

## Minnesota Racing Commission

### STATEMENT OF NEED AND REASONABLENESS

#### **Possible Amendment to Rules Governing Horse Racing, Minnesota Rules, Parts 7877 Class C Licenses; 7883 TB/QH Horse Races; 7884 Harness Races; 7890 Horse Medication; 7891 Horse Examinations; 7892 Medical Testing; 7897 Prohibited Acts**

### INTRODUCTION

The Minnesota Racing Commission is considering an amendment to rules governing Horse Racing. Included are the following proposed changes:

**Chapter 7877 Horse Racing; Class C Licenses.** The commission is considering rule changes to 7877 that move the responsibility for posting a list of nerved horses from the racing secretary to the commission veterinarian, require a schooling list to be posted in the race office, and give the commission veterinarian authority to not only draw blood but to submit it to the diagnostic laboratory for testing for reportable infectious diseases as defined by the Minnesota Board of Animal Health and to supervise removal from the racetrack of those animals with positive tests for reportable infectious diseases.

**Chapter 7883 Horse Races.** The rule changes to 7883 include a prohibition of gelatinous bandages or soft casts under racing wraps and specify that horses entered to race with a flipping halter must arrive in the paddock with the halter in place.

**Chapter 7884 Harness Races.** “Serum or plasma tests” replace the use of “urine tests” in rule 7884.

**Chapter 7890 Horse Medication.** Many of the proposed rule changes in 7890 modify existing definitions or provide new definitions used elsewhere in the rule packet. Included are definitions of “hemoglobin based oxygen carrier”, “non-steroidal anti-inflammatory drug (NSAID stacking)”, “medication overage”, and “synthetic analogue” as well as modifications to the definitions of “positive test”, “test level”, and “test sample”. The use of urine specific gravity as a screening test for furosemide is removed. Further changes in this chapter expand the number and type of substances for which possession is prohibited. The section on what constitutes prima facie evidence is changed to reflect the substances and definitions described above. An error resulting in conflicting statements is corrected in the section on furosemide.

**Chapter 7891 Horses; Physical Examination.** Proposed changes in chapter 7891 clarify the language and modify the process for reporting and conducting postmortem examinations on deceased horses.

**Chapter 7892 Horses; Medical Testing.** The language regarding split sample testing is clarified in chapter 7892. Further proposed changes in chapter 7892 update the equipment and procedures for analytical testing and add the deputy director to the list of individuals receiving notification of laboratory reports.

#### **7897 Horse Racing; Prohibited Acts.**

Proposed rule changes in chapter 7897 add to those substances that may not be possessed, administered to, or present in a horse. The list is expanded to include metabolites of medications, biological products, blood doping agents, growth hormones, venom, derivatives of venom, synthetic analogues of venom, and

derivatives of synthetic analogues of venom, and other agents that may increase the oxygenation of blood. The veterinary use of whole blood or packed red blood cells is regulated. The final proposed rule change prevents a mare or filly over 150 days of gestation (approximately 5 months) from being entered in a race.

## **ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape, or digital disc. To make a request, contact Patricia Sifferle at the Minnesota Racing Commission, 15201 Zurich Street, Suite 212, Columbus, MN 55025; phone 651-925-3951, fax 651-925-3954; or email [patricia.m.sifferle@state.mn.us](mailto:patricia.m.sifferle@state.mn.us). TTY users may call the Racing Commission at 800-627-3529.

## **STATUTORY AUTHORITY**

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.23, which provides as follows:

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 and wireless 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 authority relating to the amendments contained herein includes Minnesota Statutes, section 240.24, subd. 1, which provides that the commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks and the Commission shall by rule establish the qualifications for laboratories used by it as testing laboratories to enforce its rules under this section.

Under these statutes and session law, the Racing Commission has the necessary statutory authority to adopt the proposed rule amendment.

## **REGULATORY ANALYSIS**

**(1) a description of the classes of persons who probably will 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**

The people most affected by these proposed rule changes are trainers, horse owners, and private veterinarians who provide services to owners and trainers. Trainers and horse owners will have more easy access to information such as a list of nerved horses and schooling list. All stakeholders will benefit from testing for and removal of horses with positive test results for reportable infectious diseases.

The welfare and safety of race horses as well as protection of potential owners or purchasers who “claim” horses based on their appearance in the post parade is impacted by the proposed rule prohibiting the use of soft casts or gelatinous bandages under racing wraps and the consistent use of flipping halters.

Trainers and practicing veterinarians will know specifically that the presence of unregulated medications over the test limit and other substances such as venoms, growth hormone, blood doping agents and substances that enhance tissue oxygenation are prohibited for use in the racehorse. Clarification of the split sample language and language regarding reporting of deceased horses will benefit owners, trainers, and veterinarians who want to send out a split sample or are waiting for postmortem results.

Updates to laboratory equipment and procedures ensure that the MRC and trainers and owners benefit from the most current rules governing analytical testing procedures and protocols on test procedures of racehorses. Changes made to the section on prohibited acts benefit all of the stakeholders as the proposed rule changes clearly specify substances that should never be found in a racehorse if it endangers the life of the horse or rider, has no analytical method available, interferes with testing procedures, or has no recognized analytical method for testing.

Veterinarians benefit from specific rules regarding when and how whole blood or packed red blood cells may be used.

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

There is no anticipated change in costs to the Commission or to any other state or local agency due to these proposed amendments.

**(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule**

There are no less costly or less intrusive methods for achieving the goals.

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

This agency was unable to identify and thus did not consider alternative methods for these proposals. Industry participants and stakeholders presented many of the proposed rule changes. The remainder of the proposed rule changes add or modify definitions used in the rule packet, clarify existing language, and add new specific language on what are considered prohibited medications. In general, rules

are the most effective means of ensuring a level playing field for all racing participants and protecting their due process interests.

**(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**

There are no increased costs to this agency with this proposal. Most of these proposed rules add or modify definitions, clarify language or add to the list of prohibited substances. The proposed rule regarding the use of whole blood or packed red blood cell transfusions simply provides written guidance to veterinarians. The addition of the proposed rule involving racing of a pregnant horse provides for the welfare and safety of the horse and foal but does not have any direct costs associated with it.

**(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 consequence of not adopting the proposed rules is that rules for prohibited substances as well as other housekeeping rules, including definitions, will fall behind the national movement for medication uniformity or lack increased clarity. Consistency is especially important for those trainers who travel from state to state as it prevents confusion and potential medication overages or errors in administration of permitted medications.

**(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 current federal regulations regarding these proposed rule changes. Horse racing is regulated by the various, individual state racing commissions.

## **PERFORMANCE-BASED RULES**

These rules are proposed to support the health and safety of the horse and move towards national medication uniformity through regulation of medications and prohibited substances so horses are not inadvertently or deliberately treated with inappropriate or excess amounts of medications. Rules regarding split sample testing provide trainers with a clearer understanding of the procedure. Allowing commission veterinarians to test and submit samples for reportable infectious diseases and supervise the removal of a horse(s) with a known infectious disease protects all of the horses on the backside and helps prevent an infectious disease outbreak or epidemic.

## **ADDITIONAL NOTICE**

These proposed amendments were thoroughly discussed by the Minnesota Racing Commission's Racing Committee, a panel comprised of three commissioners (one veterinarian and two attorneys) on October 6, 2015. The Racing Committee unanimously voted to recommend these amendments to the Full Commission. On October 15, 2015 the full Minnesota Racing Commission met and accepted the Racing Committee's recommendation and voted to publish a Request for Comments in the State Register. All rules discussion was clearly included on all agenda duly prepared and mailed or e-mailed 7 days prior to these meetings. Agendas were also posted on the Commission's website. Minutes from the full commission meetings are available on the Commission's website at [www.mrc.state.mn.us](http://www.mrc.state.mn.us).

The Minnesota Racing Commission began work on the rules proposals in November of 2014 after receiving recommendations from the Canterbury Park Paddock Judge, Canterbury Park Racing Secretary, Stewards, Judges, Commission Veterinarian and the Racing Committee. Updates will be provided on a monthly basis during the course of the formal rulemaking process.

The Commission's Rulemaking Docket will be updated as necessary to reflect the status of these rules. Our Notice Plan includes:

1. Publishing the Request for Comments in the November 2, 2015 edition of the State Register.
2. Posting the Request for Comments and the language of the proposed rules on the Commission's website. The proposed rule, SONAR, and Request for Comments will also be posted on the Office of Administrative Hearings rulemaking e-comments website after that site is launched on January 15, 2016.
3. Mailing or e-mailing the Request for Comments to Class A & B licensees as well as horsemen's organizations that are affected by horse racing in Minnesota, including the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Jockey's Guild, and the United States Trotting Association.
4. Mailing or e-mailing the Request for Comments to organizations in Minnesota identified as having an interest in animal health including the Minnesota Board of Animal Health, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University Of Minnesota College Of Veterinary Medicine.
5. 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. The Proposed Rules and the Notice of Intent to Adopt will also be published in the State Register.
6. The Commission will provide a copy of the rules and Notice of Intent to Adopt Rules to Class A & B licensees, horsemen's organizations, and animal health organizations in Minnesota as noted in #3 and #4.

#### **CONSULT WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Commission will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we sent to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Commission publishes the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

#### **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Commission has determined that they will not, because all activity that these amendments affect occurs on licensed racetrack grounds, not out in the local community. There are times where we may have to contact local law enforcement or county/city attorney offices, but that is in the normal course of fulfilling our duties and responsibilities when events warrant. It is not anticipated that these amendments will either increase or decrease those contacts.

## **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

### **Agency Determination of Cost**

As required by Minnesota Statutes, section 14.127, the Racing Commission has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Racing Commission has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

### **LIST OF WITNESSES**

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

1. Thomas DiPasquale, MRC Executive Director
2. Dr. Lynn Hovda, Chief Commission Veterinarian, Minnesota Racing Commission
3. Dr. Camille McArdle, MRC, Chair MRC Racing Committee
4. Mr. James Lane, MRC Vice Chair

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## **RULE BY RULE ANALYSIS**

### **7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS.**

#### **Subp. 4. Paddock judge.**

*L. The proposed addition to this rule provides information on where the schooling list should be posted. It is reasonable to do this so all of the participants in racing, including those who might want to purchase or claim a racehorse, know not only which horses are on the schooling list but where they can easily find that information.*

#### **Subp. 8. Commission veterinarian.**

*This proposed rule change moves posting responsibility for posting the list of "nerved" horses" from the racing secretary to the commission veterinarian. "Nerving" a horse is a surgical procedure reported to the commission veterinarian either by the practicing veterinarian performing the surgery or by trainers or owners if the surgery has been performed elsewhere. More rarely, a commission veterinarian discovers residual scars indicative of the surgical procedure during the course of a pre-race examination. In any event, commission veterinarians are the individuals with knowledge of horses that have been "nerved" and it is reasonable to require them, rather than the racing secretary as previously directed by rule, to post the list of "nerved" horses.*

*This second commission veterinarian proposed rule change addresses several issues. It allows the commission veterinarian to not only draw blood for diagnosis of reportable diseases but to submit it to a diagnostic laboratory for analysis. This is a necessary addition to the rule because without submission and analysis the sample itself is useless. The list of reportable infectious diseases has expanded beyond equine infectious anemia (Exhibit A) and the Minnesota Board of Animal Health depends on veterinarians to be familiar with their clinical signs, perform appropriate diagnostic tests, and communicate positive test results to the Board as it does not always receive this information in a timely manner. Approximately 1900 horses per year race at Minnesota racetracks and commission veterinarians are familiar with all of them making it easy to rapidly identify suspect horses and provide an accurate location, both on and off the track. This becomes especially important for those diseases where the Board of Animal Health requires advanced testing to confirm a suspect diagnosis or to quarantine a barn(s), physically remove a horse(s), or trace back an infected horse(s) to prevent disease spread.*

#### **7883.0150 PADDOCK TO POST.**

##### **Subp. 3. Bandages and blankets.**

*It is not unusual for horses to race with bandages. These are normally thin wraps (Vetrap™ or others; Exhibit B) meant to protect the fetlocks (ankles) and prevent abrasions or “rub” sores that occur from contact with dirt and grass. Soft cast material, including gelatinous casts (“Gel Cast or others; Exhibit C), is not intended for racing use, but rather to provide support to already injured ankles, tendons, and ligaments. This rule is necessary to protect horses from being entered and raced with a known injury that could become catastrophic at any time during the race. It also protects all the participants in racing from unknowingly betting on or claiming an unsound horse.*

##### **Subp. 14. Flipping Halters.**

*Flipping halters are pieces of equipment that fit underneath a horse’s racing bridle and are used to secure an unruly horse in the starting gate so it cannot rear up and injure itself or the rider (Exhibit D). Horses are bridled in their own stalls prior to coming to the paddock and it is reasonable that the flipping halter be placed on the horse at that time. Horses racing in a flipping halter are often difficult to handle and taking the bridle off in the paddock to put on a flipping halter is not only an unsafe procedure but may also result in a loose horse in the paddock or elsewhere. In addition, this rule ensures that all horses entered with a flipping halter actually race with one. After entry, race positions are drawn and those horses drawing a higher position are loaded later and have less time to stand in the gate and think about rearing up. Some trainers knowingly send these horses to the paddock without a flipping halter even though the horse is designated in the program as racing with one. This becomes a problem for the starter who was expecting the horse to wear a flipping halter and for bettors who understand*

that the use of a flipping halter may delay the horse from exiting the starting gate when it opens.

#### **7884.0180 TIME TRIALS.**

*This proposed rule change brings the testing for time trials in line with testing for qualifying races and post race testing. Blood, either serum or plasma, is the current testing matrix with urine used only for a few specified tests. Some horses, especially younger horses participating in time trials, do not readily pass urine while blood is always obtainable. The use of blood, either serum or plasma, ensures that all horses are tested in a similar manner.*

#### **7890.0100 DEFINITIONS.**

##### **Subp. 10f. Hemoglobin-based oxygen carrier**

*This proposed definition is added as it is used elsewhere in the rule packet [7897.0100 (C)(1)]. This definition replaces the more narrow existing definition of Oxyglobin<sup>®</sup> which is a specific type and brand of hemoglobin based oxygen carrier.*

##### **Subp. 13. Medication.**

**B. Furosemide.** *The threshold for furosemide has been set by the commission in blood (either serum or plasma) and not urine. It is reasonable and necessary to change this rule as the use of urine, in this instance, provides no additional information.*

##### **Subp. 14b NSAID Stacking**

*This proposed rule adds a new definition for a procedure discussed elsewhere in the commission rules [7890.0100 (13) (3)].*

##### **Subp. 14d Overage.**

*This proposed rule adds a new definition used elsewhere in the MRC rule packet [7890.0130 (1)(A)].*

##### **Subp. 15. Positive test.**

*This proposed rule expands the language to include substances used elsewhere in the commission rules and the current rule packet [7890.0130(1)(A)].*

##### **Subp. 16a. Synthetic analogue.**



*This proposed rule adds a definition used elsewhere in the MRC rule packet [7897.0100(20)(A)(B)(C)].*

**Subp. 17. Test level.**

*This proposed rule expands the language to include substances used elsewhere in the commission rules and is necessary so cross references to the rules are complete and consistent throughout [7890.0130 (1)].*

**Subp. 18. Test sample.**

*The use of hair as a testing matrix in horses has become more common for some specific medications that are difficult to find in other matrices or have long-term consequences after they have been fully metabolized or eliminated from the horse's body. While not expected to replace blood testing it should be added to the definition so all the participants in racing are clear that it may be part of the routine and authorized test sample.*

**7890.0110 MEDICATIONS AND PRACTICES PROHIBITED.**

**Subpart 1. Administration.**

*These subparts were added or modified in a prior rule packet and are necessary to add to the rules so cross references are complete and consistent throughout.*

**Subp. 8. Prohibition.**

*Over the past several years, the discovery, manufacture, and distribution of venoms and both legal and illicit blood doping agents has increased substantially. All of these agents, including growth hormone, have a high potential to cause harm in racehorses and have been used illegally by some to mask pain, increase oxygen delivery to tissues, or stimulate muscle production. An adverse effect of some of these products is an antigen/antibody reaction, which may result in a decreased number of red blood cells, a disease known as "serum sickness", or even death. This proposed rule change provides expanded language regarding venoms and blood doping agents as well as growth hormone and clearly specifies that possession or use of any of these substances is not permitted at facilities licensed by the commission. It is necessary to modify the rule to stay current with the increased manufacture and distribution of these products and protect the health and welfare of the horse.*

**7890.0130 FINDINGS OF CHEMIST.**

**Subpart 1. Prima facie evidence.**

*This rule specifies items that were added or modified in a prior rule packet or clarifies previous language and is necessary so cross references are complete and consistent throughout.*

*Because the threshold for the three permitted NSAIDS is so low and the recommended administration time so long (30 hours) many horses do not have a measurable amount in their system at the time of post race testing. This portion of the rule has been modified to reflect these findings.*

**Subp. 2. Distributed purse money.**

*This amendment adds references to items that were added or modified in a prior rule packet and are necessary so cross references are complete and consistent throughout. The distribution of purse monies prior to a ruling that the horse raced with a prohibited substances or excessive concentrations of permitted substances does not preclude redistribution of the purse upon such a finding.*

**7890.0140 BLEEDERS.**

**Subp. 6. Furosemide may be permitted.**

*This subpart, as written, contains conflicting information in terms of notification at scratch time versus entry time. The sentence regarding notification at scratch time was deleted as it is incorrect and because there is no longer a specified scratch time in rule. The rule change is necessary and reasonable because it deletes a conflicting sentence yet leaves the body of the rule intact and correct as written.*

**7891.0110 POSTMORTEM EXAMINATION.**

**Subp. 2. Test samples to be taken for analysis.**

*The bodies of all horses dying or euthanized at Minnesota racetracks are submitted to the University of Minnesota Diagnostic Laboratory for a postmortem examination by a board certified pathologist. The commission veterinarian no longer does them on site. The current testing matrix is blood, and in order to obtain this the horse must be alive or recently deceased. Blood clots rapidly at the time of death, often within 10-15 minutes, and once this occurs it cannot be drawn from the veins. Commission veterinarians are present during racing and training hours so blood from horses that die or are euthanized during these time frames is easily obtained and submitted to the commission's testing laboratory. Blood cannot be obtained, however, on horses that die at other times, such as the middle of the night or early morning, as it would be clotted prior to the arrival of a commission veterinarian. In these instances, the body would still go to the University for a postmortem but no blood would be obtained.*

**Subp. 4. Report of exam.**

*The chief commission veterinarian currently files a report of each deceased horse with the executive and deputy directors within 72 hours of death. A post mortem report is not filed as a pathologist at the University of Minnesota Diagnostic Laboratory performs these examinations and final results are often not available for several weeks.*

#### **7892.0120 TAKING OF SAMPLES.**

##### **Subp. 5. Split samples.**

*The proposed rule changes involving split sample testing are primarily housekeeping in nature and serve to clarify the procedure, in particular the time allowed for the laboratory to complete and return testing results and the time frame for notification of intent to submit a split sample to stewards and the commission veterinarian. They also clarify who is responsible for the payment and when it is due. With the exception of notifying the Stewards in writing, the process has not changed (Exhibits E and F). The proposed rule changes, however, are more clear and specific to each portion of split sample testing. This rule change is reasonable and necessary to ensure that each person requesting a split sample is treated fairly and in an equal and similar manner.*

#### **7892.0130 TESTING.**

##### **Subp. 2. Equipment.**

*The change in title from official laboratory to commission laboratory is made as the commission contracts with a laboratory based on responses to its request for proposal. Standards for analysis and confirmation of overages and positive test results are specified in the commission's contract with the testing laboratory, which is renewed on an annual basis.*

##### **Subp. 3. Procedures.**

*Post race testing has changed substantially since these rules were written and the proposed rule changes are consistent with post race testing currently performed by the commission's laboratory. Current commission rules require the commission laboratory to be a Racing Medication Testing Consortium (RMTC) accredited laboratory [7892.0130 (5)] with standards for laboratory analysis set and monitored by the RMTC (Exhibit G), a scientific and educational organization governed by a board of directors representing 23 racing industry stakeholder groups. Blood, either serum or plasma, is the testing matrix of choice for both quantitative and qualitative screening as it most accurately detects medications present in the horse's system at the time of testing. Urine is still used as a testing matrix for a few specific medications that are metabolized so rapidly that they would otherwise be undetectable or where the molecules are physically very large. Urine specific gravity, previously used to screen for furosemide, is no longer required, as a specific threshold or regulatory limit for furosemide in the blood has been set by commission rule. Mass spectrometry, in particular liquid chromatography/mass spectrometry has replaced older techniques such as immunoassays and thin layer*

*chromatography, for confirmation of screening results. These rule changes are both reasonable and necessary as they clearly reflect commission requirements that the most current and accurate analytical methods be used.*

#### **Subp. 4. Reports.**

*This proposed rule change provides two minor updates to current rules. The testing laboratory is now set by contract as the commission laboratory and thus the chemist is also contracted as the commission chemist. The deputy director is added to the list of individuals receiving results of sample analyses. This was begun when a second track was opened and ensures that three separate individuals are looking at sample analyses and no laboratory findings are overlooked or discarded.*

#### **7897.0100 PROHIBITED ACTS.**

*A. This portion of the subp. 20 proposed rule change is specific to the use of FDA and USDA approved medications and clearly spells out that no one can possess or use any prohibited drug, substance foreign to the natural horse, medication or metabolites, biological product, blood doping agent, growth hormone, venom, synthetic analogue of venom, derivative of venom, or a synthetic analogue of a derivative of venom that is not approved by the USDA or FDA. The rule does provide, however, that some non-FDA or USDA approved substances may need to be used in the horse and establishes a method for approval either by the veterinarian and stewards or judges. It is reasonable to add this rule as it protects the horse from the use of illicit substances medications such as snake venom, MDMA (synthetic methamphetamine derivative), and blood doping agents yet provides a method for some necessary substances such as specific vaccines or immune stimulants to be prescribed for and used in the horse.*

B. *This portion of the subp. 20 proposed rule change clearly specifies the conditions under which medications may not be possessed or used. Analytical methods for confirmation often lag months to years behind the ability to find or “see” a substance on routine screening so it is reasonable to make possession or administration of them a prohibited act. Some substances such as snail or snake venom may be used to block pain sensation to injured areas such as ankles and tendons and this could result in a catastrophic breakdown and injury or death of the horse or rider. A few substances such as growth hormone, thyroxin, or hydrocortisone occur naturally in animals but have adverse effects when administered in large concentrations. Chemical analyses for these compounds depend on finding an amount higher than that found in scientific studies or other reliable data showing naturally occurring physiological concentrations. Some substances may be intentionally administered to horses to “mask” or interfere with testing for more dangerous prohibited substances, the use of which could cause more serious adverse effects. All four of these proposed rule changes are needed to protect the safety of the horse or rider from the intentional administration of substances that may result in harm or death.*

C. *This portion of subp. 20 is specific to the administration of or finding of these particular substances in a horse at any premise under the jurisdiction of the commission. All of them are considered detrimental to the health and welfare of the racehorse and use may result in serious adverse reactions or death.*

D. *The administration of whole blood or packed red blood cells is blood doping and not in the best interest of the horse or any participant in racing unless needed in an emergency situation. Whole blood administered without blood typing, which is not unusual in horses, may result in a serum sickness reaction or an antigen/antibody response where the body attacks its own red blood cells. In addition, indiscriminate use provides an unfair advantage to the horse as it provides additional red cells to carry oxygen to tissues. It is reasonable to add this rule as it prevents adverse reactions in horses and ensures a level playing field.*

#### **Subp. 21 Pregnant Filly or Mare.**

*Horses are athletes and even most pregnant ones in early gestation (<150 days) are able to compete without incident. As they reach 150 days the fetus is still small (about 2-3 pounds or roughly the size of a rabbit), but now fully formed with discernable extremities. Growth begins to accelerate with the fetus weighing about ten pounds by 180 days. The concern for mares and fillies after 150 days gestation is two fold. As fetal growth increases many mares become cumbersome and moody. This may cause a problem in the tight confines of the starting gate, especially if a pregnant horse is loaded next to an intact male horse. It is also at the point where use of medications such as furosemide and/or an NSAID (phenylbutazone, flunixin, or*

*ketoprofen) may be detrimental to the fetus. It is reasonable to set 150 days as the "cut off" because the fetus is developed and susceptible to injury and damage.*

## EXHIBITS

Exhibit A. Minnesota Board of Animal Health list of current reportable diseases. Available at: <https://www.bah.state.mn.us/media/reportable-diseases.pdf>

Exhibit B. Photo of Vetrap (3M™). Bandage material is thin and flexible.

Exhibit C. Photo of Gel Cast (Jorgenson Labs). Casting material is tightly sealed in a bag to ensure moistness at the time of placing the cast.

Exhibit D. Photo of flipping halter. The ring in the lower left hand corner of the photo is used to secure the horse to the starting gate.

Exhibit E. List of 2015 split sample laboratories provided to the trainers by the Stewards.

Exhibit F. 2015 veterinary form used by trainers to request split sample testing.

Exhibit G. RMTC accreditation standards. Available at: [www.rmtcnet.com](http://www.rmtcnet.com).

## CONCLUSION

Based on the forgoing, the proposed rules are both reasonable and necessary to protect the integrity of racing in Minnesota.

January 5, 2016  
DATE

Thomas DiPasquale  
Thomas DiPasquale  
Executive Director  
Minnesota Racing Commission