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MINNESOTA RACING COMMISSION

February 8, 2008

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St Paul, MN 55155

Re: In the Matter of the Proposed Rules of the Minnesota Racing Commission Relating to M.R. Chapters 7869, 7871, 7872, 7873, 7875, 7876, 7877, 7879, 7883, 7884, and 7890; Governor's Tracking Number AR359

Dear Librarian:

The Minnesota Racing Commission intends to adopt rules relating to Definitions, Televised Horse Racing Days, Assignment of Horse Racing Days, Pari-Mutuel Rules, Facilities and Equipment, Stabling, Class C Licenses, Horse Racing Stewards, Horse Races, Harness Races, and Horse Medication.

We plan to publish a Dual Notice of Intent to Adopt Rules Without a Public Hearing in the February 11, 2008 State Register.

The Commission has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Commission is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 952-496-7950.

Yours very truly,

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

Sharon A. Beighley  
Rules Coordinator  
Minnesota Racing Commission

**MINNESOTA RACING COMMISSION  
STATEMENT OF NEED AND REASONABLENESS  
PROPOSED AMENDMENT TO RULES GOVERNING:**

- M.R. Chapter 7869 – Definitions  
M.R. Chapter 7871 – Televised Horse Racing Days  
M.R. Chapter 7872 – Assignment of Horse Racing Days  
M.R. Chapter 7873 – Horse Racing; Pari-Mutuel Rules  
M.R. Chapter 7875 – Horse Racing; Facilities and Equipment  
M.R. Chapter 7876 – Horse Racing; Stabling  
M.R. Chapter 7877 – Horse Racing; Class C Licenses  
M.R. Chapter 7879 – Horse Racing; Stewards  
M.R. Chapter 7883 – Horse Races  
M.R. Chapter 7884 – Harness Races  
M.R. Chapter 7890 – Horse Medication**

**INTRODUCTION**

The proposed rule amendments of the Minnesota Racing Commission are intended to modify definitions as needed to include a definition for the term "direct supervision by a Veterinarian licensed by the Minnesota Racing Commission pursuant to M.R. 7877.0130, subp. 9" and modify the definition of equipment (as applied to a horse).

With regard to televised race days the rule amendments will delete requirements for copies of rules from other racing jurisdictions to be available at Minnesota racetracks, and change the requirement for the number of independent tip sheets available at a track. The proposed amendments will change the date by when Class B licensees must apply for race days for the following racing season.

The proposed amendments will change the restrictions on trifecta wagering. They will also make changes regarding the terminology used for electronic communications devices, and delete obsolete terms such as telegraph and telegram.

The proposed rule changes will recognize freeze branding as an acceptable form of horse identification, and will allow the stewards greater flexibility in allowing racetrack arrival times for horses racing on the same day as they ship in.

The rule changes will clarify the rule requiring that veterinarians be licensed to practice veterinary medicine in Minnesota, and will allow assistant trainers to have dual licensing as authorized agents. The rules will require that all drugs administered, dispensed, or carried by a veterinarian on the racetrack grounds must be FDA approved. The rules will establish duties and responsibilities for veterinary assistants, and will create a prohibition against racing officials also serving as jockeys or drivers at the same meet that they are officiating.

There are several changes throughout the rules to incorporate the word 'driver' as necessary. Current rules refer only to 'jockey' in many instances, and it is necessary to include drivers since harness racing will be started in Minnesota in 2008,

The proposed rules will make changes to the rules governing coupled entries. The rules will, essentially, allow the licensee greater flexibility in deciding which races to couple or uncouple, dependent upon approval from the stewards. This will allow for more wagering opportunities for the racing fans attending the races.

The rules will be amended to require stewards' approval for the use of blinkers by horses, and remove nasal strips from the list of items requiring stewards' approval. The rules are being clarified to establish a timeline for horses to complete timed workouts before a Commission Veterinarian. The rules regarding transfer of title to a claimed horse are being changed to make it clear at what time the title actually changes hands from one owner to another.

Changes are being made in the thoroughbred claiming rules to delete language regarding standardbred horses, and to relocate that language to the rules governing claims for standardbreds.

The proposed rules will change the time for bandages and blankets to be removed in the paddock, and will prohibit the use of safety pins or metal/plastic binders in conjunction with bandages on horses' legs. The rules regarding fouling and interference by jockeys are also being revised, to clarify language about the jockeys' use of the whip. As discussed earlier in this introductory statement, specifications for any toe grabs to be used are being included in the rule amendments, and requirements that equipment changes cannot be made without the stewards' approval is also being included.

The current rules regarding harness racing are being amended to delete references to a one mile track and replacing them with references to a 5/8 mile track. The rule changes will be also change the number of horses allowed in a full field for standardbred racing. The harness rules are also being amended to require drivers to register their colors, and require them to wear white pants. Additional language is being added to the harness rules to require drivers to maintain reasonable control of their horses at all times during a race. Another change being made to the harness racing rules will correct an oversight in the original rules that will allow Class B licensees to request the Commission's approval for expanded homestretch racing.

Throughout the proposed changes, wherever practical, references to gender have been modified to make the rules gender neutral.

Changes to the horse medication rules need to be made to correct a technical error regarding a statutory citation. Changes are also planned to establish procedures for TC02 testing on horses. Those changes include new definitions for the terms alkalinizing agents, milkshaking, and venom. Use of the term Blood Doping Agent is being incorporated into the medication rules. Changes are being made to the medication rules to delete the required completion of certain forms for horses that are classified as bleeders.

## **ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, cassette tape, or digital disc. To make such a

request, contact Ms. Colleen Hurlbert at the Minnesota Racing Commission, P.O. Box 630, Shakopee, MN 55379; phone 952-496-7950, fax 952-496-7954; or email at [colleen.hurlbert@state.mn.us](mailto:colleen.hurlbert@state.mn.us). TTY users may call the Racing Commission at 800-627-3529.

## STATUTORY AUTHORITY

This rulemaking is an amendment of rules and so Minnesota Statutes, section 14.125, does not apply.

The Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.23, which provides: The Commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results, b) wire communications between the premises of a licensed racetrack and any place outside the premises, c) information on horse races which is sold on the premises of a licensed racetrack, d) liability insurance which it may require of all racetrack licensees, e) auditing of the books and records of a licensee by an auditor employed or appointed by the Commission, f) emergency action plans maintained by licensed racetracks and their periodic review, g) safety, security, and sanitation of stabling facilities at licensed racetracks, h) entry fees and other funds received by a licensee in the course of conducting racing which the Commission determines must be placed in an escrow account, i) affirmative action in employment and contracting by licensed racetracks, and j) 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.

Further statutory rulemaking delegation relating to the amendments contained herein include M.S. 240.08, subd. 3 (Investigations), M.S. 240.13, Subd.3 (Pari-Mutuel Betting), M.S. 240.16, Subd. 4 (Stewards), and M.S. 240.24, Subd. 1 (Medication).

Under these statutes, the Commission has the necessary statutory authority to adopt the proposed rules.

## REGULATORY ANALYSIS

- (1) A description of the classes of persons who will probably be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Veterinary assistants will be affected by the rule since the proposed rules define the scope and parameter of the duties and responsibilities of veterinary assistants. The rules also define responsibilities incumbent upon veterinarians who employ veterinary assistants on the backside of licensed racetracks. Veterinarians will be affected by the requirement that all drugs on the grounds of an association must be FDA approved. Veterinarians and trainers will be affected by proposed rules regarding TC02 Testing, Milkshaking, and the possession of Venom or Blood Doping Agents. Veterinarians and trainers will be affected by proposed changes in the rules regarding the use of nasogastric tubes, and the rules regarding trainer responsibility for positive drug findings.

Horse owners, trainers, and others who work with horses at the racetrack will be affected by the changes in equipment requirements. Owners and trainers are required to pay for the cost of

any equipment modifications as a result of the rule changes. Owners and trainers will also be affected by the rules permitting freeze-branding as a recognized means of identification for race horses, and adjustments to the required time when horses need to be at the racetrack for inspection on race days. Trainers will be affected by the rules governing the use of bandages and blankets in the paddock.

Class B licensees will be affected by deleting the requirement to obtain and maintain copies of other states' pari-mutuel rules at all betting windows when simulcast races from those other tracks are being transmitted to Minnesota. Likewise, the Class B licensees will be affected by changing the requirement of having independently handicapped tip sheets available on race days from "not less than two" to "at least one" vendor. Class B licensees will be affected by the change in the date for the submission of race day requests. Class B licensees, as well as owners and trainers, will be affected by the proposed changes in the rules governing coupled entries. Class B licensees will be affected by the changes to the length of a harness race track, as well as the numbers of horses permitted in fields at harness race tracks. Class B licensees will be affected by the rule authorizing them to request expanded homestretch racing from the Minnesota Racing Commission.

Wagering patrons, as well as Class B licensees, will be affected by the changes in restrictions on trifecta wagering.

Jockeys and drivers will be affected by the rules regarding the use of cell telephones and other electronic communication devices on racing days. Jockeys will be affected by the proposed changes to the rules governing interference and willful fouling during the course of a race.

Assistant Trainers will be affected by the proposed rule that will also permit them to be licensed as authorized agents.

Racing Officials, jockeys, and drivers, may be affected by changes in the rules regarding conflict of interest as it will affect their ability to own race horses participating at a Class B facility where that individual works. Likewise, Commission employees and other licensees will be affected by the proposed prohibition against accepting remunerations, honorariums, or other forms of payment.

Stewards will be affected by the rules regarding the administration of tests for first-time applicants for a trainer's license, and the rules giving them the authority to require drivers to review previous race films for instructional purposes.

Trainers will be affected by the rules changing the requirements for obtaining approval for blinkers, and by changes in the rules governing workout requirements. Trainers and owners will be affected by the proposed changes in rules governing claiming races and the time when transfer of title to a horse is deemed to have occurred. Stewards, trainers and jockeys will be affected by changes to the equipment rules with respect to the use of toe grabs. Trainers will be affected by proposed changes to the rules concerning the completion of forms for bleeders. Trainers will also be affected by rule changes to the section concerning prima facie evidence of drug related medication violations.

Drivers will be affected by the rules requiring the use of white pants, and the registration of racing colors. Drivers will also be affected by the proposed rules requiring them to maintain

reasonable control of the horse at all times during a race, the length of the snapper on a whip, and the use of the whip.

Any costs related to the promulgation of the rules will be borne by the licensees. Changes to the equipment rules that result in costs will be minor, and are assumed to be part of the customary and usual cost of doing business incurred by horse owners and trainers.

The rules will benefit many classes of persons, including licensees and wagering patrons. The rules will result in better control of medications and procedures used on race horses at licensed racetracks, and will result in better regulation, with rules that are easy to understand and comply with. The rules will be of benefit to the equine athletes because they will serve to protect the health and well-being of horses on the backsides of licensed racetracks. Class B licensees will benefit from having rules that are less cumbersome and require less paperwork, while at the same time improving the ability of the Commission to oversee the integrity of the industry.

**(2) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated affect on state revenues.**

There is no anticipated change in costs to the Commission or to any other state or local agency, due to the implementation and enforcement of the proposed rule amendments. Likewise, there is no anticipated effect on State Revenues.

**(3) A determination of whether there are less costly or less intrusive methods for achieving the purpose of the proposed rules.**

No determination was made.

**(4) A description of any alternative methods for achieving the purpose of the proposed rules that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

No alternative methods were considered by the Commission.

**(5) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

It is estimated that there will be no cost increases (or very minimal costs) incurred by anyone to achieve compliance with these amendments.

**(6) The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

The anticipated costs or consequences of not adopting the proposed rules will be that the Commission will not have adequate harness racing rules in place when Running Aces Harness Park opens in April, 2008. Another consequence of not adopting the proposed rules would place the health of horses on the backside of Class B tracks in jeopardy, by not having up-to-date testing practices and requirements that drugs be FDA approved.

**(7) An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.**

There are no differences between these rules and federal requirements.

**PERFORMANCE-BASED RULES**

The Commission and its staff, as in the past in developing rule amendments, have not followed a formal process for the consideration and implementation of performance-based standards for the final promulgation of these proposed amendments. What needs to be emphasized is that the Commission and its staff, during the conduct of its regulatory duties and responsibilities on a day-to-day basis, constantly strive to be aware of ways by which the integrity of racing and pari-mutuel betting can be improved and at the same time create rules that allow for flexibility by racing participants and Commission staff in responding to unanticipated situations in a business-like fashion.

**ADDITIONAL NOTICE**

These rules were discussed at regularly scheduled Commission Meetings and Commission Work Sessions. The rules discussion was clearly included in all agendas duly prepared and mailed prior to these meetings. The meetings were held on August 7, 2007, August 15, 2007, September 11, 2007, October 2, 2007, November 8, 2007 and November 15, 2007.

The Commission published a Request for Comments in the September 4, 2007 edition of the State Register. The Commission will provide a copy of the rules and Notice of Intent to Adopt Rules to Canterbury Park Holding Corporation, North Metro Harness Initiative, the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Arabian Racing Association of Minnesota, the Jockeys Guild, and the United States Trotting Association. In addition, the Commission will provide a copy of the Notice and the Rules to the Minnesota Veterinary Medical Association, and the University of Minnesota, College of Veterinary Medicine.

The Racing Commission began work on these rules proposals in December, 2006, and has provided updates on the status of the rulemaking proceedings at its monthly meetings. Continued updates will be provided on a monthly basis during the course of the formal rulemaking process.

The Commission's Rulemaking Docket, which is publicly posted, will be updated as necessary to reflect the status of these rules.

Our Notice Plan also includes giving notice required by statute. We will mail the rules and Notice of Intent to Adopt to everyone who has registered to be on the Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. We will also publish the Proposed Rules and the Notice of Intent to Adopt in the State Register.

**LIST OF WITNESSES**

If these rules go to a public hearing, the Commission anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Dr. Lynn Hovda, Chief Veterinarian, Minnesota Racing Commission, will testify about the development and content of the medication rules.
2. Mr. Richard G. Krueger, Executive Director of the Commission will testify about the development and content of the rules.
3. Ms. Mary Manney, Deputy Director of the Commission will testify about the development and content of the rules, and specifically, the rules regarding harness racing.
4. The Racing Commission will be represented by Ms. Joan Eichhorst, Assistant Attorney General.

### **RULE BY RULE ANALYSIS**

**-Part 7869.0100, Subp. 25.** It is necessary to amend the definition of equipment to include terms that have become commonplace in the horse racing industry with regard to equipment commonly used in the horse racing industry. The term "toe grabs" refers to an addition to a normal horseshoe that may be used on race horses, and is a term that is frequently used and understood by horsemen and other individuals associated with racing. Including the term in the definition lessens the possibility that misunderstandings could occur when referring to toe grabs, shoes, or plates. The term "safety reins" refers to reins that have a redundant mechanism which helps to insure that should the reins break, separate from the bridle, or become separated from the jockey or driver during the course of a race, the redundant mechanism will allow the jockey, driver, or outrider to regain control of the horse. Including this term in the definition of equipment is reasonable, because while the use of safety reins is not a requirement at this time, it is expected that the industry will make this a requirement in the near future. The cornell collar is an optional piece of equipment that some trainers may choose to use, to maintain correct anatomical placement of the palate to help ease respiratory distress that may occur to young horses under racing conditions. It allows for the free movement of air to go past the horse's palate and into the lungs during racing. It is necessary to include the cornell collar in the rule to insure that all owners and trainers are aware of its allowed use in Minnesota.

The rule amendment is reasonable because it provides information to trainers and owners regarding the types of equipment that they are permitted to use at licensed racetracks in Minnesota. The rule is reasonable because it is informational in nature, and makes no requirements that trainers or owners use or purchase the equipment referred to in the definition.

**Part 7871.0070 Information Window.** This rule change is necessary to delete an obsolete requirement in rule. This rule pertains to televised, or simulcast racing conducted at licensed racetracks in Minnesota and, specifically refers to the races that are imported into Minnesota from tracks outside the state. The rule, as currently written, requires racetracks to obtain the pari-mutuel wagering rules from each state that they import races from, and have those rules available at each betting window at the racetrack that is open to take bets on those televised races. This is not a practical, or reasonable, requirement to make on a licensee. There is very little, if any, demand by patrons to view the rules. In the event that such a request was made, the information is readily available on-line from all states that conduct pari-mutuel horse racing, and the on-line information is more current and up-to-date than paper copies that might be on hand at the racetrack.

Deleting the requirement is reasonable because it deletes the need for the licensee to purchase and have available multiple copies of pari-mutuel wagering rules from dozens of other states



and racing jurisdictions. The deletion is also reasonable because it will insure reliance on up-to-date and current information if the need becomes available.

**Part 7871.0080, Subp. 1., Tip Sheets.** The Commission finds it necessary to amend this rule, which requires that at least two independent tip sheet vendors sell tipsheets at the track on days that the racetrack imports televised (simulcast) race signals from racetracks outside the State. Requiring at least two tipsheet vendors sets up a potential situation where a racetrack could not open its doors if for any reason one of the tipsheet vendors was not available. As a matter of practical experience, there have been two licensed tipsheet vendors at the racetrack. To date, requiring two vendors has not been a problem, but there is clearly potential for a problem to exist should one of the vendors not pursue a renewed license, or becomes incapacitated for another reason, especially if this were to happen in mid-season. Changing the language from "not less than two" to "at least one" provides flexibility to the licensed racetrack and allows them to continue operations as long as one independent tip sheet is available.

The rule change is reasonable, because the betting patrons will still have access to independent tip sheet information at the racetrack. The change is reasonable because it provides a degree of flexibility to the licensee, while still insuring that the betting public has access to information prior to making wagers. In addition to published tipsheet information, racetrack patrons also have access to on-line handicap information and televised information prior to the races which they will be betting on.

**Part 7872.0100, Subp. 1, Application for Racing Days.** This rule change is necessary to correct a disconnect between Minnesota Rules and Minnesota Statutes regarding the time by which Class B licensees must apply for racing days for the following year. Minn. Stat. 240.14 requires the Commission to assign racing days by December 31 of each year. The rule, as it currently exists, states that a licensee may apply for racing days for the following year on or before December 31 of any year. The Commission cannot act on a request for race days pursuant to M.R. Ch. 7872.0100, Subp. 2B no sooner than 25 days nor later than 45 days after it has received the request. In addition, the Commission must have time to schedule and conduct a public hearing on the request in the community in which the racetrack is located. Typically, the Class B licensee presents its request for racing days to the Commission at the November meeting of the Commission. The Commission then reviews the request, and holds a public hearing prior to acting on the request, at its regularly scheduled December meeting. To date, the disparity between rule and statute has not been a problem, because the Commission has only had one Class B licensee submitting racing days requests, and the licensee has submitted racing day requests in enough time for the Commission to go through the proper procedures. Now that an additional Class B license has been issued, there could conceivably be a competitive situation between the two tracks with regard to the assignment of race days.

Changing the date to November 15 in the rule is reasonable, because it reflects current practice and will ensure that the Commission will be able to fulfill all the requirements and assign race days to all class B licensees by the statutorily mandated date of December 31 of each year. Changing the rule is reasonable because both licensees are aware of the requirement that the Commission receive the race day request in enough time to act on it before the required deadline. The current class B licensees, and any future class B licensees, will be able to comply with the request without bearing additional burdens or expense.

**Part 7873.0185, Subp. 7, Restrictions on trifecta races.** This request for a rule change was submitted to the Commission by one of its Class B licensees. After review, discussion, and consideration, the Commission is in agreement that a rule change is necessary. It allows the

licensee to offer trifecta wagers on races with at least five starting horses. The reduction from six to five horses is especially helpful during the latter part of a race meet when fields are typically shorter and horses are departing for other racetracks. The change is necessary to allow the racetrack to remain competitive in the types of wagering and betting opportunities it offers to its on-track patrons and those in other states, in the face of increasingly stiff competition from illegal on-line wagering and other forms of lawful gambling allowed in Minnesota.

The rule change is reasonable because it allows the licensee to offer trifecta wagering through the end of its race meet, and also allows the betting public a greater variety of wagers to choose from when placing bets. The change is reasonable because the Commission's oversight of pari-mutuel wagering is not compromised or lessened by allowing five horses to race for trifecta wagering than six. The level of oversight remains the same, and the wagering public remains protected.

**Part 7873.0240, Subp. 1, Tip sheets.** The Commission finds it necessary to amend this rule, which requires that at least two independent tip sheet vendors sell tipsheets at the track on days that the racetrack conducts live racing. Requiring at least two tipsheet vendors sets up a potential situation where a racetrack could not open its doors if for any reason one of the tipsheet vendors was not available. As a matter of practical experience, there have generally been only two licensed tipsheet vendors at the racetrack. To date, requiring two vendors has not been a problem, but there is clearly potential for a problem to exist should one of the vendors not pursue a renewed license, or becomes incapacitated for another reason, especially if this were to happen in mid-season. Changing the language from "not less than two" to "at least one" provides flexibility to the licensed racetrack and allows them to continue operations as long as one independent tip sheet is available.

The rule change is reasonable, because the betting patrons will still have access to independent tip sheet information at the racetrack. The change is reasonable because it provides a degree of flexibility to the licensee, while still insuring that the betting public has access to information prior to making wagers. In addition to published tipsheet information, racetrack patrons also have access to on-line handicap information and televised information prior to the races which they will be betting on. During live racing in Minnesota, professional handicappers and announcers are typically on-site to provide information to the wagering public, in addition to the other on-line information. The betting line is also contained in the Minneapolis and St. Paul print media. The public will not be harmed, or have a lack of access to information prior to making their wagers.

**Part 7875.0100, Subp. 6, Jockey's or Driver's Room.** This rule change is necessary for a couple of reasons. First, with the advances in technology and the increasingly rapid speed with which information becomes available, it is necessary to broaden the meaning of "communications" when referring to communications devices allowed in jockeys and drivers rooms at a racetrack. Banning the use of cellular telephones is no longer sufficient to insure that jockeys and drivers do not have access to communication equipment while they are in the jockeys' and drivers' rooms. Changing the term from "cellular telephones" to "electronic communications devices" broadens the rule to cover the use of pagers, instant messaging devices, text-messaging devices, and other means of communication in addition to cellular telephones. It is also necessary to amend the rule to encompass driver's rooms at licensed racetracks. With the new harness track opening in the north Metro area, it is necessary to include terms relative to drivers in addition to jockeys.

The rule change is reasonable because it expands the scope of communications technologies covered in this rule, to reflect the technologies available today and in the future, and insures that the Commission will have sufficient oversight to protect the integrity of pari-mutuel racing in Minnesota. The rule change is also reasonable because it includes harness drivers in the prohibition against having these types of communications devices in their staging and prep rooms at the track.

**Part 7875.0200, Equipment, Subp. 6, Timing.** This is a grammatical change recommended by the Revisor of Statutes to change hand-held to handheld.

**Part 7875.0200, Subp. 9, External Communications.** This rule change is necessary to delete obsolete references to telegraphs and telegrams. This mode of communication is no longer a viable or used method, and has been replaced by other means of communication. It is also necessary to include the reference to electronic communications devices, to insure that the rule is compatible with existing communications technologies in existence at this time.

The change is reasonable because it does not change the meaning or intent of the rule as originally proposed and promulgated, but merely serves to remove obsolete language, and to include references to new forms of electronic communication.

**Part 7876.0100, Subp. 2, Requirements of commission must be met at racetrack.** This rule change is necessary to include the term "freeze branding" as a means of identifying race horses. Standardbred race horses are freeze branded with their official registration number from the United States Trotting Association. Other breeds, including thoroughbreds and quarter horses, are tattooed with the registration number inside the upper lip of the horse. The change is necessary because pari-mutuel standardbred racing will be conducted in Minnesota starting in 2008.

The rule change is reasonable because the practice of freeze branding as a means of identification for race horses is a standard and accepted practice in the standardbred racing and breeding industry across the country, and in other countries where standardbred racing is conducted. The change is reasonable because it recognizes an existing and common practice. Identifying horses by their freeze brand number will not harm the Commission's ability to regulate racing, specifically in insuring that horses are accurately identified to the betting public.

**Part 7876.0100, Subp. 3, Horses must be at racetrack for race day inspection.** This rule change is necessary to accommodate the common practice in the standardbred industry of horses shipping into the racetrack for a race on the actual day of the race. Allowing the stewards some flexibility to approve later arrival times for some of the horsemen will ease congestion in the receiving barns, and at the same time allow the horsemen to make use of off-track stabling facilities. It will also help scheduling arrival of horses so there is not a back-up trying to get into the track on race day.

The rule change is reasonable because the horses do not all have to be at the track by 9:00 AM in order to be ready to race at a post time that is later in the day. The rule change is reasonable because it provides flexibility for the stewards, the horsemen, and the Class B licensee in scheduling the transportation and arrival of horses at the racetrack. The rule is also reasonable because the Commission will have sufficient oversight of horses shipping in on race day to insure the integrity of the sport.

**Part 7877.0130, Subp. 9, Veterinarians.** This rule change is necessary to state clearly what accreditation an applicant for a veterinarian's Class C occupational license must have. The current language, proof of current validation, is an ambiguous statement that could possibly be interpreted in different ways. The change is necessary to add clarity to the rule, and to insure that the rule language can be clearly understood by all applicants for a veterinarian's license.

The rule change is reasonable, because it removes potentially confusing language and replaces it with a clear and concise statement of what the requirement is. The rule change is reasonable because it does not change or lessen the professional accreditations that must accompany a successful license application.

**Part 7877.0130, Subp. 14, Authorized Agents.** This rule change is necessary to accommodate requests from some assistant trainers to obtain dual licensure as authorized agents. The Commission discussed the request with its Board of Stewards, who could find no objections to allowing assistant trainers to act as authorized agents. The Commission also discussed the issue at its publicly attended work session meetings and Commission meetings, and no objections were voiced or opposition noted to the request.

The rule change is reasonable because it allows assistant trainers to expand their base of expertise in the horse racing industry, by acting as authorized agents. The rule change is reasonable, because authorized agents are licensed by the Commission pursuant to M.R. Ch. 7877.0130, Subp. 14, and fall under the Commission's oversight in the regulation of pari-mutuel horse racing.

**Part 7877.0170, Subp. 3., Jockeys and Apprentice Jockeys.** There are grammatical changes recommended by the Revisor of Statutes to change post-secondary to postsecondary in item A; to change weighing-out to weighing out in item F; to change weighing-in and weigh-in to weighing in and weigh in in item P, and to change weigh-out and weighing-out to weigh out and weighing out in item V.

**Part 7877.0170, Subp. 4., Drivers.** This is a grammatical change recommended by the Revisor of Statutes to change warmup to warm-up.

**Part 7877.0170, Subp. 7, Jockey's Agent.** This is a grammatical change recommended by the Revisor of Statutes to change check-in to check in.

**Part 7877.0170, Subp. 9(C), Veterinarians.** This addition to the rules governing veterinarians is necessary to insure that horses in the stable area of a licensed racetrack are protected to the fullest extent possible with regard to medications. Requiring that any veterinary drugs used or dispensed are FDA approved is one method of insuring the health of the horses, and protecting the integrity of racing. The rule will provide the Commission with an enforcement tool to assist in the prevention of medication violations, and will clearly communicate to licensed veterinarians the requirements regarding approved medications.

The rule change is reasonable because it causes no harsh or undue burdens on the licensed veterinarians, and serves to insure that only tested and approved medications are used for race horses in Minnesota. The rule is reasonable because it provides assurances to horse owners, trainers, and the wagering public that the horses stabled at licensed racetracks in Minnesota are receiving only approved medications that have undergone rigorous scientific testing. The rule is reasonable because it helps to lessen the chances that unapproved medications or drugs will be brought onto the grounds of the racetrack.

**Part 7877.0170, Subp. 9a, Veterinary Assistants.** It is necessary to include in the rules a new subpart, governing the activities, duties, and responsibilities of veterinary assistants employed by licensed veterinarians at licensed racetracks in Minnesota. This issue has been the subject of discussion between Commissioners, Commission Staff, and concerned/interested licensees. With pari-mutuel racing set to begin at another track in Minnesota in 2008, the need to promulgate this rule becomes more important so that operations at both tracks will have the same level of oversight. It is necessary to require that veterinary assistants be employed by and work under the direct supervision of a veterinarian licensed by the Commission. The proposed definition of "direct supervision" was discussed at length. During the course of rule drafting, it became important to separate the rule into items that the veterinary assistant(s) could not perform, those items that they could assist with procedurally but not actually perform, and those items that a veterinary assistant could perform. It is important to point out here that at all times when veterinary assistants are performing their duties on the grounds, the veterinarian that they work for must be physically in the stable area, and able to perform in any emergency situations that may arise regarding the horses under the care of that veterinarian.

It is necessary to prohibit veterinary assistants from diagnosing conditions, or issuing prognoses. The Minnesota Board of Veterinary Medicine prohibits veterinary assistants from making diagnoses or prognoses, so it is logical and important for the Racing Commission to reiterate that prohibition in its rules. Veterinary assistants do not have the training or expertise to prescribe treatments, dispense medications, perform surgery, draw blood, insert catheters/needles/swabs/tubes into any body part of the horse, apply splints/slings or tourniquets, or to administer injectable medications. These functions must be performed by the licensed veterinarian charged with the care of the horse. It is also necessary to prohibit the veterinary assistant from signing the veterinarian's daily log on behalf of the licensed veterinarian. As stated later in this discussion, veterinary assistants are permitted to maintain the veterinarian's log, but are prohibited from signing it.

During the course of discussion regarding this rule, duties were identified that veterinary assistants could assist with, based on training and education that they receive in their formal education as veterinary assistants. The Commission believes it is necessary to formally include those items in the rule, under subpart 9a, item C. Likewise, when looking at the training that veterinary assistants receive, the Commission includes the items that veterinary assistants may perform, under subpart 9a, item D.

The addition of this subpart to the rules is reasonable, because it provides definitive information to all veterinarians and veterinary assistants working at licensed racetracks in Minnesota, regarding the duties and procedures that they may or may not perform. The rule is reasonable because it prohibits them from performing functions that they are not trained for, while allowing them to use their education and training in areas that will be beneficial to the veterinarians they work for, as well as to the horses that they care for on a daily or weekly basis. The rule is reasonable because it encompasses areas that veterinary assistants are trained in and are qualified for. Finally, the rule is reasonable because it establishes parameters for veterinarians and veterinary assistants to interact in the best interests of the horses at the racetrack.

**Part 7877.0180, Subp. 1, Racing Officials and Subp. 1a, Employees.** This rule change is necessary to ensure that racing officials (defined in M.R. Ch. 7877.0175) do not compete as jockeys or drivers at Minnesota racetracks where they are also serving as racing officials. This would be a clear conflict of interest, and would have a negative impact on the public perception of the integrity of the racing and betting conducted at racetracks. With the advent of standardbred racing in Minnesota at a Class B licensed pari-mutuel racetrack, it is necessary to

include this prohibition in rule form. In the standardbred industry, it is not uncommon for racing officials to also serve as drivers at county fair meets, where pari-mutuel racing is not conducted. When pari-mutuel wagering enters the picture at a Class B facility, and the wagering public is an important component of the industry, it is necessary to prohibit this practice. This prohibition is found in the newly proposed item E of this rule.

The other changes to the rule were identified during the rule drafting process, and are needed to remove references to gender, and to create a new subpart that separates the prohibitions on racing officials from the prohibitions on employees.

The rule change is reasonable, because while it may not be popular with some, it will protect the integrity of racing, and ensure that the Commission fully discharges its responsibilities for oversight of the industry. Removing gender references, and general clean-up, are reasonable because they do not change the meaning or intent of the rules as drafted, and puts them in a more user-friendly format.

**Part 7879.0200, Subp. 2(D), Specific Duties and responsibilities of stewards.** This rule change is necessary to establish a time certain during any racing meet, after which the stewards cannot conduct examinations for first-time applicants for a trainer's license. So as to ensure the appropriate care and training of the equine athlete, thereby protecting the integrity of racing and the betting public, it is reasonable that an individual granted a trainer's license for the first time exercise that license authority and conduct for the remainder of the race meet under the regulatory supervision of the stewards that administer the test that is required by rule. It is reasonable that once an individual has been licensed for the first time as a trainer that that person's performance as trainer for the balance of the race meet be evaluated by the Board of Stewards that administered the test. Training of horses for racing is an extremely sophisticated activity which requires not only highly qualified licensees, but also the capable oversight of the Stewards. Allowing that supervision for at least half of the live race meet should provide for appropriate evaluation and instruction as to the appropriate application of training methods and compliance with racing rules.

**Part 7879.0200, Subp. 2(L). Specific duties and responsibilities of stewards.** This rule change is necessary to include a reference to "drivers" in the rule, to insure that stewards have the necessary authority over drivers as well as jockeys. Standardbred racing utilizes drivers in sulkies (racing bikes) as compared to jockeys for Thoroughbred and Quarter Horse racing. Because pari-mutuel standardbred racing will be starting in Minnesota in 2008, the rule revision is necessary. The other change, substituting the word any for all, is a grammatical change.

The rule change is reasonable because it provides authority for the stewards to make the same requirements of drivers as for jockeys. The change is reasonable because it does not change the meaning or intent of the rule as originally written; it is being made in conjunction with the beginning of pari-mutuel standardbred racing in Minnesota.

**Part 7883.0100, Subp. 2(B), Horses must be registered and eligible.** This rule change is necessary to recognize that freeze branded registration numbers are an accepted form of horse identification in the horse racing industry. The rule change is housekeeping and technical in nature, and does not change the scope or intent of the rule as originally promulgated.

The rule change is reasonable, because it makes no new demands or requirements, and is informational and technical in nature. It is reasonable because it allows the standardbred industry to use their common form of horse identification.

**Part 7883.0100, Subp. 7, Coupled Entries.** The changes to the rules governing coupled entries are necessary to give the racetrack operator flexibility in making decisions to uncouple entries, as long as the stewards have approved and permitted the changes. The change is necessary to allow the licensee to offer full racing fields in the latter days of a race meet when the horse population on the racetrack has diminished. The rule change was sought by the Class B licensee, Canterbury Park. The proposed change was discussed with the stewards, and with other interested parties at work sessions of the Commission, and no objections were voiced. It was decided that this change would help to eliminate the likelihood of short fields, thus giving the wagering public more betting interests to wager on, and helping to encourage and foster the industry in Minnesota. This rule change will make it easier for the Association to assemble larger fields for its races. Giving the Association the ability to uncouple entries – with the permission of the stewards provides more betting interests for the wagering public. This can be done without any infringement on the integrity of racing. The Association will benefit from the increased handle generated by more betting interests. The horsemen in the State of Minnesota will benefit due to the increased purse contributions derived from the increased handle. The State of Minnesota will benefit from the increased handle based on the resulting increase in pari-mutuel tax.

The rule change is reasonable because the betting handle generated will be larger because of the increased betting interests. The change is reasonable because it will benefit the horsemen in the state because there will be an increase in the size of the purses they are competing for. In addition, the State of Minnesota will benefit from the increased handle, which will result in increases in the pari-mutuel taxes paid by the licensees to the State.

**Part 7883.0100, Subp. 15a. Approval for blinkers.** This rule change is necessary to delete the requirement that the use of nasal strips on a horse must be authorized by the Starter, and noted in the daily racing program. It is the belief of the Commission, upon advice from their stewards, that this rule requirement is no longer needed. The use of nasal strips will still be permitted, and they are included in the Commission's definition of equipment; however, the use of this equipment has no bearing on the ability of the wagering public to decide whether or not to bet on a particular horse during a particular race. On the other hand, the use of blinkers can have a bearing on the results of a race, and the public needs to continue to be informed about the use of blinkers. Therefore, it is necessary to clearly state that once a horse has been approved by the stewards to race with blinkers, that decision can't be changed on a race-to-race basis, without being approved by the stewards. It is also necessary to clean up the language specifying how the starter's authorizations are noted on the entry. Simply requiring the authorization to accompany the entry is not sufficient, and is subject to differing interpretations.

The rule change is reasonable because it removes nasal strips from the list of equipment that must be approved and/or regulated by the Commission, through its stewards, or by other racing officials. It is reasonable to require oversight and regulation of the use of blinkers by horses, because their use (or non-use) has the potential to alter a horse's performance during a race, thereby potentially affecting the outcome of a race. The rule change is reasonable, because it has been thoroughly discussed with the Commission's stewards, and representatives of the horse racing industry.

**Part 7883.0100, Subp. 16, Workout Requirements.** This change is being made at the suggestion of the Minnesota Racing Commission, in concurrence with veterinarians employed by the Commission. The change is necessary to provide a definite timetable for the workout before the Commission veterinarian to occur. Under the rule as currently written, the workout could have been obtained at any time prior to the race, for example, during the previous race

meet. Workouts that happen prior to thirty days before a race are not necessarily meaningful, and might not relate to the existing condition or health of the horse at the time it is actually entered for a race, thereby preventing the possibility of a catastrophic injury. It is also necessary to modify the language that currently requires the workout to be before "the" Commission veterinarian. Since the Commission employs more than one veterinarian, it is necessary to change the rule to allow the workout to occur before any one of the Commission veterinarians and not necessarily the Chief Veterinarian.

The rule changes are reasonable because they restrict the time frame during which the workout must occur; thereby helping to insure the health and condition of the horse at the time it is actually entered to race, and prevent catastrophic injuries related to older problems. It is reasonable to allow the workout(s) to occur before any of the Commission veterinarians, and not just the Chief Veterinarian. The rule changes are reasonable because they serve to protect the health and ensure the racing fitness of race horses, and allow flexibility to the Commission veterinarians in scheduling the workouts.

**Part 7883.0140, Subp. 16, Title to claimed horse.** This rule change is necessary to clarify the precise time at which title to a claimed horse passes from one owner to another. The phrase "become a starter" is somewhat ambiguous and could be interpreted in more than one fashion, and could lead to disputes as to the legal ownership of a claimed horse. A legal dispute occurred over the ownership of a claimed horse that was deemed to be starter because it was in the starting gate when the gate opened, but was injured and had to be euthanized before it actually started the race. Under the present rule, the new owner (successful claimant) disputed ownership since the horse was still in the starting gate. While situations such as this are rare, they do happen, and the Commission has found it necessary to modify the rule to make it clear. The Commission is also attempting to address the situation where a horse has been entered to race in a claiming race (with the objective of winning purse money) but at the same time the owner has the desire of not losing the horse to a claimant. The Commission is aware that there are circumstances whereby the owner's trainer has a high suspicion that a claim has been dropped in the claiming box for the horse. In those cases, after the horses have proceeded on to the racetrack surface for the post parade and are warming up prior to the race, the trainer may attempt to get the horse scratched from the race, either through communication with the veterinarians or the jockey. Should the horse be scratched, title remains with the owner as the horse would not be a starter.

The rule change is reasonable because it establishes a time certain at which title to a claimed horse changes hands. It is reasonable to establish a time to remove the possibility of misunderstandings, and to be sure that all owners and potential claimants are aware of the time when title passes. The change is reasonable because it was discussed with racing officials and other interested parties during the Commission's work sessions, and all parties are in agreement with the change.

**Part 7883.0140, Subp. 30, Claiming races may be conditioned.** This is a grammatical change recommended by the Revisor of Statutes to change two-year olds and three-year olds to two-year-olds and three-year-olds.

**Part 7883.0140, Subp. 20, Excused horse eligible to be claimed for same claiming price in next start; harness racing, and Subp. 29, Claiming prices for harness horse races.** It is necessary to strike the above two subparts from their existing location in the Commission's rules, 7883, Claiming Races. This chapter deals with claiming for thoroughbreds and quarter horses, and also included subparts 20 and 29, which related to standardbreds. For the sake of



clarity and continuity in the rules, it is necessary to strike them from this chapter and relocate existing subpart 29 to Chapter 7884.0210, Claiming Races (standardbreds), as item B. Existing subpart 20 is being stricken in its entirety and not relocated, since its provisions are covered in proposed item B of M.R.7884.0210.

The rule changes are reasonable because they do not alter or change the meaning of the rules. They are being moved to another chapter where users of the rules would look for this information. The rule changes are reasonable because they contribute to the logical layout and continuity of the Commission's rules.

**Part 7883.0150, Subp. 3, Bandages and blankets.** The rule change regarding the timing for removal of bandages in the paddock is reasonable, since it insures that the wagering public will be able to have full and complete information about the condition of the horses that are in the next scheduled race. It also insures that the Commission Veterinarian in the paddock will have enough time to observe and see all the horses prior to the race in which they are scheduled to start. A new sentence is being added at the end of the rule which will prohibit the use of metal or plastic pins or fasteners on bandages that are worn during a race. It is necessary to prohibit these types of fasteners because they could potentially become loose during a race, injuring a horse or a jockey.

The rule changes are reasonable because they are intended to insure the safety and well-being of the race horses, and they will not interfere with the trainer's ability to apply and use bandages on race horses. Nearly all trainers currently use bandages that do not employ metal or plastic, and are already in compliance with this rule.

**Part 7883.0150, Subp. 6, Duration of post parade.** This is a grammatical change recommended by the Revisor of Statutes to change post-parade to post parade.

**Part 7883.0160, Subp. 6, Interference and willful fouling.** The changes to this rule are necessary to clarify the existing language with regard to a jockey's use of a whip. Adding the word "carelessly" to the first sentence in item C will include occasions when jockeys use their whip in a careless fashion. Current language uses the word "willfully", and covers obvious occurrences of misuse of the whip. However, the careless use of a whip by a jockey could also have the same results as the 'willfull' use of the whip, and needs to be included in the rule. Another necessary change in the first sentence changes the phrase "for the purpose" to "with the effect". The existing phrase is ambiguous, and it is difficult to prove a jockey's intent when deciding whether or not to use the whip in a particular manner. Changing the phrase to 'with the effect' changes the focus of the rule to what actually happens to the horse as a result of the use of the whip by the jockey. The change is necessary to promulgate a rule that is 'outcome based' rather than a rule that attempts to define a jockey's mindset when using the whip.

Another change is being made in striking the existing sentence 'this does not mean that a jockey must use the whip indiscriminately' to a more meaningful rule that clearly prohibits the indiscriminate use of the whip. The existing language is confusing, and seems to suggest the mandatory use of a whip in a certain manner. The proposed language is clear and concise, and will be easily understood by jockeys.

Finally, housekeeping changes are being made in the rule to remove references to gender.

The rule changes are reasonable because they result in a rule that has more specificity, and will be more easily understood by persons governed by the rules. The changes are reasonable

because they result in rules that are outcome-based, and place responsibility on the jockeys to be compliant with the rules.

**Part 7883.0170, Racing equipment.** The additional requirements for toe grabs, in the last sentence of item A, are necessary to bring the Minnesota Racing Commission's rules into conformance with the Model Rules of the Association of Racing Commissioners International, and to clearly set forth in rule the parameters for any toe grabs worn by horses while racing. Toe grabs are now included in the Commission's rule defining equipment; inasmuch as they are referred to in that rule, it is necessary to state the maximum height for those toe grabs. Toe grabs are used in the racing community to promote traction by the racehorse during racing. The shoe is the interactive boundary between the racing surface and the horse's hoof which influences the force distribution and patterns of movement of the equine limb. Imbalances in these components of equine movement can cause serious injury or lameness in a horse moving at racing speed. Toe grabs elevate the toe (front of the hoof) of a horse which is not the normal hoof configuration. Use of toe grabs is permitted in the racing community, but with current research findings showing that elevation of the hoof can cause injury to the hoof or musculoskeletal injury to the racehorse, the Minnesota Racing Commission as well as other states, is moving to regulate the maximum elevation of the toe to 4 mm which is less than current use of toe grabs. This rule amendment is needed for that reason. The new item B in this rule is necessary to insure that trainers do not make equipment changes unless those changes have been approved by the stewards. This is an issue of fairness to the wagering public, and insuring that attempts to affect the outcome of a race are not made by changing the type of equipment a horse races with.

The rule changes are reasonable because they have the effect of protecting the health and well-being of the race horses, by insuring that equipment changes are not made without the express approval of the stewards. The changes are also reasonable because they provide assurance to the bettors that last-minute equipment changes, additions, or deletions, will not have the ability to affect the outcome of a race.

**Part 7884.0120, Subp. 6, Maximum Number in Field.** It is necessary to change this rule to reflect the actual size of the racetrack at Running Aces Harness Park, in the North Metro area. This track is currently under construction, and is scheduled to open for racing in 2008. Rather than a one mile track, it is being constructed as a 5/8 mile track. It is also necessary to reduce the maximum number of horses that will be allowed on the track for stakes races in standardbred racing, from fourteen to ten. Because the track is smaller than one mile, it is necessary to reduce the maximum size of the fields.

The rule changes are reasonable, because they reflect actual conditions at Minnesota's pari-mutuel standardbred race track. They rules are reasonable because they do not change or diminish the Commission's oversight of harness racing, and do not change the meaning of the rule as originally written. Reducing the fields from a maximum of fourteen to a maximum of ten is not really a problem for harness racers, as large field races are split into separate heats. The changes will not affect the ability of owners and drivers to participate in stakes races at Running Aces Harness Park.

**Part 7884.0210, Claiming Races.** It is necessary to relocate the above subpart from their existing location in the Commission's rules, 7883, Subp. 29, Claiming Races. This chapter deals with claiming for thoroughbreds and quarter horses, and also included subpart 29 which related to standardbreds. For the sake of clarity and continuity in the rules, it is necessary to strike the rule from chapter 7883 and relocate it as item B in this subpart.

The rule change is reasonable because it does not alter or change the meaning of the rules. It is being relocated to this chapter where users of the rules would look for this information. The rule change is reasonable because it contributes to the logical layout and continuity of the Commission's rules.

**Part 7884.0230, Subp. 6, Warm-up equipment.** This is a grammatical change recommended by the Revisor of Statutes to change warmup to warm-up and warming-up to warming up.

**Part 7884.0230, Subp. 7, Drivers' Colors.** This addition to the rule is necessary to reflect current and common practice within the standardbred racing industry in the United States and other countries. The requirement that drivers wear white pants is common in all standardbred racing jurisdictions. Similar rules are in place for jockeys of thoroughbreds and other horse breeds that race in pari-mutuel settings. Likewise, it is necessary to require that the drivers' colors be registered with the governing association under which they drive. The rules are necessary because it provides the public with another means of identifying the drivers and following the horses as they proceed around the racetrack. The colors are listed in the daily racing programs, making it easier for patrons to identify them.

The rules are reasonable because drivers in other jurisdictions register their colors and wear white pants, and those drivers that participate in standardbred racing in Minnesota will already be in compliance. It is reasonable to expect that drivers new to the sport in Minnesota will become compliant with existing rules and customs of the turf.

**Part 7884.0260, Subp. 2, Conduct after the word "go" is given.** The added language in item K is necessary to require drivers to maintain reasonable control of their horses after the race is officially started. The language clarifies that failing to maintain reasonable control of the horse is deemed to be as serious an infraction as driving in a careless, reckless, or unsatisfactory manner. The change is necessary in order to add an objective form of measurement (maintaining reasonable control) to a rule that, by nature, contains subjective terms such as careless, reckless, and unsatisfactory. The change in item T, changing the length of the snapper from eight to six inches, is necessary to attain conformance with customary rules and requirements in other jurisdictions, and to insure that Minnesota does not have unique requirements from other jurisdictions. It is not reasonable to except drivers to have different types of equipment for use in Minnesota, than what is required in other states and jurisdictions.

The changes are reasonable, because compliance can be easily achieved by drivers. The rules are reasonable, because they make no new or unduly harsh requirements on industry participants. In addition, the rules are reasonable because they will help to insure the safety and well-being of horses participating in the sport of pari-mutuel harness racing, and aid and encourage the humane treatment of the animals.

**Part 7884.0270, Expanded Homestretch Racing.** This rule change is necessary to correct an oversight in the original rulemaking process. It is necessary to give Class B license holders the opportunity to request expanded homestretch authority, and treat them equally to Class D (county fair) license holders.

The rule change is reasonable because it corrects an inadvertent omission in the rules, and changes neither the intent or effect of the rule of the licensee(s). The rule change is reasonable because it merely allows the licensee to make such a request of the Commission, and does not insure automatic approval of the request.

**Part 7890.0100, Subp. 1a, Alkalinizing agents.** It is necessary to add this definition so all people involved in drug and TC02 testing know exactly what is being referred to. The addition of this definition provides a clear understanding of substances used and the outcome of using these substances.

It is reasonable to add this definition to the rule as it allows a better understanding of the basics of TC02 testing. The process of TC02 testing is a new rule proposal (M.R. 7890.0110, subpart 7) put forth by the Minnesota Racing Commission. The rule will bring us in line with industry standards put forth by the Racing and Medication Testing Consortium.

**Part 7890.0100, Subp. 13, Medication.** This rule change is necessary to correct a reference to a statutory cite in the rule. The change is necessary so that people using the Commission's rules, and wishing to cross-reference the requirements with statute, will have the correct cite.

The rule change is reasonable, because it corrects an error in the rules as published and promulgated.

The change in item A. from post-race to postrace is a grammatical change recommended by the Revisor of Statutes.

**Part 7890.0100, Subp. 13b, Milkshaking.** It is necessary to define this term so all involved know exactly what is being referred to by veterinarians and stewards. The addition of this definition provides a detailed and clear description of the process and outcome.

It is reasonable to add this definition to the rule as the Minnesota Racing Commission has proposed a new rule (M.R. 7890.0110, Subpart 7), that regulates the process of milkshaking and TC02 testing.

**Part 7890.0100, Subp. 16a, TC02.** This definition clearly defines the abbreviation or slang use of total dissolved carbon dioxide. It is reasonable to add this definition to the rule as the Minnesota Racing Commission has proposed a new rule (M.R. 7890.0110, Subpart 7), that regulates the process of milkshaking and limits the level of TX02 in a horse's bloodstream.

**Part 7890.0200, Subp. 19a, Venom.** This term provides an accurate and accepted definition for a substance that may be used in veterinary medicine. It is reasonable to add this definition, as a proposed change to M.R. 7890.0110, Subpart 6, regulates the possession of this substance.

**Part 7890.0110, Subp. 1, Administration.** This is a grammatical change recommended by the Revisor of Statutes to change post-race to postrace.

**Part 7890.0110, Subp. 2, Nasogastric tube.** The change from 24 to 48 hours is a housekeeping procedure that corrects a mismatch between this rule and the Minnesota Racing Commission's 48 hour rule (M.R. 7890.0160). The remainder of the change clearly and succinctly limits the possession and use of a nasogastric tube on the grounds of an association. It is necessary to do this to conform to the Racing Medication and Testing Consortium's recommendations for TC02 testing. The addition of our standardbred racetrack also makes this addition necessary as it provides new trainers with industry accepted standards.

It is reasonable to change this rule as it corrects a disconnect and also puts into rule industry standards that have been followed for several years. There is no adverse effect on horsemen

or veterinarians as the rule clarifies existing policy and provides set standards for new standardbred trainers shipping into our jurisdiction.

**Part 7890.0110, Subp. 5, Presence.** This is a grammatical change recommended by the Revisor of Statutes to change post-race to postrace.

**Part 7890.0110, Subp. 6, Possession.** This rule change adds two terms to items that are prohibited on the premises. The definition of venom is supplied in M.R. 7890.0200, Subp. 19a, and blood doping agent has previously been defined. The rule change is necessary as both of the agents have no accepted use in a racehorse and there currently is no practical analytical method to detect and confirm their presence in a blood or urine sample. The use of these agents in racehorses would be detrimental to their health and may result in a catastrophic injury.

The rule is reasonable as it prohibits the presence of venom and blood doping agents on the premises. This effectively keeps them out of the hands of unscrupulous people who may take advantage of unknowing trainers or veterinarians. Since there is no practical and accepted diagnostic test for these agents, the abuse cannot be monitored in a normal manner. Keeping them off the backside and out of the systems of racehorses protects the betting public and safeguards the health and well being of the racehorse.

**Part 7890.0110, Subp. 7, Use.** The addition of this rule regarding TC02 testing brings the Minnesota Racing Commission in line with industry standards and the recommendations of the Racing and Medication Testing Consortium. It clearly describes the limitation of alkalinizing agents, describes the testing procedure, and applies a set value for laboratory diagnostics. It also describes an alternate method of split sample testing should the trainer desire this. This is necessary as TC02 is not stable for longer than 4 or 5 days in blood samples and customary split sample testing would not be effective.

This rule is reasonable for several reasons. First, it brings the Minnesota Racing Commission in line with industry standards which is especially important with the expected opening of the standardbred racetrack. Standardbred horses ship in from many different racetracks and their trainers need to know precisely what the testing procedure is and what the acceptable upper limit will be. It limits the use of alkalinizing agents to levels that are not expected to produce harm in racehorses yet allows the trainer latitude in treating horses that may require some amount to remain a normal physiological level. By doing this it prevents trainers from using an amount that may have an effect on the outcome of a race or be deleterious to the health and well being of a racehorse. Finally, it provides the trainer with an acceptable alternative to customary split sample testing.

**Subp. 8, Prohibition.** This rule correlates with M.R. 7890.0110, Subp. 6 and prohibits the possession of venom or blood doping agents on the grounds of the jurisdiction. This change is necessary as these agents have no accepted use in a racehorse on the grounds of an association, and there is no analytical method to determine whether or not they have been administered to a racehorse.

This rule is reasonable as it prohibits the possession of venom and blood doping agents on the backside and keeps them out of a racehorse's bloodstream. It assures that races are run in a fair manner and that horses have not been administered a substance that would be detrimental to their health and safety.

**Part 7890.0130, Subp. 1, Prima facie evidence.** The addition of "prior to the race" is necessary to clarify the rule as to when the substance was administered. It is a simple clarification in point. The second portion of the rule change adds the findings of venom or blood doping agents should a practical analytical diagnostic test become available. The final portion establishes an upper limit of an acceptable level of TC02/liter of horse's blood in the test sample. It is important to establish this limit as TC02 is a substance found in all horses but in a very narrow therapeutic range.

These changes are reasonable as they are either clarifications or additions to an existing rule. They have no adverse effect on trainers. Currently, there are no practical analytical methods for determining whether venom or blood doping agents are present in a horse's system. In addition, they are not drugs or metabolites but are substances foreign to the natural horse. When they become available, this rule allows the use of these tests for finding and confirming their presence. Tests for TC02 are currently available and are widely used. This rule is reasonable as it provides an upper level for TC02, a substance which is not a drug, metabolite, or foreign to the natural horse, but is present in a narrow range of normal values. Excess administration can result in significant harm and even death to a racehorse.

**Part 7890.0140, Subp. 7a, Conditions required for furosemide administration.** This is a grammatical change recommended by the Revisor of Statutes to change post-race to postrace.

**Part 7890.0140, Subp. 10, Responsibility of Trainer.** The deletion of this material is necessary as changes to our veterinary database make this an obsolete procedure.

This is reasonable as the Minnesota Racing Commission's veterinary database now incorporates this information at the time the horse is entered into the system. In addition, prior changes to the MRC rules regarding guarding the horse make the remainder of the rule outdated. There is no effect on the trainers or others as it is a simple housekeeping change.

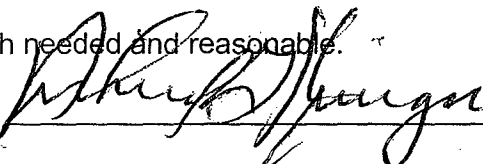
**Part 7890.0160, Responsibility of Veterinarian.** This rule change is necessary to licensed veterinarians can fully understand the rule changes. It adds alkalinizing agents, blood doping agents, and venom to the list of items that cannot be administered within 48 hours and strikes out the use of a nasogastric tube. This correlates with the proposed rule change in M.R. 7890.0110, subpart 2.

This rule is reasonable as it ensures that veterinarians working on the backside are aware of specific items that cannot be administered within a set timeframe. It also prevents a mismatch between a proposed rule and the use of a nasogastric tube. It has no true impact on the veterinarians' work as it is informational in nature.

## CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

January 8, 2008  
Date

  
Signature