

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Rules
Governing Strikes and Lockouts, Contract
Approval, Assignment of Racing Days,
Pari-Mutuel Pools, Facilities and
Equipment, Stabling, Class C Licenses,
Security Officers, Thoroughbred and
Quarter Horse Races, Harness Races,
Horse Medication, Racing Soundness
Exams, Medical Testing, Breeders Fund,
Prohibited Acts, Disciplinary and
Appeal Procedures, and All Other Aspects
of Pari-Mutuel Horse Racing.

STATEMENT OF NEED
AND REASONABLENESS

GENERAL

The Number 1, 2 and 3 commandments of citizens and the Minnesota Legislature to the Minnesota Racing Commission in approval of pari-mutuel horseracing in our state clearly were integrity, integrity and integrity again.

Minn. Laws 1983 ch. 214 §§2 and 3, codified as Minn. Stat. §§240.02 and 240.03, created the Racing Commission and empowered it to:

- (1) Regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- (2) Supervise the conduct of pari-mutuel betting on horse races;
- (3) Take all necessary steps to ensure the integrity of racing in Minnesota; and
- (4) Conduct necessary investigations and inquiries and compel the submission of information, documents and records it deems necessary.

License and disciplinary provisions of Minn. Stat. ch. 240 repeatedly refer to protection of the "integrity of racing," the "public interest" and "public health, welfare or safety." See, for example, Minn. Stat. §§240.06 subds. 4 and 7; 240.07 subds. 3 and 6; 240.08 subds., 1, 4 and 5; and 240.09 subds. 4 and 6.

Minn. Stat. §240.27 subd. 1 authorizes the Commission to exclude from racetracks persons who have been convicted of a felony, disciplined or denied a license by a racing authority or who are threats to the integrity of horse racing. Minn. Stat. §240.27 subd. 5 authorizes a racetrack to eject or exclude any person who is a threat to racing integrity or public safety.

Minn. Stat. §240.28 subd. 2 authorizes the Commission to restrict betting by licensees to protect the integrity of racing.

The licensing provisions of chapter 240 mandate disclosure of detailed financial, character and competence information. This data is necessary to a determination whether the integrity of racing is protected in a grant of a license. See, for example, Minn. Stat. §§240.06 subds. 1 and 6; 240.07 subds. 1 and 5; and 240.08 subd. 2.

Statutory licensing provisions also mandate an investigation of the background and finances of an applicant. Minn. Stat. §§240.06 subd. 3; 240.07 subd. 2 and 240.08 subd. 3.

Every licensee must consent to having his property or person subject to inspection at any time. Minn. Stat. §240.05 subd. 2. The Commission may inspect a racetrack and examine books and records at any time without a warrant. Minn. Stat. §240.21.

Many practices that would subvert the integrity of racing are prohibited by Minn. Stat. §240.25. Minn. Stat. §240.28 forbids commissioners and employees to have conflicts of interest and forbids those persons and stewards to bet.

Criminal penalties and fines are provided for violations of chapter 240 and rules promulgated thereunder.

The horseracing statute mandates or authorizes the Commission to adopt rules on a wide variety of issues. Minn. Stat. §240.23 authorizes rules on any aspect of horseracing or pari-mutuel betting which in its opinion affects the integrity of racing or public health, welfare or safety.

Minn. Stat. §240.05 subd. 3 provides that the Commission is not required to issue any license. Licenses may not be transferred. Minn. Stat. §240.11.

The statutory provisions authorize or mandate the Commission to promulgate rules to protect the integrity of pari-mutuel horseracing as well as the public interest and public health, welfare and safety.

Repeated references in statute to "integrity" in pari-mutuel betting and horseracing, "public interest" and "public health, welfare or safety" reflect a legislative intent and public sentiment that the Commission act to ensure the financial strength, good character and competence of individuals and organizations who construct, own and operate pari-mutuel horseracing facilities; sponsor and manage races; officiate; participate; or provide goods and services to a racetrack. The Commission also must act to ensure the high quality of facilities, equipment, personnel and systems for patrons, other humans and animals.

Success will serve the public interest by contributing to the image of Minnesota and providing jobs for our people, revenues for the state treasury and recreational, sports and entertainment opportunities.

The Commission has worked hard to meet its responsibility as it strives for inauguration of pari-mutuel horseracing in Minnesota in early summer 1985.

The agency published a Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Pari-Mutuel Horse Racing in Minnesota in the State Register on September 12, 1983. 8 S.R. 482. The Commission at that time noticed two Public Meetings to Hear Statements of Information and Comment Prior to Drafting Rules. 8 S.R. 482. The Commission retained a rulemaking consultant in September 1983.

The consultant solicited rules recommendations and obtained copies of pari-mutuel betting and horseracing statutes, rules, uniform rules, standards, policies, forms and procedures from government regulators throughout the United States and Canada as well as individuals and organizations participating in the horse and racing industries in Minnesota and the nation.

The Commission and its Rules Committee invited interested parties to participate in rule drafting sessions and to comment. As a result, many regulators, private individuals and organizations made contributions to the substance and form of rules.

In November 1983 the Commission proposed rules governing applications for Class A and B licenses, setting minimum standards for development of pari-mutuel horseracing facilities and providing for Commission approval of contracts and subcontracts. The rules were adopted in February 1984. Class A and B licenses were granted in March 1984 for construction and operation of Canterbury Downs in Shakopee. Commencement of racing is expected June 29, 1985.

After the licensing decision, the Commission and Rules Committee resumed consideration of rules to govern the development of pari-mutuel horseracing facilities and conduct of races.

The Commission Rules Committee met in working session approximately every two weeks to consider the remaining rules necessary to commencement of racing. Once more, many individuals and organizations accepted the invitation of the Commission to participate in Rules Committee sessions. Representatives of the Class A and B licensee in Minnesota participated in almost every session. Commission consultants Joseph O'Dea, New York, veterinarian and the former chairman of the National Association of Racing Commissioners, and David Hooper, Illinois, former executive secretary of the Illinois Racing Commission, provided information and opinion to the Commission. The Commission solicited and received expert opinion with regard to horseracing medication, security, veterinary science and other substantive issues. Representatives of thoroughbred, standardbred, quarter horse, human rights, jockey, veterinary, security, labor, humane society, law enforcement and other national and state organizations participated. Potential licensees attended. The minutes of Commission and Rules Committee meetings, writings submitted to the Commission, tape recordings and transcripts of testimony as well as periodicals considered by the Commission are available for inspection and copying in the Commission office, Room 400, United Labor Center, 312 Central Avenue, Minneapolis, Minnesota 55414, (612)341-7555, and will be entered into the record of this proceeding.

Drafts of rules were circulated to interested persons prior to Rules Committee or Commission action. The press also reported Commission and Rules Committee deliberations.

David Freeman, who has expertise and long experience in literally every aspect of pari-mutuel horseracing, joined the Commission in summer 1984 as assistant executive secretary. The Rules Committee and Commission also received advice and counsel from the Minnesota Bureau of Criminal Apprehension, Attorney General and its rulemaking consultant.

The rules now proposed are the result of this open, informative, analytical and deliberative process. Copies have been distributed to all persons the Commission has reason to believe may be interested.

The Commission discovered that pari-mutuel horseracing is one of the most closely regulated businesses in the United States in order to ensure integrity and protection of the public interest and safety, health and welfare. As the Commission moved from consideration of Class A and B license rules to racetrack development issues and ultimately to conduct of races, detail and

similarity among statutes and rules of other jurisdictions in the United States and Canada, model and uniform rules, standards, policies, forms and procedures increased.

These precedents also are available for inspection and copying and will be entered into the record.

The Commission relied especially on statutes and rules of California, because they recently were revised; Illinois, in view of the fact they are most comprehensive and in the process of revision; Nebraska, because it is a state similar to Minnesota in many respects; Canada, since it regulates medical testing, facilities and equipment with more specificity than jurisdictions in the United States; New York and New Jersey, because the statutes and rules of those states are respected by regulators, horsemen and track operators; Colorado; and New Mexico.

The Commission adhered to the rules of the U.S. Trotting Association and American Quarter Horse Association, because those organizations will not sanction race meetings unless held in compliance with their rules. Lack of sanction discourages participation by horsemen. Performances in unsanctioned meetings are not entered on the record of a horse, and the value of the horse falls as a result. The Commission also looked to rules of the National Association of Racing Commissioners and Jockey Club of New York as the models they are.

The Commission sought consistency with the regulations of other states. Familiarity, absence of new obstacles or burdens and opportunity to maintain a routine encourage horsemen to participate in race meetings in new jurisdictions. Attraction of a sufficient quantity of high quality horses means crowds and pari-mutuel handle.

The Minnesota Racing Commission submits that the above-captioned proposed rules are necessary to the integrity of pari-mutuel betting and horseracing in our state, to the public interest and to public safety, health and welfare. They are necessary to ensure the financial health, good character and competence of individuals and organizations who construct, own and operate pari-mutuel horseracing facilities, sponsor and manage races, officiate, participate and provide goods and services to racetracks and to ensure high quality in facilities, equipment, personnel and systems for patrons, other humans and animals. Financial, sports, entertainment and recreational success will result. State revenues will grow.

The proposed rules also are necessary so that persons affected can know the nature of the business they seek to enter, the procedures and criteria for entry. The rules are necessary to intelligent effort to join the activity.

The Racing Commission believes the proposed rules are reasonable, because they generally are customary in pari-mutuel betting and horseracing. The burdens are not undue. Compliance has been obtained in other jurisdictions, entry and participation in the horse and racing industries has not been deterred and industry has prospered while meeting the highest standards.

The Commission, committed to a policy of avoiding over-regulation, deliberately eliminated rules provisions of other jurisdictions from the proposed Minnesota rules whenever the Commission believed the out-of-state rules did not contribute to the integrity of racing, public interest or public health, safety or welfare.

Statutory authority, necessity and reasonableness of specific rules is shown below.

STRIKES AND LOCKOUTS

Minn. Rule 7870.0439 requires a no-strike, no-lockout agreement with the statewide labor organization representing the largest number of construction workers in Minnesota during construction of a racetrack. At present the AFL-CIO is that labor organization.

The rule ensures that a horseracing facility will be completed on time, within budget and without labor-management strife. That, in turn, contributes to financial success, ensures integrity, serves the public interest and protects safety, health and welfare. Specification of the largest construction labor organization ensures legitimacy and minimizes the possibility of strife between labor organizations.

The Commission is mandated to approve contracts entered into by a licensee. Minn. Stat. §240.19; Minn. Rules 7870.0500. No-strike, no-lockout agreements are typically included in construction contracts, particularly for construction of facilities affecting the public interest.

The proposed rule is reasonable, because many other construction contracts, including Hubert Humphrey Metrodome construction contracts, have contained similar no-strike, no-lockout agreements. They have been performed successfully.

CONTRACT APPROVAL

Rule 7870.0500. Minnesota law presently provides that the Commission must approve contracts and subcontracts for goods

and services in connection with Class A, B or D licenses. Minn. Stat. §240.19; Minn. Rules 7870.0500. Subcontract approval is necessary to prevent circumvention of the contract approval requirement. The statute and existing rule mandate approval of all contracts; there is no distinction between contracts for development and post-construction agreements.

Every contract and subcontract must include an affirmative action plan establishing goals and timetables consistent with Minn. Stat. ch. 363. Minn. Stat. §240.19; Minn. Rules 7870.0500. See, Minn. Stat. §§363.073-363.075; proposed Minn. Rules 5000.3400-5000.3600, specifically 5000.3460 and 5000.3520. 9 S.R. 1307-1330, December 10, 1984.

1. Coverage and Effect.

The proposed amendment to 7870.0500 subpart 1 ensures that renewals and extensions of contracts do not escape approval and clarifies the consequences of failure to obtain approval.

2. Disclosure and Criteria

Proposed amendment to 7870.0500 requires in subpart 2 disclosure of owners, understandings with regard to performance of a contract or subcontract, recent contracts and financial claims against the contractor or subcontractor. Disclosure is mandated only with regard to contracts and subcontracts larger than \$50,000 or longer than 30 days. Only 5 percent owners must be disclosed, along with owners of more than 10 percent of non-individual owners of 25 or more percent of a contractor or subcontractor.

Subpart 3 sets out criteria for approval. The Commission must approve a contract or subcontract if it determines that approval will not adversely affect racing or the public interest, is in accordance with applicable laws and rules and will not adversely affect public health, safety and welfare. In making that determination, the commission must consider competence, experience, reputation, record of law abidance and financial responsibility.

The information required to be disclosed is necessary to a determination whether a contract or subcontract that test. The financial strength, character and competence of a contractor or subcontractor can be determined with certainty only if the information is obtained.

Any contractor or subcontractor, because of its association with pari-mutuel horseracing, is in a position to harm the credibility of that industry if citizens discover that the contractor or subcontractor is incompetent, financially weak or

of poor character. The credibility of pari-mutuel horseracing is fragile due to scandals in its history. Every effort must be made to ensure a "clean" image for all connected with the industry.

Contractors and subcontractors who are incompetent, financially weak or of poor character may provide inferior goods or services. In addition, they may seek to influence pari-mutuel horseracing through extension of credit or otherwise if a licensee is unable to perform its contract.

Contractors or subcontractors who are incompetent, financially weak or of poor character are susceptible to influence by criminals who would seek to infiltrate pari-mutuel horseracing through them.

It should be noted that the Legislature was so concerned over the integrity of persons participating in pari-mutuel horseracing that it mandated the Commission prescribe by rule such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing. Minn. Stat. §240.28 subd. 2.

The criteria in the rule not only protect the integrity of racing, public interest, public health, safety and welfare; they also are necessary to limit the Commission's discretion and inform contractors and subcontractors so that they know the nature of the business they seek to enter, the procedures and criteria for entry.

The rule is reasonable, because other states require disclosures by those who provide goods or services to racetracks. The providers are able to comply and are not unduly burdened. Pari-mutuel horseracing flourishes. Illinois requires concessionaires applying for occupational licenses to disclose owners of 5 percent or more of the applicant and persons extending credit to the applicant for more than a year or in excess of \$10,000 for 30 days to a year. Illinois Rules B2.09. The requirement does not distinguish between owners or creditors who work on the premises of a racetrack and those who do not. Illinois also requires disclosure of owners of 10 percent or more of any corporation which owns 25 percent or more of a concessionaire. Changes in substantial owners or creditors also must be disclosed. Illinois Rule B2.10.

Although the potential evils outlined above apply to all contracts and subcontracts regardless of size, the proposed rule reasonably does not require disclosure if a contract or subcontract is \$50,000 or smaller or of 30 days or less duration.

Canterbury Downs has complied with the proposed rule in development of its facility, and construction of the racetrack is meeting an accelerated schedule.

3. Rescission

Subpart 4 allows the Commission to rescind approval of a contract or subcontract for the same reasons it may deny approval.

4. Affirmative Action

Subparts 5 to 7 require Class A and B licensees, to the extent feasible, to establish goals to assist in providing economic opportunities for racial minorities, women and disabled persons. The goals must relate to construction subcontracts/material suppliers; on-site construction jobs; post-construction workforce; post-construction vendors, suppliers and other contracts; and equity ownership.

"Feasible" is a term with a clear meaning in the community and law. It means "capable of being successfully done or accomplished." Hillock v. Bailey, 223 A.2d 426, 434 (Maine Sup. Ct. 1966)

The rule sets minimum goals, if feasible, for racial minorities and women and mandates reasonable goals, if feasible, for disabled persons.

If establishment of goals is feasible for racial minorities and women with regard to post-construction workforce and vendor, supplier and other contracts, Class A and B licensees must make a good faith effort to achieve the goals within two years of commencement of racing or completion of construction, respectively. Subparts 5 to 9 should not, indeed cannot, be construed to establish or require affirmative action quotas. Regents of the University of California v. Bakke, 438 U.S. 265 (1978); Fullilove v. Klutznick, 448 U.S. 448 (1980); Manufactured Housing Institute v. Pettersen, 347 N.W.2d 238 (Minn. Sup. Ct. 1984).

"Good faith" is a term with clear meaning in the community and law. It is honest intent rather than diligence or an absence of negligence. Eldon's Super Fresh Stores v. Merrill Lynch, 296 Minn. 130, 136, 207 N.W.2d 282, 287 (1973). It is subjective. Proposed rules of the Minnesota Department of Human Rights would define a "good faith effort" as "a reasonable effort" to comply with goals, proposed Minn. Rule 5000.3400 subpart 14, and specify factors to be considered in determination of whether compliance efforts meet a good faith test, proposed

Minn. Rule 5000.3570 subparts 1 to 4. 9 S.R. 1308, 1325, December 10, 1984.

Subpart 8 requires licensees to report semi-annually on compliance with the economic opportunity provisions of subparts 5 to 7. Subpart 9 provides definitions.

Enforcement of subparts 5 to 7 is left to general enforcement provisions of statute and rule. The approval and rescission sanctions of subparts 1 and 4 apply only to subparts 1 to 4.

Chapter 240 contains many broad grants of rulemaking authority to the Commission. Minn. Stat. §240.03, in part, allows the Commission to regulate horseracing in Minnesota to ensure it is conducted in the public interest and take all necessary steps to ensure the integrity of racing in our state. Additionally, Minn. Stat. §240.23 grants the Commission authority to adopt rules governing any "aspect of horseracing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare or safety."

Subparts 5 to 9 are necessary to the integrity of pari-mutuel horseracing.

Minnesota has a proud tradition as an open society which offers equal opportunity to a full life, encourages participation of all citizens in the economic activity of our state and protects civil and human rights. A job and ownership of an interest in Minnesota's economic future are key to this open society. This tradition is especially strong in projects and activity with a public dimension, such as a pari-mutuel race-track. The Commission, in recognition of this tradition, established an Affirmative Action Committee and solicited the participation of all segments of the community in deliberations which led to the proposed rule. It is in the public interest and necessary to the integrity of pari-mutuel horseracing that participants in that activity make strong affirmative action efforts.

Further, it is necessary to the integrity of pari-mutuel horseracing that it be financially successful. To be successful, its image must be wholesome entertainment, recreation and sport. Unfortunately, the image of racing in some jurisdictions is as an unsavory activity. Strong affirmative action effort will contribute to a positive image of racing and, in turn, to the financial success of pari-mutuel horseracing. Success ensures integrity.

Racing is viewed as an activity for and dominated by a white, male majority. To the extent an affirmative action effort is made, all Minnesota citizens will participate in racing as

patrons and bettors. That will contribute to financial success and integrity.

The affirmative action rule is reasonable because affirmative action plans are common in projects and activities of public concern. The proposed rule mandates goals only to the extent feasible. It requires good faith efforts to comply. It sets no quotas.

Further, all racial minority percentages in the rule are contained in a pact entered into by Canterbury Downs.

Canterbury Downs and representatives of protected classes participated fully in deliberations of the Commission Affirmative Action Committee concerning this rule.

DEFINITIONS

7869.100. Pari-mutuel horseracing literally has a language of its own. Many terms are not commonly used in communication among Minnesotans. See, for example, "morning line," "lapped on break" or "nerved." Some terms are commonly used but have different meanings when used in racing. See, for example, "scratch," "maiden" or "association."

Definitions of racing terms are essential to an understanding of these proposed rules by citizens who participate in racing as patrons and bettors. In fact, they are necessary to understanding of the rules by some members of the horse and racing industries.

Definitions are necessary, in part, because pari-mutuel horseracing is new in Minnesota. The definitions are reasonable because they are used in pari-mutuel horseracing throughout the United States and Canada.

ASSIGNMENT OF RACING DAYS

7872.0100 and 7872.0110. These proposed rules provide procedures for requests, assignments, revision and rescission of racing days. 7872.0100. They also provide criteria for commission decisions with regard to assignment. 7872.0110.

The rules are necessary, because Minn. Stat. §240.14 mandates the Commission to assign racing days to each pari-mutuel horseracing facility. "Racing day" is defined as a day assigned by the Commission for racing and in which racing is conducted. Minn. Stat. §240.01 subd. 10.

The statute provides the Commission may assign racing days for up to three years. Minn. Stat. §240.14 subd. 1. Assignments must be made by July 1 of the previous year, except days may be assigned after that date if a license is issued after that date. The Commission must hold a public hearing before assigning or revising an assignment of racing days. Minn. Stat. §240.14 subd. 2. The commission may assign another racing day to a licensee for each day during a race meeting on which racing is not held for reasons beyond the control of the licensee.

The Commission may, after a public hearing, rescind racing days if it determines a licensee has not met or will not meet the terms of its license. Minn. Stat. §240.14 subd. 4. The Commission may reassign a rescinded racing day. The Commission may assign to a county fair Class D licensee only 10 racing days, and the days must coincide with the 10 calendar days on which the county fair is running or the weekend preceding or following.

The criteria of part 7872.0110 subpart 2 are necessary to deny the Commission impermissible discretion and inform racetracks of the bases for assignment of the racing days they need to conduct business successfully.

Assignment of racing days protects the economic vitality and, as a result, the integrity of pari-mutuel horseracing by preventing over-exposure of racing and harmful competition among facilities.

The rules are reasonable, because they are similar to procedures and criteria for assignment of racing days in other jurisdictions. See, for example, Nebraska Rule 2(5). Pari-mutuel horseracing is conducted in those jurisdictions successfully without undue burden on operators.

The procedures for request, assignment, revision and rescission of racing days are similar to those for variances of the Minnesota Capital Area Board. Minn. Rules 2400.1500-2400.1520.

PARI-MUTUEL WAGERING

7873.0100-7873.0400. These proposed rules govern betting at pari-mutuel horseracing facilities.

Part 7873.0100 establishes procedures for request and approval of pari-mutuel pools. Part 78733.0100 subparts 1 and 2 provide criteria for approval, and subpart 3 prohibits any pool which requires a bettor to select more than two horses in a race. Part 7873.0120 provides for distribution of pools when various unusual situations, such as dead heats and failure of horses to finish races, occur. Part 7873.0130 provides for distribution of

pools when horses are prevented from starting a race by failure of doors in front of a horse or an electronically operated starting gate. Part 7873.0140 provides for distribution of pools when horses fail to start, and part 7873.0140 for distribution in the event horses are scratched, withdrawn or dismissed.

Parts 7873.0160 to 7873.0190 provide definitions and specific standards for operation of the types of multiple pari-mutuel pools allowed in Minnesota; namely, daily double, quinella, perfecta or exacta and pick six.

Part 7873.0200 specifies the effect of posting of an "official" sign on pari-mutuel payoffs. Part 7873.0210 provides for consequences of loss of a pari-mutuel ticket, 7872.0220 for altered or mutilated tickets, 7873.0230 for an information window, 7873.0240 for tip sheets, 7873.0300 procedures and criteria for approval of simulcasts as well as procedures for operation and 7873.0400 procedures for approval of telephone account betting and operating procedures.

Minn. Stat. §240.13 provides that Class B and D licensees may conduct pari-mutuel betting and mandates the Commission to regulate it.

The licensees must provide equipment for issuing pari-mutuel tickets and displaying pari-mutuel information. Minn. Stat. §240.13 subd. 2. Licensees must deduct 17 percent from straight pari-mutuel pools and 23 percent from multiple pools. Minn. Stat. 240.13 subd. 4. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of 20 cents, with a minimum payoff of \$2.20 on a \$2.00 ticket except that a licensee may reduce the minimum payoff to \$2.10 if there is not enough money in a pool to pay \$2.20.

Licensee must deduct 5 percent from all pari-mutuel pools to use for purses. Minn. Stat. §240.13 subd. 5. A licensee must pay off on uncashed pari-mutuel tickets presented for payment within 90 days of the end of a race meeting and report unredeemed tickets to the Commission. Minn. Stat. §240.13 subd. 7. A licensee may not accept a bet from any person younger than 18 nor accept a bet of less than \$2.00. Minn. Stat. §240.13 subd. 8.

The statute mandates the Commission to designate by rule the types of pari-mutuel pools permitted, Minn. Stat. §240.13 subd. 3, and prescribe the manner of distribution of each type of pool, Minn. Stat. §240.13 subd. 4.

Proposed parts 7873.0100 and 7873.0110 establish procedures for request and approval of pari-mutuel pools and criteria for approval. The rules are patterned after parts

7872.100 and 782.0110. They are necessary and reasonable for the same reasons.

Part 7873.0110 subpart 3 prohibits pari-mutuel pools that require a bettor to select more than two horses in a race. The prohibition rests on the Commission's concern for honesty in racing. The type of pool prohibited, as a practical matter, is the so-called trifecta. Scandals involving trifectas have rocked racing during the past 10 years.

Consultant David Hooper urged the Commission to "go slow" on approval of exotic pari-mutuel pools. Not only have most recent scandals in racing involved trifectas, Hooper testified, but also trifectas are "sucker bets" attractive to new bettors such as many Minnesotans will be during the first few years of racing in our state. Hooper also cautioned that it will be easier to add trifectas to Minnesota's betting fare in the future than later eliminate trifectas if approved now. Operators become dependent upon the betting handle generated by trifectas and oppose their elimination. Hooper added that trifectas will hurt development of the "pick six" pool. The pick six flourishes in California, which does not allow trifectas. In states that allow trifectas, the pick six has never taken hold among bettors.

The reason trifecta scandals have occurred is two-fold. Because of the odds against correctly selecting the order of finish of three horses in the same race, trifecta payoffs can be very large. At the same time a person attempting to "fix" a trifecta need only tamper with a single race and a few horses in that race. It is relatively easy to fix trifectas.

Parts 7873.0120 to 7873.0230 carry out the mandate of Minn. Stat. §240.13 subd. 4 that the Commission prescribe the manner of distribution of pari-mutuel pools. The rules are necessary to that prescription. Rules for distribution are the same in every jurisdiction, and Minnesota joins the roll of jurisdictions with these rules. Pick six regulation does vary somewhat among jurisdictions with regard to three issues. First, how often should the pick six betting pool be paid out -- only when a bettor accurately selects the winners of six races on a day's racing program or every day, weekly or at the end of a year's race meeting to bettors who pick the most winners on a specified day? Second, should the entire pick six pool be paid to a winning bettor, or should a portion of the pool be paid to bettors who selected the next greatest number of winning horses? Third, should pick six bettors who select a horse which does not start a race be placed in a consolidation pool to be paid to the bettor in the pool who selects the most winners?

The proposed pick six rule, part 7873.0190, provides that a pick six pool be paid out to bettors who select the most

winners on the last day of a meeting if no bettor picks all six winners before that day. Subpart 5 item C. The Commission feels that will allow a pick six pool to grow to an amount, conceivably millions of dollars, which will excite spectator and, more important, bettor interest. The rule also provides that if no bettor selects six winners on a day's program, 75 percent of the pick six pool is carried over to the next day, but 25 percent is paid out to bettors who selected the most winners that day. Subpart 5 item B.

The proposed rule provides that when a bettor accurately selects six winners, or the most winners the last day of a meeting, 100 percent of the pick six pool is paid to that bettor. Item A.

Last, the rule provides that if a pick six bettor selects a horse which does not start a race, the favorite in that race is assigned to the bettor as his selection in the race for pick six purposes. Subpart 7. The Commission felt creation of another pool for those pick six bettors who select non-starters would make the pick six too complex to be enjoyed by spectators or bettors, especially when pari-mutuel horse racing is new in Minnesota.

Minn. Stat. §240.23 specifically empowers the Commission to promulgate rules governing information sold on the premises of a racetrack. The statutory provision reflects the harm that can and has resulted to the integrity of racing from sales of inaccurate information. The Commission proposes part 7873.0240 regarding tip sheets as a result.

Subpart 1 requires at least two tip sheets at a track as a check on each other and to provide competition and spectator choice. It also requires delivery of each sheet to a Commission representative at least an hour before post time of the first race every day. Subpart 2 requires display of the previous day's tip sheet and outcome in the grandstand. Subpart 3 requires sellers of tip sheets to obtain vendors' licenses.

The rule is necessary to protect the integrity of racing and reasonable because it is in effect in other jurisdictions without causing problems.

Minn. Stat. §240.13 subd. 6 authorizes the Commission to approve simulcasts of horse races held in other states to the premises of a Minnesota racetrack and pari-mutuel betting at the Minnesota track on those races. Provisions of Minnesota law governing pari-mutuel horseracing apply. Televised races must occur on an assigned racing day. Money bet at the Minnesota track must not be commingled with any pool off the premises. The licensee may pay a fee to the person conducting the race and

costs of transmission. The takeout and taxes are as provided for other pools. Televised races must comply with the U.S. Interstate Horse Racing Act.

Part 7873.0300 regulates simulcast wagering. The rule provides a procedure for requesting approval of simulcasts. It requires an agreement signed by the two racetracks and two horsemen's organizations involved.

The rule is necessary to satisfy the desires of citizens for sport, entertainment, recreation and pari-mutuel betting. It is necessary to the financial success of licensees and, as a result, the integrity of racing. It is necessary to jobs and state revenues. The rule is reasonable because it is in effect successfully in other jurisdictions.

Minn. Stat. §240.13 subds. 3 and 4 mandate the Commission to regulate the types of allowable pari-mutuel betting and distribution of pools. The Commission proposes to allow telephone account wagering under part 7873.0400. Subpart 1 sets out the procedure for a request by a licensee to provide telephone account wagering and criteria for Commission approval. Subpart 2 requires an "800" phone system, recording of all telephone account bets, occupational licenses for all licensee employees receiving telephone wagers and a totalizator capable of recording such wagers. Subpart 3 requires telephone bettors to be 18 and prove their age, mandates deposit of at least \$100 with the track and use of a code number and name, establishes minimum content of a telephone wagering transaction, prescribes accounting procedure; and limits information a bettor may receive during race hours. Subpart 4 requires weekly reports to the Commission with regard to telephone betting, and subpart 5 mandates compliance with federal and state laws and applicable Commission rules.

The Commission concluded that telephone account betting is necessary to make participating in pari-mutuel betting on horse races possible for citizens who cannot attend races. It also will contribute to the pari-mutuel handle and, as a result, financial strength of tracks and integrity of racing.

The rule is reasonable, because it is in place elsewhere without difficulty.

FACILITIES AND EQUIPMENT

7875.0100 and 7875.0200. High quality facilities and equipment are necessary to the financial success; public health, safety and welfare; public interest; and integrity of pari-mutuel horseracing.

Further, all facilities and equipment needed for conduct of pari-mutuel horseracing must be provided. The facilities and equipment must possess capabilities required to fulfill their functions.

Minn. Stat. §240.23 authorizes the Commission to regulate by rule the safety, security and sanitation of stabling.

Part 7875.0100 subpart 1 specifies facilities required at a racetrack. Subpart 2 requires adequate maintenance of a racing facility. Subpart 3 mandates submission of governmental inspection reports to the Commission, and subpart 4 requires submission of engineering and veterinarian approvals of the construction, elevation and composition of racing and training surfaces. Subpart 5 provides for distance poles to be customary colors.

Approvals of racing and training surfaces are especially important when a single surface is used for both thoroughbred/quarter horse racing and harness racing. The surface for the former must be soft and banked; the latter is hard and flat. Proper conversion of a track surface from one use to the other is difficult.

The rule is reasonable. It is consistent with regulation in other jurisdictions.

Part 7875.0200 specifies equipment required at a pari-mutuel horseracing facility and sets minimum capabilities of equipment. Subpart 1 specifies equipment required.

Subpart 2 sets minimum capabilities for totalizators, subpart 3 for internal communications, subpart 4 starting gates, subpart 5 photo-finish equipment, subpart 6 timing devices and subpart 7 film or videotape recordings of races. Subpart 8 requires preservation of race and finish recordings or photographs for 90 days after close of a meeting or until completion of legal proceedings, whichever is better.

This rule is reasonable because usual.

Minn. Stat. §240.23 authorizes the Commission to regulate wire transmissions between a racetrack and places outside the premises. It is essential to prevent communication of information with regard to horse races between persons inside and outside the track until after a race in order to prevent illegal betting and race tampering.

Part 7875.0200 subpart 9 generally prohibits external communications during races. The rule excepts press communications, conduct of ordinary business and communications approved

by the Commission or stewards into the race track. No information concerning the results of a race may be communicated externally until after the race, and no bet or thing of value shall be transmitted outside the racetrack premises. Instruments of communication, other than those designated for use by the Commission or approved by it, must be rendered inoperable 30 minutes before the first race of the day to the flashing of the "official" sign after the last race. A telephone line must be provided for the Commission.

The rule is necessary to prevent illegal activity. It is reasonable, because it permits communication by the press and in the ordinary course of business. It requires instruments of communication to be locked only during races. The rule is common.

STABLING

7876.0100 and 7876.0110. Minn. Stat. §240.23 authorizes the Commission to regulate stabling.

Part 7876.0100 provides procedures and criteria for allocation of stables at racetracks. It prohibits discrimination in allocation, gives the licensee broad discretion in allocation, permits consideration of previous misuse of property, gives a preference to Minnesota residents and requires records to be kept.

The rule is necessary to prevent discrimination in stable allocation. Such discrimination has occurred in other states. It is difficult to bring a horse to racing fitness if the horse is stabled in facilities inferior to those provided to competitors.

The rule is reasonable, because burdensome procedures for horsemen and track operators have been removed. Racing secretaries retain authority necessary to allocate stables in the best interest of racing and the meeting. The rule is in place elsewhere.

Part 7876.0110 allows use of off-track stabling. It requires tracks to provide temporary stabling, mandates that pre-race requirements of the Commission be met at the track and requires horses shipped to a track from off-site stabling to be at the track by scratch time.

The rule is necessary, because racetracks do not have enough stables for the number of horses required to fill a race meeting. Some horses perform better if stabled away from the track or stabled where they can swim. Some Minnesota citizens

will prefer to stable their horses at their farms to save money and for other reasons. Commercial off-track training centers will be developed. They will provide excellent stabling and training, and they will contribute to Minnesota's economy. The requirements of temporary stabling, on-track workouts and scratch time appearance protect racing.

The rule is reasonable because it does not impose licensing and inspection requirements. Other states permit off-track stabling. Some impose more burdens.

CLASS C OCCUPATIONAL LICENSES

7877.0100 to 7877.0185. Minn. Stat. §240.08 authorizes the Commission to issue Class C occupational licenses to persons who wish to be employed in pari-mutuel horse racing. Section 240.08 subdivision 1 specifies seven occupations to be licensed and empowers the Commission to license any others it "determines require licensing to ensure the integrity of horseracing" in Minnesota.

Subdivision 2 requires a license applicant to disclose information relating to financial responsibility and good character. Subdivision 3 mandates investigations of applicants and authorizes fingerprints. The subdivision authorizes examinations of the competence of an applicant in the occupation he seeks to practice. The Commission has access to all criminal history data of the Bureau of Criminal Apprehension on Class C applicants and licensees.

Subdivision 4 authorizes the Commission to issue a Class C license if it determines an applicant is qualified and will not adversely affect the public health, welfare, safety or integrity of racing. Licenses are effective for one year and are renewable.

Subdivision 5 provides for revocation of a Class C license for violation of law or rule which the Commission feels adversely affects the integrity of racing or for an intentional false statement in a license application.

Parts 7877.0100 to 7877.0185 implement section 240.08.

Part 7877.0100 subpart 1 provides that any person whose work is conducted in any part at a racetrack must obtain a Class C license. Subpart 2 establishes criteria for license approval; the criteria are the best interests of racing and absence of an adverse affect on public health, welfare or safety. The Commission will consider competence, good character and financial responsibility.

Part 7877.0110 prescribes application procedures and content.

Minn. Stat. §240.10 mandates that the Commission establish Class C license fees not to exceed \$100. Part 7877.0120 subpart 1 establishes fees. Subpart 2 mandates fingerprints and sets a \$12 charge for an FBI check of the prints. Subpart 3 establishes fees paid to jockeys in the absence of an agreement between the parties. Subpart 4 does the same for harness drivers' fees.

Part 7877.0125 provides criteria for determining eligibility for Class C licenses. Subpart 1 requires an applicant to be at least 14 unless another age is required by statute or rule. Class C licensees working near horses must be 16. Subpart 2 provides the burden of proof is on an applicant who has been disciplined in another jurisdiction to prove his fitness for a license. Subpart 3 requires an applicant to certify compliance with applicable tax, racing, affirmative action and workers' compensation statutes and rules.

Part 7877.0130 prescribes qualifications for some specific Class C licenses -- owners, trainers, assistant trainers, jockeys, apprentice jockeys, exercise riders, harness drivers, veterinarians, pony riders, stable foremen, jockey agents, authorized agents and bloodstock agents.

Part 7877.0135 prohibits the holding of multiple Class C licenses in situations of conflict.

Part 7877.0140 provides for temporary Class C licenses pending action on applications for permanent licenses. Part 7877.0145 provides for emergency licenses, and part 7877.0150 replacement licenses.

Part 7877.0155 establishes conditions precedent to license issue. By acceptance of a Class C license, a person consents to abide by Commission rules, rulings and decisions; provide information requested by the Commission or stewards; notify the Commission or stewards of attempted bribes or violations of horseracing and gambling laws and rules of which he has knowledge; submit to inspections and searches; provide a requested blood or urine sample if in a position of danger or if he endangers a horse or human; furnish additional fingerprints; and conduct himself in a manner not detrimental to the best interests of racing.

Part 7877.0160 provides for three-year licenses validated annually. Annual fees are required. Licensees must notify the Commission if they change employers.

Part 7877.0165 requires credentials. Class C licensees must wear the credentials.

Part 7877.0170 prescribes duties of some Class C licensees -- owners, trainers, jockeys and apprentice jockeys, drivers, pharmaceutical representatives and bloodstock agents.

Part 7877.0175 prescribes duties of Class C licensees who are racing officials -- racing secretary, clerk of scales, starter, paddock judge, identifier, equipment inspector, claims clerk, commission veterinarian, patrol judge, placing judge, time clocker, outrider, jockeys, room custodian, jockeys agent, clerk of course and horsemen's bookkeeper.

Part 7877.0180 prohibits specified conflicts of interest for racing officials and veterinarians.

Part 7877.0185 provides that rules and rulings relating to a Class C licensee shall apply equally to other persons if continued participation in an activity by the other person would circumvent the intent of the rule or ruling by permitting the person, in essence, to serve as a substitute for the ineligible licensee. That will occur if the other person is legally liable for the conduct that violated the rule or that is the subject of the ruling or if the other person benefited financially from that conduct. The fraudulent transfer of a horse in an effort to avoid application of a rule or ruling is prohibited.

The Class C occupational licensing rules are necessary to protect the integrity of racing by ensuring the competence, good character and financial responsibility of persons seeking to participate in pari-mutuel horseracing and are necessary to ensure appropriate conduct while licensed.

As the Commission moved to consideration of rules closely related to the actual conduct of races, it learned that the rules were similar from jurisdiction to jurisdiction. There is a need for uniformity to encourage horsemen and officials to participate in racing in Minnesota.

The rules are reasonable, because they are nearly identical to occupational licensing rules in other states where pari-mutuel horseracing is conducted successfully. The Commission refused to propose some burdensome regulation which is in place in other jurisdictions.

In a few places the proposed Class C rules reflect a choice among differing occupational licensing rules in other jurisdictions or plow new ground.

Part 7877.0130 subpart 2 sets standards for multiple owners for Class C licensees. Multiple ownership is a recent phenomenon exploding upon pari-mutuel horseracing as the value of horses skyrocketed and new legal forms of ownership, such as limited partnerships and publicly owned corporations, are devised.

The proposed rule reflects a new model rule of the National Association of Racing Commissioners. The Commission is not aware that any other state has had an opportunity to adopt it yet. Some early state regulation of multiple ownership limited permissible forms of ownership -- for example, by requiring a certain number of owners or minimum percentages of ownership. The model rule simply requires disclosure of ownership and investigation of the owners. It appears to protect the integrity of racing without unduly restricting forms of multiple ownership.

Part 7877.0160 makes Class C licenses effective for three years but requires annual validation and payment of fees. New fingerprints, photograph or other information can be required anytime the Commission has reason to doubt the identity or eligibility of the licensee. A licensee must certify he is still eligible for licensing when he seeks validation each year.

Some states limit occupational licenses to one year. The Commission believes annual validation of three-year licenses adequately protects the integrity of racing and, at the same time, minimizes cost and burden on licensees.

Part 7877.0185 makes rules and rulings applicable to a second person only if that person has a financial interest in the conduct that is the subject of the rule or ruling or is legally liable for the conduct. Some states apply rules or rulings to family members in all cases. The Commission feels that approach is unfair and perhaps unconstitutional.

SECURITY OFFICERS

7878.0100 to 7878.0160. Because of its strong concern for the integrity of pari-mutuel horse racing, the Commission proposes to regulate security officers separately from other Class C occupational licensees.

The Commission proposes more stringent qualifications and in-service training requirements for security officers than for other Class C licensees. The Commission recognizes that security officers, more than any other persons at a racetrack, are in a position to protect, or harm, racing.

The Commission heard hours of testimony by law enforcement experts with regard to the content of these rules, and the Commission deliberated at great length over them.

Part 7878.0100 defines "security officer" as a person whose principal duty is protection of persons or property at a pari-mutuel horseracing facility. The definition excludes car parkers and ushers, for example, whose principal duty is showing patrons where to park or sit, not protecting persons or property.

Part 7878.0110 establishes qualifications for security officers. Subpart 1 requires a security officer to be an employee of the racetrack. The Commission felt it is essential that a security officer be responsible to the track rather than be an independent contractor. The track operator is at the facility, not across town or in some other city, and he is directly accountable to the Commission through licensure. The rule provides that a security officer must be a U.S. citizen; complete a comprehensive application; submit to a thorough background check; never have been convicted of a felony, criminal theft or a pari-mutuel horseracing or gambling crime; provide fingerprint cards; undergo a thorough medical examination; undergo a psychological exam; and pass an oral examination designed to demonstrate communications skills.

Part 7878.0120 establishes procedures for obtaining a Class C security officer's license. Subpart 2 provides that security officers' licenses are valid for only a year, as contrasted to three years for other Class C licenses. Subpart 4 sets a \$25 license fee.

Part 7878.0130 mandates that an applicant for a security officer's license successfully have completed a 40-hour basic training course in 11 specific subject areas. Subpart 2 authorizes the Commission to waive the requirement if an applicant is licensed or eligible to be licensed by the Peace Officers Standards and Training (POST) Board.

Part 7878.0140 requires security officers to complete successfully a 20-hour refresher course every year in six subject areas. Subpart 2 requires the Commission to approve refresher courses on the basis of relevance to knowledge, skills and abilities needed for security officers. POST Board - certified courses are considered to be courses approved by the Commission.

Part 7878.0150 subpart 1 requires that security officers who carry firearms or whose principal duty is to investigate violations of statute must be licensed or eligible to be licensed as a peace officer by the POST Board. Typically, 15 to 20 percent of a security force at a racetrack will be affected by this rule. The Commission believes that if a security officer

performs functions of a peace officer, such as carrying a firearm or investigation, the security officer should be eligible to be a peace officer.

Subpart 2 forbids a security officer to use unauthorized deadly force or unreasonable force, interfere with an investigation by the Commission or a law enforcement agency, linger on the backstretch while off duty or place a bet while on duty on a race run at the racetrack. Part 7878.0160 requires track operators and security officers to cooperate with law enforcement agencies and report all crimes suspected, investigated or prevented to the BCA.

The proposed security officers rules are necessary to ensure the integrity of racing. Officers must be competent, healthy, financially responsible and of good character.

The rules are reasonable, because they closely parallel peace officer requirements in Minnesota. Those requirements work well in our state, and security officers perform many of the same functions. Some burdens have been avoided. An applicant for a security officer's license may provide evidence that he previously has satisfied the qualifications; he need not qualify again. The basic training course is waived if an applicant is licensed or eligible to be licensed by the POST Board. POST Board - certified courses are approved as refresher courses.

A security officer need be POST Board licensed or eligible only if he carries a firearm or is an investigator. An active POST Board license is not required, so a retired peace officer may serve as a security officer. A security officer need not be an off-duty peace officer, but may be. A security officer who carries a firearm or is an investigator need only be eligible for a POST Board license, so a newly trained individual who has not found a peace officer job yet may work as such a security officer. Actual work as a peace officer is required before a POST Board license is issued.

THOROUGHBRED AND QUARTER HORSE RACES
HARNESS HORSE RACES

7883.0100 to 7884.0260. Minn. Stat. §240.23 authorizes the Commission to promulgate rules governing the conduct of races, including, but not limited to, the rules of racing, standards of entry, operation of claiming races, filing and handling objections, carrying of weights and declaration of official results. Parts 7883.0100 to 7884.0260 do exactly that.

Horse races, as any other competition, must have rules. Such rules are essentially identical in all jurisdictions. Not only are the rules uniform, but they must be so; the U.S.

Trotting Association and American Quarter Horse Association will not sanction races in jurisdictions whose rules for actual conduct of races are not in compliance with the USTA or AQHA.

Uniformity will encourage horsemen to participate in pari-mutuel horseracing in Minnesota.

The rules are reasonable because usual. *Done 8/17*

Parts 7883.0100 to 7883.0160 govern thoroughbred and quarter horse racing, 7884.0100 to 7884.0260 harness races.

Part 7883.0100 governs thoroughbred and quarter horse entries and subscriptions, 7883.0110 establishes a preference system, 7883.0120 regulates declarations and scratches, 7883.0130 prescribes penalties and allowances, 7883.0140 regulates claiming races for both thoroughbreds/quarter horses and harness horses, 7883.0150 governs thoroughbred and quarter horse races paddock to post and 7883.0160 post to finish.

Part 7884.0100 sets the scope of rules for harness races, 7884.0100 defines types of harness races, 7884.0120 governs eligibility and entering, 7884.0130 establishes a preference system, 7884.0140 regulates coupled entries, 7884.0150 lost entries, 7884.0160 "also eligibles," 7884.0170 scratches, 7884.0190 qualifying races, 7884.0200 stakes races, 7884.0210 claiming races, 7884.0220 paddock procedures, 7884.0230 racing equipment, 7884.0240 post time and starting, 7884.0250 recalls and 7884.0260 driving rules.

The Commission proposes to toughen the rules of racing in two ways compared with rules in other states. Both changes relate to claiming.

Part 7883.0140 subpart 16 provides that title to a claimed horse transfers to the successful claimant when the field of horses for the race enters the racing surface. Most states provide for transfer at the time the race starts. The Commission believes that encourages riders to fall off a horse or run a horse off the racing surface before a race in order to avoid transfer of ownership to a claimant. The rule is in place in New Mexico.

Part 7883.0140 subpart 20 provides that a horse excused from a claiming race by stewards may be claimed in races in which it starts during the next 90 days for its claiming price in the race from which it was excused. This rule discourages attempts to avoid a claim by seeking to be excused from a race.

Subpart 20 takes a restriction which the U.S. Trotting Association imposes on harness races and extends the restriction to thoroughbred and quarter horse races.

HORSE MEDICATION
PHYSICAL EXAMINATION OF HORSES
MEDICAL TESTING

7890.0100-7890.0140, 7891.0100-7891.0100 and 7892.0100-7892.0160. The proposed rules govern horse medication, physical examination of horses and medical testing.

Minn. Stat. §240.24 mandates the Commission to make and enforce rules governing medication and medical testing for horses running at licensed race tracks and to establish by rule qualifications for laboratories used by it as testing laboratories.

The Commission believes proposed rules 7890.0100-7890.0140, 7891.0100-7891.0110 and 7892.0160 are necessary to ensure the integrity of racing and the health and welfare of horses.

The rules are necessary to the credibility of pari-mutuel horseracing by ensuring fair races. The proposed rules are necessary to create standards for the soundness of participating horses and to establish which medications may be used on a day-to-day basis to allow horses to perform to their maximum capability without altering performance levels in any contest.

The proposed rules are necessary to deter participants from administering illegal medications to horses running at licensed race tracks and to verify by laboratory testing that no medications were carried in a horse's system during a race.

The Commission believes that the proposed rules are reasonable, because they are customary in pari-mutuel betting and horse racing conducted in other jurisdictions in the United States and Canada. The burdens are not undue. Compliance has been obtained in other jurisdictions, while entrance into and participation in the horse racing industry has not been deterred. In developing the proposed rules, the Commission has directly solicited rules and recommendations from other jurisdictions. Copies of horse racing statutes, medication and testing rules, standards, policies and forms have been secured from governmental regulators throughout the United States and Canada. The Commission also received comments from veterinary and rules consultants and comments from veterinarians, chemists, humane society representatives, horse trainers, jockey representatives, track operators and regulators on an ongoing basis and at a seminar of related subjects hosted by the Commission in September 1984.

Many other regulators, private individuals and organizations, veterinary chemists and other interested parties have made significant contributions to the substance and form of the rules now proposed.

1. Medication

Chapter 7890 of the proposed rules is dedicated to satisfying the legislative mandate of Minn. Stat. §240.24 with regard to making and enforcing rules governing medication of race horses at licensed race tracks. The statute also mandates that the Commission, by rule, define medication and prohibit its administration within 48 hours of a race.

Part 7890.0100 subpart 6 is the proposed definition of medication. The definition describes what actions are necessary to take place to consider a substance a medication. The substance must have the ability to prevent, cure or alleviate the effects of any disease, condition, ailment or infirmity. Most important in the definition is the statement that medication may alter the behavior, attitude, temperament or performance of a horse.

The definition is necessary to put in perspective what a medication is, what it does and the effect that it may render in a horse. Items A and B of subpart 6 exclude from medications topical applications of antiseptics, ointments, salves, DMSO, leg rubs and leg paints and orally ingested food additives such as vitamins and electrolytes. It is necessary to make such exceptions to allow for the day-to-day care, health and welfare of the horse. The horse is an athlete and daily training in such a physical sport will cause wear and tear. The excepted substances are necessary to keep a horse in top competitive shape, thereby maximizing the horse's ability to compete at its optimum level.

The proposed definition is necessary to make known to owners, trainers, veterinarians and other participants what substances are permissible to be used and what effect the use of such substances will have on horses. The information is necessary for such participants to make sound judgments in their treatment of horses. Finally, the proposed definition is necessary to attain continuity and effect in the proposed medication rules.

The proposed definition of medication was modeled after California and Colorado's medication definition, but was supplemented with language submitted by veterinarians from New York and the University of Minnesota. The excluded substances were modeled after the definition found in the Arkansas rules of racing, a state that permits no medication.

The proposed definition is reasonable for at least three reasons. First, participants are informed what medications are so that they can identify the substances that may be in their possession or be prescribed to them. This assists the participants in avoiding the use of such substances in contravention of Minn. Stat. §240.24 prohibiting the use of any medication within 48 hours of post time for a race. Second, the exceptions made for certain leg rubs, antibiotics and food additives are reasonable because their use is not intended to alter a horse's behavior or performance, but rather is intended to provide proper humane care for the horse on a day-to-day basis. Third, the proposed definition of medication, including exceptions, is reasonable because horse owners and trainers, veterinarians and veterinary chemists, regulators and other participants in horse racing are accustomed to the terms in the definition due to their exposure to similar terms in other jurisdictions. It is common practice in all racing jurisdictions to allow the use of vitamins, leg rubs and antiseptics at any time to properly care for the horse. The proposed definition has been drafted in collaboration with other racing jurisdictions, regulators, chemists, veterinarians and existing rules. No undue burden is imposed. The definition is, therefore, reasonable.

Minn. Stat. §240.24 mandates that no medication shall be administered to a horse within 48 hours of post time of a race. Part 7890.0110 subpart 1 of the proposed rule satisfies the intent of the legislation by clarifying the types of administration that are prohibited, who is prohibited from performing such administration and the time period to which such prohibition is confined.

The proposed rule is necessary for many reasons. The sport of horse racing offers great amounts of prize money and the ability of persons to wager upon the outcome of such races. Temptation to abuse of the sport for personal gain is ever present. One area that is most suspect and at the same time vulnerable is that of illegal medication (drugging) of horses. Many professionally accepted therapeutic medications are available to owners and trainers. The administration of such medications in themselves are not a danger to the credibility and integrity of racing. However, if such medications are used to stimulate, depress, desensitize or alter the psychic state of a horse, such medications must not be allowed to be administered to a horse within close proximity to race time. Proposed rule 7890.0110 subpart 1 is necessary to enforce the prohibition of such medications being administered to a horse. The rule is explicit in its intent and is necessary to safeguard the integrity of racing.

Subpart 2 of part 7890.0110 of the proposed rule is structured to monitor all medications and related treatments to

horses. Veterinarians practicing at licensed race tracks are required by the proposed rule to maintain logbooks of all medications prescribed or administered and all other professional services performed. The proposed rule is necessary to provide close controls over all veterinary and medicinal activities being performed on the premises, and the time and manner of such practices. The proposed rule is also necessary to serve as a deterrent for veterinarians to administer any medications in contravention of Minn. Stat. §240.24 of the proposed medication rule and to establish a basis for veterinarians to act ethically and responsibly.

Subparts 1 and 2 of part 7890.0110 are reasonable. All racing jurisdictions have rules relating to practices of veterinarians at licensed race tracks and reporting procedures involved therewith. The records required to be kept by the proposed rule are not unusual nor are they severe. The rule places no undue burden upon the veterinarians, and it is reasonable to regulate their compliance.

Part 7890.0140 of the proposed rule places certain requirements upon veterinarians and trainers of horses that display symptoms of exercise induced pulmonary hemorrhaging or "bleeding." The proposed rule sets out what criteria must be met to consider a horse a bleeder, methods of detection and restrictions against such bleeders participating in races. The proposed rule is necessary to identify such horses, as their continued symptoms can become dangerous to the other horses involved in a race with them and jockeys who are riding such horses. The proposed rule is necessary to force trainers to give bleeder horses needed attention to alleviate the cause of the bleeding. The maintenance of a bleeder list in the proposed rule is also necessary to prospective buyers of such horses to assist them in making a decision whether or not to buy a horse.

The proposed rule is reasonable because it provides for identification of bleeder horses, creates situations for trainers to give such horses proper treatment and safeguards other horses and jockeys participating in races with bleeder horses. The burdens are not undue, and the proposed rule follows closely similar rules of all other racing jurisdictions.

2. Physical Examinations

Chapter 7891 of the proposed rules deals with physical examinations of race horses, both prerace and post-mortem in the case of horses that expire or are euthanized while on a licensed race track. Proposed part 7891.0100 requires that the Commission veterinarian examine horses entered to race on the day they are to race and maintain records of such examinations. The proposed rule is necessary to ensure that horses that are suffering from

an injury or ailment is not allowed to race. It is necessary to safeguard not only the horse and the jockey, but to protect the public from wagering on a horse that is not competitive in a race due to injury or infirmity.

Proposed part 7891.0100 is reasonable, because it protects the health and welfare of all horses and jockeys participating in races and also safeguards the public from wagering on horses that cannot perform competitively due to injury.

Part 7891.0110 requires that all horses that die or are destroyed while at a licensed race track undergo a post-mortem examination to determine the cause of death or the injury that necessitated euthanasia. The proposed rule also requires that, when practical, samples be taken for analyses to determine if there were illegal drugs, or other substances in the horse that may have caused the death. The proposed rule is necessary because it provides the owner of the horse and the Commission with the exact cause of death and assists in identifying and thereby preventing the potential for spread of disease.

The proposed rule is reasonable for at least two reasons. First, conducting post-mortem examinations afford the opportunity for research into equine injury and illness related to race horses, ultimately resulting in practices that can be applied to prevent such occurrences. This is a reasonable approach into protecting valuable animals and safeguarding the health and welfare of the participants. Second, by taking urine, blood and tissue samples of deceased horses for testing, it can be determined whether causes are related to yet unknown or illegal drugs. The burden is not undue and, in light of the benefit accrued, extremely justifiable.

3. Medical Testing

Minn. Stat. §240.24 requires the Commission to regulate the medical testing of race horses participating at licensed race tracks and to establish qualifications for laboratories conducting the tests for it. Part 7892.0100 requires an adequate and secure detention barn. Part 7892.0120 mandates blood and urine tests and prescribes procedures for taking and identifying samples. Part 7892.0130 sets qualifications of testing laboratories and chemists and specifies equipment and testing procedures to be used. Part 7892.0141 requires retention of test records for three years or completion of legal proceedings, whichever is later. Part 7892.0150 prohibits distribution of purses when positive samples are found. Part 7892.0160 provides for assessment of the costs of establishing and initially staffing the laboratory upon track operators.

The proposed rules are necessary to ensure the integrity of racing through enforcement of the proposed medication rules.

The proposed rules are further necessary to direct all Commission personnel, security personnel and the race tracks in their responsibilities for securing the test samples in an environment that is secure and closely scrutinized. The procedures incorporated ensure, if followed, the integrity of the evidence and the chain of custody of the samples and leave no room for tampering or error in identification. The proposed rules are necessary to identification of medications, illegal drugs or other substances. The rules ensure availability of test results until legal proceedings in which they may be evidence are concluded. The rules ensure no purse money shall be distributed to the owner of the horse from which such sample was taken and clarifies that the fact purse money has been distributed is not determinative that no violation of medication regulation has occurred. The rules provide for recovery of costs so that medical testing can continue.

Proposed chapter 7892 is necessary to provide the safeguards against the illegal drugging of race horses and also against the improper administration of medications. The proposed chapter is necessary to ensure the integrity of the contest and therefore the ultimate credibility of the industry. Without the proposed rules, all other components of racing become vulnerable if the credibility of the contest and the contestants are in question.

The proposed rules are reasonable for many reasons. All jurisdictions that conduct pari-mutuel horse racing have rules written for and practices in place for the testing of horses participating in racing. The burdens have not been proven to be undue. Participants, regulators and racetrack operators agree that it is reasonable to have such rules.

The credibility of racing is the main concern of all. That testing is necessary to ensure a fair contest to all contestants goes unchallenged. The standards for laboratory equipment, chemists and procedures are reasonable because to ensure the integrity of racing, it is reasonable to require that the laboratory has the capability to run all tests known today on state-of-the-art equipment. It is reasonable to require such standards of a laboratory if the laboratory wishes to secure and maintain an expensive contract with the Commission for testing services.

BREEDERS' FUND

7895.0100 to 7895.0110. Minn. Stat. §240.18 requires the Commission to establish a breeders' fund with money the Commission receives through the tax provisions of Minn. Stat. §240.15 subd. 1. That provision requires racetrack operators to pay $\frac{1}{2}$ to 1 percent of pari-mutuel pools.

Section 240.18 mandates the Commission to distribute the net proceeds of the breeders' fund:

(1) Twenty percent in grants for equine research and related education at public post-secondary institutions in Minnesota; and

(2) The balance to categories corresponding with various breeds of horses racing in Minnesota in proportion to each breed's contribution through taxes on its races.

The funds in each of the breed categories may be spent by the Commission to:

(1) Supplement purses for exclusive races for Minnesota-bred, Minnesota-foaled and Minnesota-owned horses;

(2) Pay breeders or owners award to the breeders or owners of Minnesota-bred horses which win money at Minnesota racetracks; and

(3) Provide other financial incentives to encourage the horse-breeding industry in Minnesota.

Minn. Stat. §240.29 requires racetrack operators to conduct at least one race a day exclusively for Minnesota horses. If there are not enough Minnesota horses, the track may substitute another race.

Section 240.18 empowers the Commission to establish advisory committees to counsel the Commission on distribution of the breeders' fund.

The section mandates the Commission to adopt rules governing distribution of the fund.

Part 7895.0100 provides procedures regarding the fund. Subpart 2 provides for registration of Minnesota horses. Subpart 3 provides that the Commission must decide all questions regarding registration, eligibility for registration or breeding. Subpart 4 provides for decisions on eligibility for nomination and entry into races for Minnesota horses. Subpart 5 provides a criterion for allocation of fund assets to specific races. Subpart 6 requires the Commission to consult breed advisory committees.

The statute clearly mandates the Commission to distribute the breeders' fund, and that necessitates procedures for distribution.

The breeders' fund is very important to the growth of the horse industry in Minnesota. The fund will contain very

large sums of money. Breeders and owners of Minnesota horses will compete very strongly for money from the fund. Some will be tempted to act inappropriately in order to obtain that money.

The Commission provided as many safeguards as possible in the procedures of this rule to ensure that the breeders' fund reaches the persons it is intended to reach. The Commission also felt it must preserve final decisions on breeders' fund questions to itself for the same reasons. The Commission also felt it would be inappropriate, and perhaps illegal, for the Commission to delegate its responsibilities to private organizations.

The rule is reasonable, because it imposes no burden greater than other states impose successfully.

Part 7895.0110 provides for distribution of breeders' fund money to thoroughbred breeders and owners.

This rule reflects the judgment of organized thoroughbred horsemen as to what definitions of Minnesota horses and what allocation of breeders' fund money will provide the greatest incentive to the thoroughbred industry in Minnesota. Subpart 1 provides definitions. Subpart 2 provides for allocation of breeders' fund money among breeders' awards, owners' awards, purse supplements and stallion awards. Subpart 3 provides who will receive breeders', owners' and stallion awards. Subpart 4 allocates purse supplements among horses in a specific race. Subparts 5 and 6 provide for distribution of award money not paid out for lack of a qualified horse. This residual money will be awarded at the end of a race meeting to breeders and owners in proportion to purse money won.

The rule is necessary to provide incentives for growth of the Minnesota thoroughbred industry. It is reasonable, because it is recommended by affected horsemen.

PROHIBITED ACTS

7897.0100 to 7897.0220. This chapter of the proposed rules governs prohibited practices, disciplinary sanctions and procedures.

Part 7897.0100 specifies acts prohibited at racetracks. The rule is necessary to the integrity of racing and reasonable because essentially identical to acts prohibited by other states.

Subpart 2 of the rule is not found in other states. It prohibits conduct which violates federal, state or local criminal law. Violation of this rule, as any Commission rule, will be a basis for fine or suspension or revocation of license. Among

other uses, the rule will enable the Commission to discipline a person who was an accomplice in a criminal act with another person, such as a narcotics violation, but was never charged criminally because he agreed to testify against the other participant in the act. The Commission could exclude the person from the racetrack, and do so quickly, under this rule.

This subpart of the rule is necessary to eliminating inappropriate activity from the track. It is reasonable because it penalizes such conduct, yet violators have the protection of Commission disciplinary procedures.

Part 7897.0110 subpart 1 requires licensees whose duties place them in danger or who commit endangering acts to provide blood or urine samples requested by the Commission or stewards after consultation with a physician. The subpart also makes a licensee found to have an illegal drug in his body subject to Commission disciplinary action.

Subpart 2 makes a blood alcohol level of .03 percent in jockeys or drivers or .10 percent in any other Class C licensee or employee or agent of a Class A or B licensee grounds for Commission disciplinary action.

Chemical abuse is a problem at racetracks as other places in the community. Abuse at a racetrack harms the credibility of racing and, in situations of proximity to horses and humans, can lead to property and personal injury. The power and monetary value of race horses magnifies the problem.

The rule is necessary to the integrity of racing. It is reasonable, because only persons in dangerous situations are required to take blood or urine tests, the prohibited chemical levels are commonly believed to be harmful, the .03 percent alcohol standard is applied only to jockeys and drivers who will control an animal weighing thousands of pounds, only licensees are covered and the Commission's disciplinary procedures provide safeguards.

Part 7897.0120 specifically provides sanctions for violators of the prohibited practices and chemical abuse rules. Subpart 1 expressly provides for license suspension or revocation or imposition of a fine. Subpart 2 expressly provides for exclusion of persons who commit prohibited acts from racetracks.

The rule is necessary. Enforcement of prohibitions and requirements is necessary to deterrence and exclusion of violators from a racetrack. The rule is reasonable, because it merely makes certain that the sanctions, which are provided elsewhere in statute and rule, apply to violators of the prohibited acts and chemical abuse rules.

Part 7897.0130 provides a schedule of fines for violations of horseracing statutes and rules by Commission licensees.

Minn. Stat. §240.22 mandates a graduated schedule of fines for such fines. It must include minimum and maximum fines for each violation reflecting the severity, culpability and frequency of a violator's actions. Minn. Stat. §§240.06 subd. 1, 240.07 subd. 1, 240.08 subd. 2 and 240.09 subd. 2 require applicants for Class A, B, C and D licenses to file an affidavit stating that they have not been found guilty of violation of a law or rule relating to horseracing, pari-mutuel betting or other form of gambling which the Commission defines by rule as serious.

Part 7897.0130 provides the schedule of fines and definition of "serious violation" mandated by statute. Subpart 2 provides for categories of violations, subpart 3 provides criteria for assignment of a violation to a category. Subpart 4 provides for per se serious violations. Subparts 5 and 6 establish amounts and a timetable for payment of fines, \$500 being the breaking point. Fines up to \$200,000 may be imposed against Class A, B or D licensees for misrepresentations in license applications, failure to obtain Commission approval of modifications of a racetrack facility or failure to comply with the Commission's contract rule. Fines must be paid within 72 hours.

The rule is necessary to protect the integrity of racing, public interest and public health, safety or welfare. The rule is reasonable, because fines reflect the gravity of violations, are comparable to criminal penalties, reflect ability to pay and can only be imposed in compliance with Minn. Stat. ch. 14 provisions and protections for contested cases.

Part 7897.0130 provides that the Commission may suspend or revoke a license or impose a fine on any ground that also would be a ground for denial of a license.

This rule is necessary to avoid the ridiculous result that a person could be denied a license for an act, but the person could keep his license if he committed the act after he received it. The provision is common.

Parts 7897.0150 to 7897.0220 provide procedures for Commission and stewards' disciplinary actions and appeals.

Minn. Stat. §240.03 empowers the Commission to enforce the horseracing statute and rules. Minn. Stat. §§240.06 subd. 7, 240.07 subd. 6, 240.08 subd. 5 and 240.09 subd. 6 empower the Commission to suspend or revoke licenses for violations of statute or rule which the Commission believes adversely affect

the integrity of racing. The Commission can suspend a Class C license for any violation of law, rule or order. Suspensions are up to a year except the Commission can suspend a Class A, B or D license for longer if it believes a licensee is inimical to the integrity of racing or cannot file the affidavit Minn. Stat. §240.06 subd. 1 requires Class A and B license applicants to file with regard to financial responsibility and character. License revocations and suspensions are contested cases under Minn. Stat. ch. 14.

Minn. Stat. §240.08 subd. 5 provides the Commission may delegate to designated agents its power to suspend Class C licenses, and the suspension may be appealed to the Commission pursuant to its rules.

Minn. Stat. §240.16 subd. 1 empowers the Commission to delegate to the stewards its power to levy fines of up to \$500 against Class C licensees and impose license suspensions up to 30 days. Stewards may issue subpoenas, administer oaths, order production of evidence and regulate stewards' hearings pursuant to Commission rule. Only those provisions of Minn. Stat. ch. 14 which the Commission by rule makes applicable, apply to the stewards' hearings. Minn. Stat. §240.16 subd. 3. A stewards' ruling may be appealed to the Commission. Minn. Stat. §240.16 subd. 2. The Commission may hear appeals before less than a quorum of its members. A hearing must be granted upon request if it is on a penalty imposed by the stewards.

Parts 7897.0150 to 7897.0220 implement those statutory provisions. The rules are necessary to provide an enforcement mechanism to impose sanctions for violations of statutes and rules. That mechanism is necessary, in turn, to protect the integrity of racing. The rules also are necessary to protect the rights of persons the Commission and stewards' seek to discipline.

The rules are reasonable because they are similar to other Minnesota state agency disciplinary procedures.

The Commission proposes to give the Commission and stewards all possible authority to deal with disciplinary problems at a racetrack as quickly and effectively as possible. That is especially important when integrity and credibility are as essential to an activity as they are to pari-mutuel horseracing and when participants in racing have access every day to large amounts of money and valuable and powerful animals.

Subpart 1 provides powers of stewards and procedures for their meetings, including summary disciplinary power. Subpart 2 provides penalties stewards may impose. Subpart 3 provides for appeals to the Commission. Appeals are not heard de

novo, and contested case procedures of Minn. Stat. ch. 14 do not apply. Subpart 4 provides for Commission review of stewards' action on its own motion or complaint of the executive secretary. Subpart 5 provides for stays of stewards' decisions. Subpart 6 provides appeal procedures, subpart 7 a \$50 deposit for appeals, subpart 8 setting a hearing date and subpart 9 procedures for appeals on motion of the Commission or request of stewards' or the executive secretary.

Part 7897.0160 provides for the composition of the appeals hearing panel, decision by majority vote, commission consideration of appeals on the record if a hearing panel is unable to decide and written decisions within 10 days. Part 7897.0170 provides for conduct of appeal hearings. Witnesses are sworn, parties may cross-examine and all evidence of probative value is admissible, including hearsay. Part 7897.0180 provides for issuance of subpoenas.

Part 7897.0190 provides that the Commission must comply with contested case procedures to revoke a license; suspend or fine a Class A, B or D license; or suspend a Class C license for more than 30 days or fine a Class C license more than \$500.

Part 7897.0200 provides for exceptions to administrative law judges' reports, written arguments and Commission decisions. Part 7897.0210 provides for rehearings before the Commission. Part 7897.0220 provides that the Commission may appeal adverse decisions.

VARIANCES

7899.0100. Minn. Stat. §14.05 subd. 4 provides state agencies may grant variances to their rules. The agency must adopt rules setting forth procedures and standards for variances. It must provide written reasons for granting or denying a variance.

Part 7899.0100 is such a variance rule. Subpart 2 sets out procedures for requesting a variance. Subpart 3 provides for disposition of requests.

Subpart 4 sets standards for granting or denying variances. It requires submission of demographic or geographic evidence to support a request for variance from the affirmative action requirements of part 7870.0500 subparts 5 to 9.

The rule is necessary to alleviate undue and substantial hardship which may occur from application of a rule of the Commission. It is reasonable because customary.

This concludes the rule-by-rule statement of the authority, need and reasonableness of proposed Minn. Rules 7870.0439 to 7899.0100.

CLASSES OF PERSONS AFFECTED

The proposed rules will directly affect pari-mutuel horseracing track operators, horsemen, racing officials, persons who work at racetracks, participants in pari-mutuel horseracing, contractors and subcontractors, racing spectators and bettors. All Minnesotans are affected indirectly.

The rules impose burdens on all in the form of license fees; regulation that requires provision of equipment or facilities, employees, compensation and other actions with costs; completion of license applications; medical testing; affirmative action plans; and other requirements.

The affected persons also benefit from employment and profits from the successful pari-mutuel horseracing industry the proposed rules will assist. Racetrack operators also benefit from a screening process that helps keep financially irresponsible persons, incompetent persons and persons of poor character out of racing; its integrity and credibility are protected, and the industry will be successful as a result.

Racial minorities, women and disabled persons are protected and may be employed or obtain contracts. They face licensing and regulatory costs if they are successful. Racing spectators and bettors benefit from enjoyment and even winnings in a healthy Minnesota pari-mutuel horseracing industry.

All citizens benefit from the good reputation of a wholesome and successful industry. Those citizens also benefit from the state revenues generated by a successful industry that exceed regulatory costs in the tens of millions of dollars.

The costs of these rules, as the benefits, fall broadly and fairly. The more you benefit, the more you pay. The Commission was unable to come up with any methods of carrying out its responsibilities that were less intrusive and costly. The Commission worked as hard as it could to propose rules as little intrusive and costly as possible while protecting the public interest adequately.

CONSEQUENCES

Short-term, these rules permit a new industry to get under way with integrity and impose some costs. The economic costs will be felt before the benefits.

Also, costs will be greater at first while compliance is new to affected persons. Over time, affected persons will be able to comply more easily, more quickly, more effectively and less expensively as they become accustomed to the rules.

Compliance will be as efficient as possible from the beginning, because the Commission sought to minimize the burden and propose rules consistent with other jurisdictions.

Long-term economic and other benefits will greatly exceed costs.

SMALL BUSINESS CONSIDERATIONS

The Commission considered the impact of these rules on small business and considered less stringent requirements for small business, less stringent schedules or deadlines, consolidation or simplification, performance standards as an alternative to design or operational standards and exemptions for small business.

The rules do impact small business. The Commission would submit the rules do not affect small business disproportionately as a quantitative matter nor prevent participation of small business in Minnesota's new pari-mutuel horseracing industry as a qualitative matter.

The Commission's number 1, 2 and 3 responsibility is to protect the integrity of the industry. Good character, financial responsibility, competence and quality can only be determined by requiring copious disclosure by all participants and exhaustive evaluation of that information.

A small business can cause a scandal, fix a race or otherwise harm the integrity of racing. The Commission cannot be less rigorous in its regulation of one type of business than another.

The Commission submits that it tried to eliminate all unnecessary rules. It notes that it did establish a threshold of \$50,000 or 30 days for the disclosure of detailed information by contractors and subcontractors. Proposed part 7870.0500 subpart 2.

DATA PRIVACY

The proposed rules require submission of private and confidential data by contractors/subcontractors and license applicants relating to financial responsibility, character and competence. The data will be stored, used and disseminated.

The collection, storage, use and dissemination are necessary to protection of the integrity of pari-mutuel horse-racing in Minnesota.

MINUTES
MINNESOTA RACING COMMISSION

September 15, 1983

312 Central Ave., Suite 215
Minneapolis, MN 55414

Members Present: C. Elmer Anderson, Carol Connolly, Joyce B. Farrell, Larry Coss, Rosemary T. Fruehling, Dan W. Gustafson, Kris Sanda, John Daniels, Jr.

Ray Eliot presided.

Judy Graham, Acting Secretary.

The meeting was called to order at 10:01 p.m. by Chairman Eliot.

Motion was made by Carol Connolly, seconded by C. Elmer Anderson to approve the minutes of the last meeting. Motion carried.

The normal agenda was dispensed with in order to facilitate the public hearing from individuals and organizations interested in developing race tracks in the State of Minnesota.

Mr. Mike O'Donnell of the Governor's Office spoke briefly to the Commission and to the audience. He reminded everyone that the Racing Commission members and staff had been carefully chosen as being individuals who could meet the challenges faced in the on-coming months, that the integrity and personal interest in a good Commission was first and that maintaining good public relations with special interest groups, the media and the people of Minnesota would always be in the minds of the racing commission members. He reminded the Commission that he is the liaison to the Governor and that we have at our disposal other agency heads including the Attorney General, Public Safety, Economic Development and Commerce.

The first speaker was Wayne Popham, representing Scotland; Brooks Fields, Brooks Hauser, investors for Scotland.

Mr. Popham described a potential racetrack site on the east side of Shakopee which would have 300-500 acres. The site is already in the City of Shakopee's comprehensive plan, has the backing of the City Chamber of Commerce and is surrounded by heavy residential. Scotland is under the control of a public group and owns the site where the track is proposed. In order to inform the Minnesota group on race track site selection and operation, the owners of the Santa Anita Racetrack of California were contacted. A suggestion was made to have a shorter season for racing the first year, and lengthen it in subsequent years since this is a new sport to Minnesota, this would allow the wrinkles to be worked out. Scotland would like to race thoroughbreds, quarter horses and harness racing.

Brooks Fields of Shakopee spoke, said he didn't know anything about building race tracks, had contacted the Santa Anita folks to learn. Scotland would be 75% locally owned, and whatever is coming up its got to be the best race track in the world. The Scotland group has retained consultants and attorneys to help in the development of the track.

Minutes

Racing Commission 9-15-83

-2-

Brooks Fields introduced Robert Strube of the Santa Anita track. Mr. Strube's father had started the track in 1934. Mr. Strube stressed the maintenance of good public relations, a family-oriented atmosphere. Currently they lead the other U.S. tracks with 32,000 daily attendance on the average for 1982.

The racing season is 23 weeks - 5 days per week, a bit flexible for opening week and holidays, and they are not open Mondays and Tuesday. They do not own any other track outside California. They have a concessionaire who started with them in 1934 and gives good prices and good services. He does not recommend that the concessions be put out for bid. A low bid would subsequently cut good service and food, plus it would change yearly which would destroy continuity and credibility for the concessions.

Kris Sanda asked him to introduce the others in his group. President of Santa Anita Wes McKinley, Brooks Hauser, Les Malkerson, Jim Burdick, Gary Eastman.

John Daniels asked if Scotland ownership was 75%.

Mr. Strube replied that 75% ownership would be by Minnesota people, Scotland would be a partner, Hauser and Fields would be partners, and 25% ownership by Santa Anita. This is not yet formed, but there is a game plan. Santa Anita is on the New York stock exchange.

Mr. Wayne Field, Chairman of the Board of Rembrandt Enterprises spoke on the development of a Lakeville Racetrack which has been approved by the Lakeville Planning Commission on a 6-1 vote, and by the Lakeville City Council on a 5-0 vote in favor.

Ray Eliot asked Mr. Field where the track would be located and how large. Mr. Field answered that he would be the sole investor, he owns 136 acres, the other acres are under option for a total of 327 acres to develop. It is 4 miles south of Burnsville on Highway 35W past Minnregg Road. He has developed nursing homes in Edina, Hillhaven with consultants and advisors and has been very successful. Metro Council has the expertise to define and appraise the technical needs of the racetrack development. He wants what's best for Minnesota and its people.

Dan Gustafson cautioned to not assume the Metro Council will back a site.

Ray Eliot said the Metro Council could ascertain if the sites qualify, but the racing commission had the final say on issuing a license.

Kris Sanda questioned the letter sent to the Racing Commission from the "Minnesota Horseracing Facility" and why the list of Mayor's on the side of the letterhead. What are the Mayor's doing, why the Minnesota Horseracing Advisory Committee.

Mr. Field said that he would be reporting back to the advisory group on what the Racing Commission was doing.

Mr. Charles Weaver of the Anoka County Board and representing North Star Race Track Association spoke. He represented several municipalities in Anoka County that are interested in a nonprofit track. The 686 acre site has the infrastructure problems addressed and it will ultimately have sufficient highway access, water and sewer capacity and must not conflict with parks, airports and other region-wide systems.

Mr. Weaver had distributed a book of specifications and perspective on the Blaine Race Site to all members of the Commission. The site is located on I-35W north of 95th Ave. between Naples Street, Lexington Avenue and projected alignment of 109th Ave. N.E.

Mr. Weaver has spent some time at Ak-sar-ben learning about track operations and has noted that Denver's track has gone from profit to non-profit. He felt that a private non-profit track in Minnesota might be feasible.

Mr. Weaver noted that there is an excellent slide show presentation available at the request of the Commission.

Mr. Ron Signorelli, represented the Woodbury track development site. He said he was interested in a 12 month operation, using simulcast, wanted to provide employment year around, not with six months of unemployment. He defined the proposed site at a \$35 to \$50 million investment located at Highway 12 and Washington County Road 19. He also proposed a plan to use garbage as a heat source for the track and to use the natural waste from the track for disposal, processing and heat source. He referred to a Mr. Silverglide of Greylock and Associates as the advisory source for preparing economic data and feasibility studies necessary for the final development plans. He also included a gross profit projection for a 160 day race season which showed a negative balance of \$824,000. He mentioned also Ladbrook who are consultants in Europe, but refused to identify any investors or other interested parties at this time.

Joyce Farrell said that year-round racing involved a split day, and that in Tucson, who uses simulcast, there are unbelievable costs.

Mr. Signorelli said also that Winnepeg track was open year around.

Joyce Farrell said it was unsuccessful.

Mr. Stephen Pflaum a Minneapolis attorney said he represented the Minnesota Jockey Club, Inc. and that the group does not own land but has an option on 500 acres south of the proposed extension of I. 494 and Hwy. 56. They have financing and management lined up to develop a track in Eagen.

Mr. Rick Palmer, Director of Moorhead Clay County Redevelopment Authority wanted outstate Minnesota to be considered for a track, and said that private investors in the Moorhead area could come up with in excess of \$50 million to build it. He would like to attract some of the gambling money to stay in Minnesota that now moves across to the gambling facilities in North Dakota. He said the willingness to travel to gambling sites was 200-400 miles, as far away as Kansas City and a lot of people coming in from Canada. He said that motel/hotel rooms were never available over the week-end in the Fargo-Moorhead area.

Mr. Robert Stegmeier of Farmington is a farmer who has 388 acres of farm land that currently has sewer, water and natural gas mains in place. His broker, Ford Anderson of Rochester told the commission that Mr. Stegmeier has investors and a project developer.

Minutes

Racing Commission 9-15-83

-4-

Ford Anderson named Bill Henning as a developer/contractor, and Fred Corrigan who has experience with the development of Valley Fair and the Renaissance Fair. He said the site is close to the airport because jockeys and horses often fly in together.

Jim Torbert, chairman of the Heartland Racing Association wants to build a racetrack two miles north of Little Falls and handed out specifications and proposals. He said that the population has a summer base of 450,000 with people going north to cabins and the population of Camp Ripley. He expects to get support from similar groups in St. Cloud and Brainerd. They have option to purchase 300 to 2200 acres of level, well-drained sandy loam land located 2 miles north of Little Falls along Highway 371, 1 mile north of the junction of highways 371 and 10. Track operations would be handled by Glass and Associates. Projected construction cost would be \$40,000,000.

He also advised that the proposed site is south of the line where the problem with black flies and horse flies is a major concern of horseowners.

Chairman Eliot thanked those potential developers and their associates for the input and information provided to the Racing Commission.

Kris Sanda read her letter directed to Chairman Eliot expressing concern for the co-operation needed between the Metro Council and the Racing Commission. She felt that the October 1 deadline established by the Metro Council would eliminate those potential developers who do not meet that deadline.

Ray Eliot responded that no decision for time deadlines had been made by him or the Racing Commission, that the Metro Council deadline was given to avoid a pile-up of developers down the road, and that our attorneys would follow-up so that no potential developer would be eliminated by having missed the Oct. 1 deadline set by Metro Council. Mike Miles will report back.

Dan Gustafson said that the Commission and Council would be intertwined, but that the Commission had not taken any authority away from the Metro Council.

Carol Connelly felt the need to establish an attitude of cooperation between the two units, and to define what the obligations are.

Ray Eliot addressed a question about licensing outstate tracks and county fair racing. The commission is charged with knowing the details of a well-managed track, security for the animals, security with money, drugs, etc. If the Commission has assurance that all the variables are met and adequately dealt with, there is a possibility of issuing a license prior to opening of a newly developed racetrack.

Joyce Farrell told the Commission that Sid Hutchcraft, Superintendent of Division of Fairs and Horseracing for the State of Illinois will be visiting with the Racing Commission later in October, and plans several days of seminars.

Bob Nardi said the Rules sub-committee will meet Tuesday at 4:00 in the Soo Line building, Room 925. (September 20).

Gov. C. Elmer Anderson said the Ethics subcommittee will meet Wednesday,

Minutes
Racing Commission 9-15-83

-5-

September 21, in Room 321, at 3:00, prior to the full Commission meeting.

There is a form available for those who want to be on the mailing list.

Ray Eliot again said that he feels strongly that the controls must be in place before issuing a license, that all criteria necessary will be met so that the integrity of the Racing Commission will be kept. This is the charge made by the Governor and the Legislature.

The next meeting of the Racing Commission will be Wednesday, September 21 at 4:00 p.m. and will hear from special interest groups for comment and information.

Meeting adjourned at 12:50 p.m.

Ray Eliot
Chairman

Judy Graham
Secretary