL BETTING

7873.0120 Subp. 2

This proposed addition is necessary to stipulate the requirements for transmission of a license racetrack's race(s) to licensed racetracks located outside of Minnesota. This proposed addition is a reiteration of Minnesota Law that allows simulcasting out from a licensed racetrack.

7873.0140 FAILURE TO START

These proposed changes are needed and reasonable in that they establish the specific instance and criteria in which various pools may be refunded. These proposed changes further provide for inclusion of pools that were previously not included in these rules and thus comply with what is the custom of the turf in their absence.

7873.0150 SCRATCHES

This proposed change is needed to include the pick three pool in refund criteria, the same as other pools. This proposed change is reasonable in that it makes the existing rule comprehensive of all pools subject to refund due to a scratch.

7873.0190 PICK SIX

7873.0190 Subp. 7

This proposed change is needed in that it sets a specific time for refund of pick six tickets and in that it responds to patron inquiry into this matter. This proposed change is reasonable in that it is specific to patrons and a licensed racetrack as to the stipulation for refunds of pick six tickets.

7873.0191 PICK THREE

7873.0191 Subp. 8

This proposed change is needed in that it sets a specific time for refund of pick three tickets, and in that it complies with the same requirement for pick six tickets. This proposed change is reasonable in that it is specific to patrons and a licensed racetrack as to the stipulations for refunds of pick three tickets.

7873.0191 Subp. 10

This proposed change is housekeeping in nature, in that there is no item B to Subpart 7, Chapter 7873.0191.

7873.0300 SIMULCAST WAGERING

7873.0300 Subp. 1

This proposed change is needed and reasonable in that it allows the Commission and a licensed racetrack to expeditiously respond to simulcast opportunities not included in a racetrack's initial simulcast plan. Further, this change allows response and simulcasting of races of interest to a racetrack's horsemen and patrons.

7876.0110 OFF TRACK STABLING

7876.0110 Subp. 3

This subpart clarifies the exact time that a horse that resides off track has to be on the racetrack facility on the day it is racing. This rule is necessary because the former rule set the time at "scratch time" which was flexible and therefore confusing to the participants.

7877.0120 FEES

This subpart establishes the schedule of annual fees for occupational licensees. The Commission is specifically authorized to establish annual fee by rule Minn. Stat. 240.10

7877.0120 Subp. 1 (N)

This subpart changes the multiple owners fee to correspond with the owner fee of \$25.00. This rule change is reasonable in that it is consistent with individual owner fees. All individual owners must purchase a license for \$25.00 and if part of a group must also obtain a multiple owners license.

7877.0120 Subp. 1 (O)

The elimination of this category is reasonable because the individual must apply for separate occupational licenses which gives the Commission more discretion in issuance of the license.

7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES

7877.0170 Subp. 2. (O)

The requested change reflects the fact that new EIA testing methodology is now available and in use in the United States. The Board of Animal Health of the State of Minnesota no longer specifies the Coggins test as the only acceptable testing method.

7877.0170 Subp. 2. (P)

The addition above of laboratory and accession number information is needed to conform with federal regulations covering health certificates. The appearance of this information on the health certificate also improves the likelihood of tracing EIA test certificates lost in transit between racetracks.

7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS

7877.0175 Subp. 4 (H)

This addition is needed and reasonable as the association veterinarian is usually the official veterinarian present in the paddock during racing hours and is more capable of diagnosing the infirmity of unsoundness of a horse than is the paddock judge.

7877.0185 APPLICABILITY OF RULES AND RULINGS

7877.0185 Subp. A

The addition of "or order" is necessary to be inclusive of all the directives that the commission can mandate. It is reasonable because the Commission has the authority to issue orders, rules, and rulings.

7877.0185 Subp. C

This addition is necessary to simply clarify the subpart. It is reasonable because it eliminates any misunderstanding of the rule.

7878.0120 LICENSING OF SECURITY OFFICERS

7878.0120 Subp. 4

This subpart changes the fee of a specific association employee, security officers, to a fee which is consistent with all other association employees. This change is reasonable and fair because it unites the fee for all association employees and eliminates the burden of a higher fee to a single category of occupational licenses.

7883.0130 PENALTIES AND ALLOWANCES

7883.0130 Subp. 1 (E)

It is proposed to add to this subpart by requiring the same information of eligibility, penalties, and allowances of weight for the quarter horse breed as the thoroughbred. This addition is necessary to ensure a consistent and reliable source, the American Quarter Horse Association, for these conditions.

7883.0140 CLAIMING RACES

7883.0140 Subp. 16

This change is needed in that it provides a more concise time as to when title to a claimed horse transfers to the claimant. This change is reasonable in that the owner, claimant, and horsemen's bookkeeper are clear as to when title transfers.

7883.0150 PADDOCK TO POST

7883.0150 Subp. 2

This change is needed so as to ensure that all horses will have adequate time in the saddling paddock prior to a race. This change is reasonable because it adds five minutes for the participants to prepare for the race. This change also conforms to existing practice and conduct on a racing day.

7890.0140 BLEEDERS

7890.0140 Subp. 5. (D) & (E)

These proposed changes are necessary so as to avoid penalizing a horse which has a long racing career in the state and which bled more than once early in its career. If such an animal bleeds again after a considerable period of trouble-free racing, a six month layoff from racing is more reasonable than a lifetime ban.

7892.0120 TAKING OF SAMPLES

7892.0120 Subp. 5

The proposed changes in this subpart are needed to dispel confusion over the handling of split samples. The present rule leaves open the possibility of a licensee's requesting the use of a laboratory with no equine experience or even an unlicensed laboratory. It is necessary to limit the choice of laboratories to only those facilities which are both willing to and capable of testing the split sample with the same degree of diligence as was the original sample. The changes clarify the means and form of payment for the cost of split sample testing in order to avoid placing any racing official in a compromising position as the result of an exchange of cash. And, finally, while the storage facility for split samples is provided by the association, it is controlled by the Commission as are all other aspects of sample collection and testing.

7895.0125 THOROUGHBRED REGISTRATION

7895.0125 Subp. 1 (A) & (B)

This proposed change will allow more ample time for all participants to register their thoroughbred broodmares. This change is necessary and reasonable because it extends the deadline as there are several out of state sales near the end of January. By extending this deadline, the Commission allows the participants to purchase breeding stock out of state and have the mare in Minnesota by the February 15th deadline.

7895.0125 Subp. 1 (C)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their thoroughbred broodmare application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0125 Subp. 1 (C) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0125 Subp. 1 (C) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0125 Subp. 1 (D)

This proposed change in the final dates of acceptance of a thoroughbred broodmare application establishes a date in which all applicants would have more ample time to apply. This date is reasonable because it extends the final date of acceptance two and one half months for the applicants. In this time span, all applicants will have their applications submitted and processed. This date does not prohibit any applicant from applying for a variance.

7895.0125 Subp. 1 (E)

This proposed addition is intended to make all late applicants aware that they may have to document the fact that their thoroughbred broodmare was standing in Minnesota as of February 15th of the foaling year. This addition is necessary to ensure the reliability of the applicant for verification by the Commission.

7895.0125 Subp. 2 (A)

This proposed change will make the final date of thoroughbred stallion registration correspond with the proposed final date of registration of quarter horse and standardbred stallions. This change is necessary because of the several out of state sales which occur towards the end of January. Extending the deadline for applications without penalty for 15 days gives these new owners time to submit applications.

7895.0125 Subp. 2 (B)

This proposed change is needed and reasonable in that the initial date of the breeding season will correspond with the proposed change to the final date of thoroughbred stallion registration contained above.

7895.0125 Subp. 2 (C)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their thoroughbred stallion application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0125 Subp. 2 (C) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0125 Subp. 2 (C) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0125 Subp. 2 (D)

This proposed change in the final dates of acceptance of a thoroughbred stallion application establishes a date in which all applicants would have more ample time to apply. This date is reasonable because it extends the final date of acceptance two and one half months for the applicants. In this time span, all applicants will have their applications submitted and processed. This date does not prohibit any applicant from applying for a variance.

7895.0125 Subp. 2 (E)

This proposed addition is intended to make all late applicants aware that they may have to document the fact that the thoroughbred stallion was standing in Minnesota as of February 15th of the breeding year. This addition is necessary to ensure the reliability of the applicant for verification by the Commission.

7895.0125 Subp. 3 (A)

The proposed change from 30 to 45 days is necessary to give the applicants needed additional time to complete and submit their thoroughbred foal registration applications. Previously, many applicants requested an additional fifteen days in order to complete all the requirements necessary after a foal is born. This proposed change will eliminate these numerous requests.

7895.0125 Subp. 3 (B)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their thoroughbred foal registration application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0125 Subp. 3 (B) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0125 Subp. 3 (B) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0125 Subp. 3 (C)

This change proposes to add this subpart to establish a deadline for application for thoroughbred foal registration. It is necessary and reasonable to establish this rule in order to give the applicant a reasonable amount of time to submit the registration.

7895.0250 STANDARD BRED BREEDERS FUND

7895.0250 Subp. 1 (D)

This change is necessary and reasonable to include the registration date change into the definition of a Minnesota bred standardbred sire.

7895.0275 STANDARD BRED REGISTRATION

7895.0275 Subp. 1 (A)

This proposed change will make the final date of standardbred stallion registration correspond with the proposed final date of registration of quarter horse and thoroughbred stallions. This change is necessary because of the several out of state sales which occur towards the end of January. Extending the deadline for applications without penalty for 15 days gives these new owners time to submit applications.

7895.0275 Subp. 1 (B)

This proposed change is needed and reasonable in that the initial date of the breeding season will correspond with the proposed change to the final date of standardbred stallion registration contained above.

7895.0275 Subp. 1 (C)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their standardbred stallion application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0275 Subp. 1 (C) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0275 Subp. 1 (C) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0275 Subp. 1 (D)

This proposed change in the final dates of acceptance of a standardbred stallion application establishes a date in which all applicants would have more ample time to apply. This date is reasonable because it extends the final date of acceptance two and one half months for the applicants. In this time span, all applicants will have their applications submitted and processed. This date does not prohibit any applicant from applying for a variance.

7895.0275 Subp. 1 (E)

This change proposes to add this subpart to make all late applicants aware that they may have to document the fact that the standardbred stallion was standing in Minnesota as of February 15th of the breeding year. This addition is necessary to ensure the reliability of the applicant for verification by the Commission.

7895.0300 QUARTER HORSE BREEDERS FUND

7895.0300 Subp. 1 (D)

This change is necessary and reasonable to include the registration date change into the definition of a Minnesota bred quarter horse sire.

7895.0350 QUARTER HORSE REGISTRATION

7895.0350 Subp. 1 (A) & (B)

This proposed change will allow more ample time for all participants to register their quarter horse broodmares. This change is necessary and reasonable because it extends the deadline as there are several out of state sales near the end of January. By extending this deadline, the Commission allows the participants to purchase breeding stock out of state and have the mare in Minnesota by the February 15th deadline. Further, this proposed change reiterates the requirement that the broodmare be in foal to a Minnesota sire as defined by 7895.0300, Subpart 1 (D).

7895.0350 Subp. 1 (C)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their quarter horse broodmare application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0350 Subp. 1 (C) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0350 Subp. 1 (C) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0350 Subp. 1 (D)

This proposed change in the final dates of acceptance of a quarter horse broodmare application establishes a date in which all applicants would have more ample time to apply. This date is reasonable because it extends the final date of acceptance two and one half months for the applicants. In this time span, all applicants will have their applications submitted and processed. This date does not prohibit any applicant from applying for a variance.

7895.0350 Subp. 1 (E)

This change proposes to add this subpart to make all late applicants aware that they may have to document the fact that the quarter horse broodmare was standing in Minnesota as of February 15th of the foaling year. This addition is necessary to ensure the reliability of the applicant for verification by the Commission.

7895.0350 Subp. 2 (A)

This proposed change will make the final date of quarter horse stallion registration correspond with the proposed final date of registration of thoroughbred and standardbred stallions. This change is necessary because of the several out of state sales which occur towards the end of January. Extending the deadline for applications without penalty for 15 days gives these new owners time to submit applications.

7895.0350 Subp. 2 (B)

This proposed change is needed and reasonable in that the initial date of the quarter horse breeding season will correspond with the proposed change to the final date of quarter horse stallion registration contained above.

7895.0350 Subp. 2 (C)

This proposed addition is necessary to clearly establish a late fee for those participants who are untimely in their quarter horse stallion application submission. This addition is fair and reasonable because it offers an incentive to applicants to be timely and penalizes the tardy. Applications must be submitted in a timely manner in order that all applications can be processed and completed by the beginning of the meet. Further, this addition is intended to dramatically reduce the need and costs associated with hearing and ruling on variance requests.

7895.0350 Subp. 2 (C) [1]

This proposed fee specifies exactly the amount of the penalty, \$50.00. This is necessary to penalize those applicants who are tardy and also clearly state the exact amount of the late fee.

7895.0350 Subp. 2 (C) [2]

This proposed fee specifies exactly the amount of the late fee for extreme tardiness, \$100.00. This is necessary to penalize applicants who are extremely tardy with their applications. The late fee may encourage applicants to submit in a timely manner and it also clearly states the exact amount of the late fee.

7895.0350 Subp. 2 (D)

This proposed change in the final dates of acceptance of a quarter horse stallion application establishes a date in which all applicants would have more ample time to apply. This date is reasonable because it extends the final date of acceptance two and one half months for the applicants. In this time span, all applicants will have their applications submitted and processed. This date does not prohibit any applicant from applying for a variance.

7895.0350 Subp. 2 (E)

This change proposes to add this subpart to make all late applicants aware that they may have to document the fact that the quarter horse stallion was standing in Minnesota as of February 15th of the breeding year. This addition is necessary to ensure the reliability of the applicant for verification by the Commission.

7897.0150 Subp. 3 (A)

This proposed change is necessary and reasonable in that it prohibits those not licensed to participate in racing from appealing stewards' rulings. Existing rule is not clearly defined and may have inadvertently allowed persons with no significant interest in the proceeding the opportunity to appeal.

7897.0150 Subp. 3 (C)

This proposed change eliminates the "de novo" portion of the appeals because the matter already has been presented to a hearing panel (stewards). This rule is necessary and reasonable because it eliminates the participants from testifying again to the same material. This subpart would also change to Subpart 3 (B) with the proposed elimination of Subpart 3 (A).

7897.0150 Subp. 4

This proposed change is necessary to be consistent in the rules by referring to the executive secretary as the director. It is reasonable to be consistent in reference to the director by the same title throughout the rules.

7897.0150 Subp. 5

This proposed change is necessary to be consistent in the rules by referring to the executive director as director. It is reasonable to be consistent in reference to the director by the same title throughout the rules.

7897.0150 Subp. 6

The proposed changes are necessary to clarify the fact that stewards may only rule on licensed individuals. further, in that the racetrack is open on weekends and holidays during the meet, those days should also be inclusive of the licensee to appeal. The changes are reasonable because only a licensee can be ruled upon and also that there are Minnesota Racing Commission staff available every day of the week during a meet to accept an appeal.

7897.0150 Subp. 7

This proposed change is necessary to make the deposit with the request for appeal more equitable for all licensees. It is reasonable for at the present time, the fee of \$50.99 is the same for licensees whose occupation is lower paying than others. this change would attempt to equal out the deposit requirements of all the various occupational licensees.

7897.0150 Subp. 8

A change is proposed in this subpart in order to establish a hearing date for the appellant as soon as possible. It is reasonable to set a date as soon as possible so as to avoid inconvenience to the appellant/licensee. The authority to establish a date has been extended to the director and the deputy director. Further, it is reasonable for all participants to have the hearing within eight days upon receipt of the request. This indicates to the appellant that all possible means are being sought for a rapid hearing. It is necessary because oftentimes payments of purse monies are involved which are frozen until after the hearing. Further, it is necessary that the appellant may obtain a continuance based on reasonable circumstances to be determined by the director.

7897.0150 Subp. 9

This change is necessary to be consistent in the rules in reference to the director by that title only. Further, the stewards may only rule on the licensee and therefore, should be referred to a licensee throughout the rules. These changes are reasonable to be consistent in reference throughout the rules.

7897.0160 COMPOSITION OF HEARING PANEL

7897.0160 Subp. 2

This proposed change prohibits an appellant or another Class C licensee from appealing the decision of the hearing panel to the full Commission. As the hearing panel represents the commission, it is reasonable that no further adjudicative procedures be filed with the Commission.

7897.0170 CONDUCT OF APPEAL HEARING

7897.0170 Subp. 7

This proposed change clarifies language in referring to the licensee appealing as the appellant as so referred throughout the rules. Further, the change indicates that the appellant must prove what is necessary to make the ruling more clear and less ambiguous to all the participants. The changes are reasonable for an appellant should not be able to appeal on any other grounds except for an error on the stewards' part or a ruling not supported by applicable rule or law.

IV. OTHER STATUTORY REQUIREMENTS

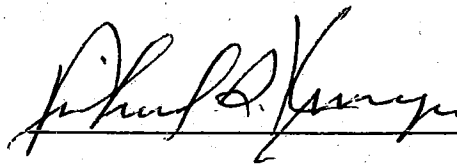
Minn. Stat. §14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule on small business.

The proposed additional amendments to the racing rules indirectly impact small businesses in that these rules will enhance economic activity and reduce potential inconveniences to small business operators. The rule does not affect small businesses disproportionately nor does the rule prevent small businesses from participating in horse racing. The Commission considered the impacts of the amendments on small business and determined that because of the nature of the industry, the Commission cannot be less rigorous in its regulation of one type of business than another.

Minn. Stat. §14.11, subd. 2 is inapplicable because the proposed amendments will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6, and 114A.29, subd. 4 are not applicable. Pursuant to section 16A.128, subd. 1, a copy of the proposed rules was sent to the chairs of the House Appropriations Committee and Senate Finance Committee. 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.

CONCLUSION

Based on the foregoing, the Minnesota Racing Commission's proposed additions and amendments to the existing rules governing horse racing are both necessary and reasonable.



RICHARD G. KRUEGER
Minnesota Racing Commission

10/23/89

Date