

1/22/91



MINNESOTA RACING COMMISSION

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January 17, 1990

Ms. Maryanne Hruby, Director
LCRAR
55 State Office Building
St. Paul MN 55155

Dear Ms. Hruby:

Enclosed you will find a copy of the Statement of Need and Reasonableness for the Proposed Permanent Rules Relating to Amendments to Existing Rules for the Minnesota Racing Commission. These rules will be published in the State Register on Monday, ~~January 22,~~ 1991.

Please contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard G. Krueger".

RICHARD G. KRUEGER
Director, Pari-Mutuel Racing
Department of Gaming

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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.

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 Commission believes the proposed amendments and new rules are reasonable because they are customary in other racing jurisdictions. 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 Commission is also specifically authorized by Minn. Stat. §240.23 (1990) to promulgate rules governing the "conduct of horse racing held at licensed

racetracks, including but not limited to the rules of racing, application for pari-mutuel pools and racing days, pari-mutuel wagering rules, Class A and B licenses, Off-Track Stabling, Class C Licenses, Stewards, Entries and Subscriptions, Claiming Races, Medication, Prohibited Acts, Penalties and Allowances, Taking of Samples, Breeders' Fund and "any other aspect of horse racing or pari-mutuel betting which, in its opinion, affects the integrity of racing or the public health, welfare or safety".

III. RULE-BY-RULE ANALYSIS

7870 CLASS A AND B LICENSES

7870.0400 Deadlines for Submission of Class A and B License Applications

This part contains information regarding the submission of Class A and B license applications from racetrack owners and operators. The Commission proposes to delete all language referring to the original application deadline of March, 1984, and to substitute language indicating that applications to own and operate a racetrack in Minnesota may be made at any time by the submission of the application to the Commission's administrative office. This proposed change is necessary because the one legislatively mandated racetrack within the seven-county metropolitan area has been in operation since 1985, and no further applications may be received for other racetracks. Further, the change is necessary to clarify that applications for ownership and operation of a racetrack outside of the seven-county metropolitan area may be submitted at any time. The rule change is reasonable because it clears up ambiguous language in the Commission's rules, and imposes no undue burdens on potential applicants or licensees. Indeed, the change simplifies the application process.

A change is also being proposed to allow Class B license applicants to make application for racing days 60 days prior to the date on which they propose to commence horse racing. The current rule requires a 160 day period because the rule was initially written to provide adequate time to complete the construction

of Canterbury Downs. The proposed change is necessary because a license application involving change of ownership of an existing facility does not require as much consideration as the 160 day time period does not permit racing to begin in the spring of any given year, which is customary in most racing jurisdictions. The proposed change is reasonable because it allows for greater ease in the application process, and allows the applicant to file his application for racing days at a more reasonable time.

7871 PARI-MUTUELS RULES ON TELEVISED RACE DAYS

7871.0010 Application for Pari-Mutuel Pools

The Commission proposes to make a change to subpart 2(e) of the existing rule, to allow the Commission from 25 to 45 days after the filing of an application to approve, deny, or give qualified approval to the application. The rule change is necessary to allow for more rapid processing of the application. The rule change is reasonable because it allows the Commission on the act on the application within 25 days as opposed to the 30-day requirement currently in the rule, and makes the timeframe for action by the Commission consistent with that for approval of race days and pari-mutuel pools in live racing days.

7872 ASSIGNMENT OF RACING DAYS

7872.0100 Application for Racing Days

The Commission proposes to make a change to subpart 2(B) of the existing rules, to allow the Commission an additional fifteen days in which to conduct a public hearing on racing days applications. The rule change is necessary to allow the Commission a longer period of time in which to schedule the public hearing. The rule change is reasonable because it does not impose an undue burden on the applicant, and it allows for greater ease in the scheduling of the hearing, and makes the timeframe for action by the Commission consistent with that for the approval of pari-mutuel pools.

7873 PARI-MUTUEL RULES

This section covers the application process for pari-mutuel pools, approval of pools, pari-mutuel betting, the various types of wagering permitted, and other areas specific to pari-mutuel wagering. The Commission proposes to make changes to chapter 7873.0100 (Application for Pari-Mutuel Pools); 7873.0110 (Approval of Pari-Mutuel Pools); 7873.0185 (Trifecta); 7873.0186 (Twin Trifecta); 7873.0190 (Pick Six); and to add two new sections: 7873.0192 (Super-Tri Wagering and Pools) and 7873.0198 (Pick Seven).

7873.0100 Application for Pari-Mutuel Pools

The Commission proposes to make a change to subpart 1(E) of the existing rule, to allow the Commission from 25 to 45 days after filing of the application to approve, deny, or give qualified approval to the application. The rule change is necessary to allow for more rapid processing of the application. The rule change is reasonable because it allows the Commission to act on the application within 25 days as opposed to the 30-day requirement currently in the rule, and makes the timeframe for action by the Commission consistent with that for approval of racing days and pari-mutuel pools on televised race days.

7873.0110 Approval of Pari-Mutuel Pools

The Commission proposes to add language to subpart 1 of the rule to allow the Commission's Director of Pari-Mutuel Racing to approve changes in the placement of pools, add previously approved pools to the program, and approve certain changes in simulcasting requests. The authority granted to the Director is minimal and the changes are administrative in nature. The change also provides for the Director of Pari-Mutuel Racing to consult with the Commission's Executive Committee prior to approving such changes in exotic wagering pools. The rule change is necessary to more efficiently process requests from a licensee without requiring full Commission approval. The rule change is reasonable because it imposes no undue burden on the licensee, and adds an extra measure of regulatory control by the Commission in the approval of certain changes to exotic pools.

7873.0185 Trifecta

The Commission proposes to make changes to subpart 7 of the rule to prohibit coupled or uncoupled entries from starting in trifecta races. The proposed change also deletes the reference to the ten horse minimum field for a race with trifecta wagering. The change is necessary to make it clear that coupled or uncoupled entries are prohibited from starting in trifecta races. The rule change is reasonable because it enhances the Commission's regulatory authority and reduces the possibility of trainers entering one or more horses in a trifecta race and scratching a horse at the last minutes. The rule change is also reasonable because it allows the licensee greater flexibility in scheduling trifecta races by removing the ten horse requirement.

7873.0186 Twin Trifecta

The Commission proposes to make changes to subpart 3 of the rule, to allow the association to calculate the twin trifecta pools according to one of two methods previously approved by the Commission. The rule change is necessary in order to permit the association to employ either one of those two methods. The rule change is reasonable because it imposes no undue burden on the licensee, and provides for greater flexibility and opportunity in the offering of twin trifecta wagering to the patrons. The dual calculation method is consistent with the rule governing the Pick Six and Pick Three wagers, a method which has proved successful during the past racing season.

The Commission proposes to make changes to subpart 9 of the rule to prohibit coupled or uncoupled entries from starting in twin trifecta races, and deleting the reference to a ten horse minimum field for a race with twin trifecta wagering. The rule change is necessary to make it clear that coupled or uncoupled entries are prohibited from starting in twin trifecta races. The rule change is necessary because it enhances the Commission's regulatory capability and reduces the possibility of trainers entering one or more horses in a twin trifecta race and

scratching a horse at the last minute. The rule change is also reasonable because it allows the licensee greater flexibility in scheduling twin trifecta races by removing the ten horse requirement. The change is identical to that proposed for trifecta races.

7873.0190 Pick Six

The Commission is proposing to add a new section to subpart D of the rule to allow the licensee to, before the start of any given race meet and with prior approval of the Commission, establish a mandatory payout date on the next consecutive race day after the pick six carryover pool has reached a previously approved amount. The rule change is necessary to allow the licensee the option to distribute carried over pick six monies more frequently during a race meet than is currently authorized by rule. The rule change is reasonable because it allows the association greater flexibility in paying the pools, may enhance attendance at the track, and imposes no undue burden on the licensee or wagering public.

The Commission is also proposing to add a new subpart, subpart 11, to the rule to allow the association to guarantee a minimum payout in the pick six. The addition of this language is necessary in order to allow the association to contribute its own funds, if necessary, to the pick six winner in order to meet the guaranteed minimum payout. The rule change is reasonable because it will provide the racetrack patron greater wagering opportunities but impose no burden on the wagering public.

7873.0192 Super-Tri Wagering and Pools

The Commission is proposing to write an entirely new rule to allow the association to apply to the Commission to conduct Super-Tri wagering, and delineating the calculation and payout procedures therein. This wager will allow the bettor to select three horses that will finish first, second and third in one designated race, and concurrently select the correct order of finish (first, second,

third and fourth) in another designated race. All Super-tri wagers would be calculated separately, and the Super-tri wagering pool will remain separate from all other pools as is customary. The new rule is necessary in order to allow the association to apply to the Commission to conduct Super-Tri wagering. The rule is reasonable because it imposes no undue burden on the licensee or the wagering public, and would serve provide additional wagering opportunities to patrons.

7873.0195 Distribution of Pick Seven, Pick Six and Pick Three Pools

The Commission is proposing to add the pick seven pool to the distribution requirements of other pools on the last day of racing of a race meet. This rule is necessary and reasonable in that it provides consistency in the payout of wagering in the pick seven, pick six, and pick three pools and will mitigate any potential confusion to the patrons as to the distribution of these pools on the final day of racing.

7873.0198 Pick Seven

The Commission is proposing to write an entirely new rule to allow the association to apply to the Commission to conduct Pick Seven wagering, and delineating the calculations and payout procedures therein. The language in this rule is exactly the same as the language in 7873.0190 (Pick Six), the only change being the substitution of the words "Pick Seven" for "Pick Six" throughout the rule. The rule is necessary in order to allow the association to apply to the Commission to conduct Pick Seven wagering. The rule is reasonable in that it imposes no burden on the licensee or the wagering public, and would serve to provide additional wagering opportunities for patrons.

7875 FACILITIES AND EQUIPMENT

7875.0200 Equipment

The Commission is proposing to make changes to subpart 9 of the rule to make it clear that information regarding the results of any race shall not be transmitted out of the track until the results are official, except for races that

are broadcast or televised live. The rule change is necessary to provide greater clarity to the rule. The rule change is reasonable in that it imposes no burden on the association and enhances the Commission's regulatory capabilities.

The Commission is also proposing a change to this subpart to allow for one public telephone at each floor of a licensed racetrack, further requiring this telephone to be monitored by association security and to be part of an information center provided by the association. The rule change is necessary to allow patrons to make important telephone calls out from the track while racing is being conducted. The rule change is reasonable in that the phones will be closely monitored by security to prevent and discourage improper use of these telephones. It is also reasonable because it will allow patrons greater ease in making personal telephone calls, particularly in cases of emergency.

7876 STABLING

7876.0110 Off-Track Stabling

The Commission is proposing a change to subpart 3 of the rule. The change is for clarification purposes, and simply makes it clear that horses shipping in from off-track stabling facilities must arrive at the track in time for a veterinary inspection prior to the race in which they are scheduled to run. The rule is necessary to clarify the language in the existing rule. The change is reasonable because it imposes no burden on the horsemen and enhances the Commission's regulatory capabilities.

7877 CLASS C LICENSES

7877.0130 Standards Required of Applicants for Specific Licenses

The Commission is proposing to make a change to subpart 3 of this rule to require trainers and assistant trainers to provide proof of compliance with Minnesota Workers' Compensation laws, and all pertinent rules adopted thereunder. The rule change is necessary because it simplifies the rule by simply requiring compliance rather than contemplating "change of employment" situations for

individual trainers. The rule change is reasonable because it places no burden on the licensee, and enhances the Commission's regulatory capabilities in monitoring compliance to all current Minnesota Workers' Compensation laws and rules.

A change is being proposed to subpart 9 to require private veterinarians operating at a licensed racetrack to provide proof of current USDA Animal and Plant Inspection Service accreditation in Minnesota and to provide proof of his/her current registration status under the Controlled Substances Act of 1970, including providing a list of schedules for which he/she is approved by the DEA. The rule change is necessary to assist the Commission in deciding whether or not to issue a Class C license to a veterinarian and to increase the Commission's regulatory capabilities in the critical area of drug use. The rule change is reasonable in that it imposes no burden on the licensee, and simply requires compliance with existing State and Federal laws and rules regarding controlled substances.

7877.0160 Duration and Extent of Class C Licenses

The Commission is proposing a change to subpart 3 of the rule to require Class C licensees who have employees at the track to inform the association's validation office of changes in employee status by no later than the end of the next race day following the change. The rule change is necessary in order for the Commission to more strictly enforce security measures on the backside of the racetrack. The rule change is reasonable because it imposes no burden on the licensee, allows for greater ease in locating individuals on the backside, and provides a greater degree of security to the horses.

7877.0170 Duties and Responsibilities of Class C Licensees

The Commission is proposing two changes to subpart 2 of the rule. One change would require a trainer to report the discharge of an employee to the association's validation office rather than the Commission's licensing office. This change is necessary to conform the rule to subpart 3 of section 7877.0160. The change is reasonable in that it imposes no burden on the licensee and eases the

procedure for reporting changes in employee status. A new section (Subpart T) is being proposed to require trainers to comply with all provisions of Minnesota Statutes, chapter 176 (Workers' Compensation) and all pertinent rules. The rule is necessary in order to more effectively enforce compliance with the Minnesota Workers' Compensation laws. The rule change is reasonable because it helps the Commission ensure that workers' compensation benefits will be available to injured racetrack workers.

A change is being proposed to Subpart 3 of the rule to make it clear that jockeys must have no communication with any person outside the jockeys' room (other than owner or trainer for whom he/she is riding that day, Stewards or other Commission officials) while the jockey is engaged in performing his/her duties. The rule is necessary for purposes of clarification and will help eliminate inappropriate betting and the transmission of information which may affect a race. The rule change is reasonable because it enhances the Commission's ability to insure the integrity of racing.

The Commission is proposing a change to subpart 9 of this rule to require veterinarians to be responsible for the conduct of their employees and/or veterinary assistants in insuring compliance with this subpart. New language is being added to prohibit veterinarians from being in possession of medications or substances which have not been approved for use in the United States by the FDA, and to prohibit them from having in their possession controlled substances in schedules for which they have not been approved by the DEA. The rule change is necessary to provide additional regulatory and disciplinary options to the Commission for violations of medications rules. Surprisingly, few state or federal laws address the problem of unapproved drug use. The rule is reasonable because it enhances the Commission's ability to maintain integrity of the sport by ensuring better control over the use and possession of dangerous substances.

7879 STEWARDS

7879.0100 Qualifications and Appointment of Stewards

A change is proposed to subpart 2(A) of this rule. The change is "housekeeping" in nature, and corrects a typographical error in line 2 (changing "Commissioner" to "Commission"). The rule change is necessary in order to clarify that stewards are appointed by the Commission. The rule change is reasonable because it simply corrects an error.

7883 THOROUGHBRED AND QUARTER HORSE RACES

7883.0100 Entries and Subscriptions

A change is being proposed to subpart 6 to make it clear that a horse cannot be entered in more than one race on any given race day. The change is necessary to prohibit trainers from scratching horses from races at the last minute thereby creating "short fields", or races with too few horses. The rule change is reasonable because it ensures more fairness in the sport to the wagering public by helping to ensure more betting interests in a single race.

Changes are being proposed to subpart 16 to require horses that have not started in a race for thirty days or more to complete one timed workout prior to entry, horses which have not started for sixty days or more to complete two timed workouts prior to entry, first-time starters to have gate approval and at least two timed workoutss, one of which must be out of the gate, within 60 days prior to entering. Horses other than first-time starters which have not started for a year or more must complete three timed workouts prior to entry, one of which must be before the Commission or Association veterinarian. The rule change is necessary to insure the racing fitness of all horses entered to race. Horses which have not raced due to injury or other reason may be more susceptible to breakdown, thereby causing injury to the jockey or the horse. The rule is reasonable because it protects the horses and assures the public of the racing fitness and performance of the horses.

7883.0130 Penalties and Allowances

A change is being proposed to subpart 4, adding language making it clear that the sex allowance may not be waived. The rule change is necessary in order to prohibit trainers from scratching horses from certain races where the sex allowance may be deemed to be a factor. The change is reasonable in that it contributes to the Commission's ability to regulate the sport and insure the integrity of racing.

7883.0140 Claiming Races

The Commission is proposing to add language to subpart 15 to allow a claimant to protest his/her claim if a stewards' ruling is subsequently issued concerning a medication violation on that particular horse. The rule is necessary in order to protect the claimant from owning a horse which has been involved in medications violations and which may have race in an uncharacteristic manner or which may be prohibited from racing for a time due to the violation. The rule is reasonable in that it provides a further means of protecting persons claiming horses from questionable and illegal activities.

7890 HORSE MEDICATION

7890.0100 Definitions

A change is being proposed to the definition of Lasix[®] referenced in Subpart 13(B) to delete certain language and to simply clarify that Lasix[®] is permitted if it is administered pursuant to the provisions of Minn. Rule 7890.0140, Subpart 6. The rule change is necessary to allow for the administration of Lasix[®] under the visual supervision of a designee of the Commission Veterinarian, rather than the Commission Veterinarian him/herself. A security agent or veterinarian assistant is capable of supervising the administration of Lasix[®] by a licensed veterinarian. The rule is reasonable because it allows the Commission veterinarian greater freedom in attending to more important regulatory matters.

7892.0129 TAKING OF SAMPLES

7892.0120, Subpart 5

The Commission is proposing changes and additions to this rule so as to strengthen its regulatory control and disposition of suspect blood and urine samples. This proposed amendment is necessary to assure prompt disposition and processing of positive samples so as to reduce the risk of deterioration of the split sample. This proposed amendment is reasonable in that it is to all participants' benefit that all suspect samples be handled in an expeditious and careful manner, analyzed by capable laboratories, and at the same time, not causing any unnecessary burdens or embarrassment to the participants alleged to be responsible for the positive test.

7895 BREEDERS FUND

7895.0100 General Provisions.

7895.0100, subpart 7.

The Commission proposes this new subpart so as to provide for the collection of the late fee revenues anticipated to be earned by rules 7895.0125, subps. 1C, 2C and 3B, 7895.0275, subp. 1C and 7895.0350, subps. 1C, 2C and 3B. This proposed rule is necessary because it will defray the costs of administering late registrations. The proposed rule is reasonable in that it will not cause unjustified financial burden on participants, will strengthen the Commission's regulatory responsibilities in registering eligible horses, and will hopefully eliminate the substantial number of late registrations.

7895.0125 Thoroughbred Registration

7895.0125, subp. 1

This proposed addition is necessary in that it clarifies the requirements needed to assure broodmare eligibility for registration. The proposed addition is reasonable in that it proposes explicit registration requirements which strengthen the Commission's regulatory oversight. The Commission further proposes to change this subpart by amending the date for registration eligibility. This is a housekeeping change necessary to correct an error made in drafting the rule in 1989. The

proposed change is reasonable because it simply corrects an error.

7895.0125, subp. 2.

The Commission proposes this housekeeping change to correct a date change that, due to oversight, was not made in rule changes in 1989. It is necessary to correct this error so that all registration dates are consistent. The proposed change is reasonable because it simply corrects an error.

7895.0275 Standardbred Registration

7895.0275, subp. 1E

The Commission proposes this housekeeping change to correct a date change that, due to oversight, was not made in rule changes in 1989. It is necessary to correct this error so that all registration dates are consistent. The proposed change is reasonable it simply corrects an error.

7895.0350 Quarter Horse Registration

7895.0350, subp. 1

The Commission proposes this housekeeping change to correct a date change that due to oversight was not made in rule changes in 1989. It is necessary to correct this error so that all registration dates are consistent. The proposed change is reasonable it simply corrects an error.

7895.0350, subp. 2

The Commission proposes to add language to this rule that will permit the movement of quarter horse stallions during the breeding season. This proposed change is necessary to allow adequate flexibility to Minnesota's quarter horse men to effectively manage their racing stock, while at the same time remaining eligible for Minnesota breeders' fund registration. This proposed change is reasonable because it promotes and stimulates equine ownership and management.

7897 PROHIBITED ACTS

A change is being proposed in subpart 7 to require persons to comply with orders of racing officials in addition to security officers, and to require racing

officials to comply with the orders of a Steward while in the performance of his/her duties. The change is necessary in order to provide Stewards and Racing Officials additional authority in issuing disciplinary rulings and insuring compliance with all Commission rules. The change is reasonable because it imposes no undue burdens, and gives the Racing Officials and Stewards more regulatory capability and control.

Changes are also being proposed to subpart 10, deleting the requirement for complainants to obtain a judgment from a court of competent jurisdiction prior to filing a complaint with the stewards. The change allows the stewards to attempt to mediate and resolve financial disputes between licensees without over-burdening the court system. The rule change is necessary in order to allow the stewards to hear financial complaints and attempt to resolve them without receiving a copy of a court judgment from the complainant. The change is reasonable because it will speed up the process of resolving financial disputes, and will save licensees a substantial amount of money by avoiding court costs.

A new subpart (19) is being proposed to prohibit persons from parking or driving a vehicle on the grounds of an association in a manner which creates a potential hazard to persons, property or horses. The rule is necessary because it allows the stewards to impose disciplinary sanctions against violators. The rule is reasonable because it serves to further protect the public health, safety and welfare.

7897.0110 Use of Drugs and Alcohol

A change is being proposed to subpart 1 to broaden the scope of the rule to include any licensees having direct physical contact with horses or direct responsibility for some portion of the day's racing program. The rule change also defines the prohibited level of alcohol concentration in blood levels, breath levels and urine levels. The rule change is necessary to impose disciplinary sanctions on persons who are in a position to cause injury or death to racing participants

or horses. The rule change is reasonable because it provides more regulatory control by the Commission. The change also serves to promote chemical health awareness among persons at the track and encourage them to participate in available programs at the track.

7899 VARIANCES

A change is being proposed in subpart 3 to allow the Commission to act on variance requests within ten days of receipt of the request, as opposed to the 30-day requirement. The rule change is necessary in order to expedite variance procedures. The rule change is reasonable because it imposes no undue burdens on anyone, and will provide more rapid service to members of the racing and breeding industry who are seeking justified variances from the Commission's rules.

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 and new rules indirectly impact small businesses in that these rules may affect training stables and other such small businesses. The rule does not affect small businesses disproportionately nor does the rule prevent small businesses from participating in horse racing. The Commission considered the impact of the amendments and new rules 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 and 116.07, subd. 6 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments or new rules do not set any fee. Likewise, 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

1/17/91

DATE

