

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the Proposed Amendments
to Existing Rules, Standardbred and Quarter
Horse Breeders' Funds, and Registration
Requirements for the Thoroughbred Breeders'
Fund.

STATEMENT OF NEED
AND REASONABLENESS

GENERAL

Minnesota began its inaugural year of horse racing on June 26, 1985, the first venture by the State into legalized pari-mutuel racing. By all measures the experiment was a success. In the 15 months prior to the opening of Canterbury Downs, the Minnesota Racing Commission (MRC) undertook the enormous task of promulgating rules that would regulate the industry. In many cases, the MRC drew upon states that currently allowed pari-mutuel horse racing in an effort to meld established rules with new and updated ideas that would help shape the course that Minnesota would take. For the most part, the rules served well to regulate the industry and to provide clearcut guidelines, expectations, and consequences for violating the Laws of Minnesota and the rules of the MRC. However, it became evident that there were certain areas of the rules that were in need of change or clarification. As each situation arose, MRC staff, the Stewards, racing officials, horsepersons, and Canterbury Downs employees made suggestions for amendments to the rules to make compliance more realistic and to mold the theory of the rules to practical application at the track level. It was the suggestions coupled with changing racetrack trends that prompted the MRC staff to recommend changes to the Rules Committee of the MRC.

Many of the proposed amendmeents are merely grammatical or technical changes to the rules. There are, however, some changes that serve to better enable the MRC to regulate the industry and eliminate confusion among the persons it regulates. Additionally, a few of the modifications erase the potential for conflicting interpretations that could result in potential violations or possible litigation to determine the rules' intent.

Proposed new parts to the rules include the administrative rules for the Standardbred and Quarter Horse Breeders' Funds, which were drafted in collaboration with the respective Breeders' Fund Advisory Committees appointed by the MRC. The rules are the foundation that will provide awards and incentives to the Standardbred and Quarter Horse breeding industries in the State as they begin their inaugural racing seasons in 1986.

Finally, the original rules served the State and industry well in its initial year. Of 157 disciplinary rulings issued, only one was appealed

to the MRC. The MRC strives to maintain this excellent record and feels that the proposed amendments to the rules will accomplish that end. Much of the reason that the rules were effective was the involvement by all affected parties with the MRC. The proposed amendments were accomplished in the same way. It is based on the foregoing that the MRC intends to demonstrate the need for and the reasonableness of the proposed rules contained hereinafter.

1. Definitions

Chapter 7869 is dedicated to defining the terms found throughout the rules that are unique to horse racing. It is essential that the definitions clearly and concisely explain what is meant in the nomenclature of racing to eliminate conflicting views of the intent of the rules. Part 7869.0100, subpart 16, defines the condition book as a publication issued by the association advertising races for upcoming racing days. The MRC proposes to strike the words and approved by the commission" for the following reasons. First, by stating that the condition book must be approved by the commission, it could be construed that the commission is somehow assuring the book's content. Second, it is not always possible for MRC staff to review condition books prior to their publication, approximately every other week. By leaving the definition as is, the MRC is put in a position of representing the content of the publication. Finally, the MRC has broad authority, as vested in it in Minn. Stat. §§240.03 and 240.21 to inspect all books and records of the track licensee (hereinafter "association") . Therefore, the rule is necessary to eliminate the appearance of the MRC ensuring the credibility of the condition book thereby reducing its liability for the same. The rule is reasonable inasmuch as the MRC does not lose its ability to inspect the publication and still maintain its autonomy from it.

Part 7869.0100, subpart 24, item C, defines one aspect of what is meant by the term entry. By deleting the language and are owned in whole or in part by the same owner, or are trained by a trainer who owns any interest in any of the other horses in that race, found in item C, the following is accomplished. The definition of entry is found elsewhere in the rules as it applies to the respective breeds and are more specific. This results in a conflict between the general definition and the specific circumstances found in other chapters. Therefore, the conflict is eliminated. The change is necessary to rid the rules of inconsistent definitions that could create conflicts in interpretation and application. The rule is reasonable because it does not eliminate the true generic definition of entry and allows the specific language in other parts to take precedence.

Part 7869.0100, subpart 41 defines the word official. The added language pari-mutuel makes clear that only pari-mutuel winnings and not purse winnings be paid out. Because of the impending possibility for a positive drug test report or a protest into the eligibility of a certain person or horse involved in a race, the definition should not be vague with respect to what type of winnings are being authorized to be paid. The added language is necessary to clarify the rule and reduce the potential for challenge from a person winning a purse. The language is reason-

able because it clearly does not change the intent of the rule, but merely clarifies it.

Part 7869.0100, subpart 51, items (new) J. and (new) O. adds to the definition two other types of races held in quarter horse and standardbred racing. The types of races added are unique to the respective breeds and were omitted during the initial rulemaking process. The 1986 season will include standardbred and quarter horse racing and the definitions are necessary to cover the types of racing that will be run. The rule is reasonable because it provides definitions commonly used in the industry and enables the rules to be more effective.

The addition of the language or the United States Trotting Association to subpart 53 was added to merely correct an inadvertant omission in the original definition. The rule is necessary because there are many non pari-mutuel race meetings sanctioned by the USTA, and the organization should be so recognized. The added language is reasonable because it includes more participants and alleviates any possible reference to discrimination to such race meetings.

2. Pari-Mutuel Rules

Part 7873.0127 is a new part that places certain requirements on an association to offer win, place and show wagering on all fields of six or more horses. The rule also provides that when five horses are scheduled to race, show wagering may be cancelled and if four or fewer horses are scheduled to race, the association may cancel place and show wagering on that race. The rule also requires that the association, where possible, must publish in the program their decision not to offer certain betting pools. The rule is necessary because as the rules were originally promulgated, there were no provisions by which the association could request, nor the MRC grant, permission to cancel pools when a lack of entries would so dictate. The rule is reasonable because typically there are fewer of the best horses available to race. A race of five of the best horses at the track can be more entertaining and profitable than a field of nine lesser horses. It is reasonable to allow the association the ability to schedule the better horses to run, without the danger of incurring a minus place or show pool. The practice of cancelling certain pools on small fields is common in the racing industry.

Part 7873.0130 addresses the potential for horses being prevented from starting, usually because of a mechanical failure of the starting gate. Item C (new) has been added to clarify what happens when less than six horses are dispatched from the starting gate in a fair start. As the rule was previously written, if less than five horses were dispatched, it was mandatory that pools be refunded. In one instance in 1985, because a horse was prevented from starting, the entire show pool was ordered refunded. The patrons that wagered on the race were denied the opportunity to collect winnings, the State lost pari-mutuel revenues, and the patrons were unnecessarily confused and angered. By allowing the association to pay the pools, such situations could be eliminated. The rule is necessary as it provides clearcut guidelines as to what the association may or may not do, and in what circumstances they may refund wagering pools. The rule is reasonable as it gives the association

the ability, even if it means a financial loss on their part, to pay patrons for purchased tickets if it is in the best interest to do so.

Part 7873.0140 is a continuation of the previously discussed pari-mutuel rules. The part has been completely rewritten to provide clarity and to eliminate confusion as to the intent of the rule. The part addresses what must happen if horses are withdrawn (scratched) from a race after betting has begun and before the horses are loaded into the starting gate. It provides the association the ability to cancel pools before the race is run and requires that the association announce its decision to the patrons prior to the start of the race. The rule is necessary to conform with previous parts and to give direction to the association and stewards in each particular circumstance. The rule is reasonable because it provides the best protection for the patron and requires the association to make a determination prior to race time.

3. Equipment

Part 7875.0200, subpart 9 deals with the subject of transmitting race information from a licensed race track. The addition of the language "until 15 minutes after the results are official" is necessary for the following reason. In the ongoing effort of the MRC to stifle illegal bookmaking, the 15 minute provision serves as a deterrent to bookmakers accepting wagers. If a person has the results of a race 15 minutes before the bookmakers do, he would have a great advantage. By delaying results from the racetrack, bookmakers would be hesitant or possibly refuse to accept wagers on races. The rule is necessary as another tool to eradicate illegal bookmaking of horse races run in the State. The rule is reasonable because it assists the MRC in its regulation of the industry and helps to keep the sport clean. New paragraph 5 of subpart 9 permits security personnel to confiscate portable telephones or other transmitters possessed at a licensed racetrack. The language is necessary to further protect against illegal bookmaking. The rule is reasonable because it provides the MRC another means of protecting the sport and enforcing State law..

4. Off-Track Stabling

The added language in part 7876.0110, subpart 2 permits trainers to secure required workouts for their horses at sites other than the licensed racetrack, so long as the sites are approved by the MRC and staffed by licensed clockers. Due to limited stall space at Canterbury Downs and the great demand for those stalls, many horses must be stabled off the grounds. By requiring that workouts be obtained at the licensed racetrack, a great burden is placed upon horsepersons that are not allocated stall space. The rule is necessary to remove the additional disadvantage faced by horsepersons stabled off the grounds and results in more horses being eligible to race and fuller fields racing each day. The rule is reasonable because it still enforces the workout requirements while relieving the burden of certain trainers. The public is still provided the necessary information. The clockers are licensed and must meet the licensing eligibility requirements, thereby ensuring the accuracy of workout times.

5. Fingerprint Cards

Part 7877.0110, subpart 2, item G., has been changed to require only one fingerprint card instead of two. The rule is necessary to eliminate the previous requirement of two fingerprint cards. The rule is reasonable because the BCA uses the same fingerprint card as the FBI, thereby reducing the cumbersome aspects of expense and time in unnecessary duplication of fingerprinting.

6. Racing Officials

The added language in part 7877.0112, subpart 4 requires horse identifiers, placing judges, and patrol judges to pass an optical examination evidencing 20-20 vision (corrected) before being approved by the MRC. The rule is necessary to ensure that the racing officials that determine true identity of horses, observe and identify horses running at high speeds and determine their order of finish, and observe the races for violations have unhindered eyesight. The very outcome of races hinge on these individuals being able to see what is transpiring before, during, and after a race. The integrity of racing, pari-mutuel payouts, purse winnings, and rules infractions are dependent upon the racing officials. The rule is reasonable because the protection of the public and the participants is better ensured when the officials are required to evidence the ability to determine the outcome of a race.

7. License Fees

Item A of part 7877.0120, subpart 1 has been eliminated. It is necessary to delete this item to conform with proposed amendments found in part 7877.0130, subpart 14, which terminates the need for such a license.

The proposed amendments to 7877.0120, subpart 2 are necessary for the following reason. First, the FBI will not accept certified checks, so it is necessary to delete this reference. Second, the FBI has raised their charge for processing fingerprint cards from \$12 to \$14. The rule is reasonable because it conforms with the requirements of the FBI.

8. Individual Owners

The added language registered with the racing secretary found in part 7877.0130, subpart 1, is necessary to ensure that owner's licenses are not issued to persons that are not participating at a licensed racetrack. The rule is reasonable for at least two reasons. First, an owner's license grants the licensee access to secure areas in the backside. If a person does not have a horse stabled there, he or she has no business in a secure area. Second, the only way the MRC can be assured that an owner has been approved to race at a licensed racetrack is to confirm the fact with the racing secretary's office. If the person is not registered with that office, the applicant is denied a license.

9. Multiple Owners (spouses)

Part 7877.0130, subpart 2 requires all combinations of two or more owners

to file for a multiple ownership license. The added language except spouses is necessary to eliminate what ended up in ridiculous and absurd results. Many spouses have owned horses together for several years and have never had to file partnership agreements or obtain multiple owner licenses. The rule is reasonable because it does not alter the intent of the rule. The rule was intended to provide disclosure of individual owners within a multiple ownership. The disclosure is obvious in the case of spouses. The rule was intended to identify the percentage of ownership. Clearly, spouses represent a straight 50-50 partnership. The rule is also reasonable because it relieves the burden of unnecessary fees, processing and paperwork.

10. Authorized Agents

It is necessary to amend part 7877.0130, subpart 14 to accomplish three things. First, to eliminate a category of license that has the potential for abuse; Second, to achieve the desired result of keeping a person appointed an authorized agent under the jurisdiction of the MRC; and third, to ensure that an authorized agent has a direct relationship to the entity that he or she is representing. The rule is reasonable for several reasons. First, in 1985 a few people were licensed to act as authorized agents that had no direct relationship to or monetary involvement with the persons that they were licensed to represent. This situation resulted in persons that were unable to be licensed in any other category being appointed by a friend to secure a license. The license granted them free admission to the races and access to secure backside areas. Second, of the 64 persons licensed as authorized agents, 59 were either owners, trainers, or both. Of the five non-owner/trainers, 1 was a stable foreman and 1 was an assistant trainer. It is reasonable, due to the overwhelming number of owner/trainers that were licensed as authorized agents, to restrict authorized agent appointments to owners and trainers. There is no need to "license" in this capacity as the MRC has authority over the licensee by virtue of the requirement to be previously licensed as an owner or trainer. The rule is reasonable because it is applicable to the vast majority of persons who have direct or financial interest in the entities and should have access to the secure backside area.

11. Temporary Licenses

Part 7877.0140, subpart 2 has been amended to provide that a temporary license terminates 120 days after issuance rather than 60 days. The rule is necessary because the FBI has taken as long as 100 days or more to return fingerprint (criminal) information on licensees. The rule is reasonable because it affords the MRC time to investigate licensees and receive the results of fingerprints from the FBI before the license status changes from temporary to permanent.

12. Emergency Owner's Licenses

During the 1985 race meeting, several absent horse owners were granted emergency owner's licenses, secured by their trainers. The rule as promulgated failed to provide for important information to be submitted. The new language in paragraph 3 of part 7877.0145, subpart 2, places

certain requirements that must be met before an emergency owner's license will be issued by the MRC. The rule became necessary when several trainers merely signed emergency affidavits for absent owners. The affidavit did not identify the owner's address, telephone number, social security number, or any other necessary information to completely identify the owner or permit the MRC to do background or follow-up on the applicant. In a few cases, trainers raced a horse on an emergency owner's affidavit and then left the State. Because no information was available, the MRC could not pursue the absent owner to finally issue a permanent license. The rule is reasonable for at least three reasons. First, it is reasonable to expect that a trainer applying for an emergency owner's license provide basic information to the MRC. Second, it is reasonable to require a trainer to pay the applicable licensing fee at the time of application submission. Third, the rule is reasonable because it requires more than just a trainer's affidavit. The information being required is necessary for the MRC to successfully prosecute a licensee for any possible rule violation.

13. Racing Colors

Part 7877.0170, subpart 1, item D required horse owners to register their racing colors with the MRC. It is necessary to remove this requirement for at least three reasons. First, other parts of the rules require the trainer of a horse to register the colors with the racing secretary, causing a conflict in the rules. Second, the MRC cannot guarantee, solely based upon registration of colors with it, any exclusivity of those colors to an owner. Third, in the practical sense, the colors are almost always registered by the trainer which, strictly speaking, places an owner in a position of non-compliance with the rules. Finally, the rule was cumbersome to the MRC and was of no real purpose in the regulation of the industry. The rule is reasonable because it results in compliance with the section by horse owners, reduces the processing of totally useless information, and reduces the burden of undue overregulation.

14. Trainers may use only licensed veterinarians.

The added language in part 7877.0170, subpart 2, item H. is necessary to clarify that although a horse is not entered to race, it still may not be treated by a veterinarian not licensed by the MRC while the horse is stabled on the grounds of an association. The rule is reasonable because it clarifies the fact that regulatory control of veterinarians is guaranteed by only allowing veterinarians licensed by the MRC to practice at licensed racetracks at any time.

15. Coggins Certificate

The added language in part 7877.0170, subpart 2, item H. is necessary for at least three reasons. First, the new requirements cause trainers to comply with Minnesota Board of Animal Health regulations. Second, the rule ensures the safety of all horses stabled on the grounds with respect to equine infectious anemia (EIA). Third, the rule provides measures to guarantee that subsequent trainers receive proper documentation of a horse's freedom from EIA. The rule is reasonable because

it provides for safety measures to guard horses' health, forces compliance with Minnesota Board of Animal Health regulations, and protects trainers from receiving horses that have not been adequately tested for EIA.

16. Assistant Trainers

The addition of subpart 2a to part 7877.0170 is necessary because although the rules provided for the licensure of assistant trainers, no rules were in place to describe their duties or responsibilities. It is reasonable to inform potential applicants and subsequent licensees what their licenses permit them to do and the responsibility that goes with being licensed.

17. Apprentice Jockeys

The amendment to part 7877.0170, subpart 3, is necessary as merely a clarifying technical change to conform with industry standards. It is reasonable to prohibit apprentice weight allowances in stakes races that are standard "weight for age" races or in handicap races where the weights are assigned by handicappers and the racing secretary.

18. "Nerved" Horses

The added language in part 7877.0175, subpart H. was necessary to ensure that trainers and owners are aware of horses that have been "nerved" in the event that the horse is being considered for claim from a race. The rule as promulgated required that the information only be made known to the racing secretary, but did not require the information be made known to prospective buyers or claimants. The rule is reasonable because it provides protection for prospective purchasers of such horses and affords the purchaser the ability to determine whether or not they will or will not buy the horse despite the fact that it has been "nerved".

19. Races Declared Off

New item J. in part 7877.0175 is necessary to ensure entrants in any particular race that the race has not been declared off when in fact the race had a sufficient number of entries to use the race. Without the new requirement, trainers would have to accept that there were not enough entries in the race without any verification of the true number of horses entered. The addition is reasonable because it provides proof to trainers of how many horses were actually entered and by whom.

20. Paddock Boots and Bandages

The amended language in part 7877.0175, subpart 4, item G., subitem (2), is necessary to ensure compliance with the rule, and to provide safety to participants. Many times, horses are very excited and keyed up in the paddock prior to being saddled. When placed in the paddock stall and saddled for a race, a horse tends to settle down. By requiring the bandages be removed after saddling, the likelihood of a person being injured by an unruly horse is greatly diminished, and the participants would then be in compliance. The rule is reasonable because it provides easier compliance with the rule and affords greater safety

to participants.

21. Racing soundness examinations

Part 7877.0175, subp. 8, would, with the added language or his or her designee, permit the commission veterinarian to use either the assistant commission veterinarian or the association veterinarian to assist in pre-race racing soundness examinations. This is necessary for at least two reasons. First, on any given racing day, as many as 100 or more horses may be scheduled to race. In order to thoroughly perform the required examinations in the short three hour time period on race day, more than one veterinarian is needed. Second, if for any reason the commission veterinarian would be absent or otherwise unable to perform the examinations, a veterinarian familiar with the procedures would be available to fill in. The proposed rule is reasonable because it provides ample time to perform proper examinations and gives the commission veterinarian necessary back up support.

22. Conflicts

The new language found in part 7877.0180, subpart 1, provides that no racing official shall accept any remuneration or honorarium from a licensee. The intent of the proposed rule is twofold. First, the rule is intended to prohibit a racing official or commission employee from accepting payment, other than salary, to perform any favors or acts for certain licensees that could result in such a licensee receiving preferential treatment or gaining an advantage over another licensee. The rule also eliminates racing officials from requesting payments, either directly or by inference, that could be construed as promising a licensee that they would either receive an advantage or not be placed at a disadvantage. Second, the proposed rule would establish a basis for the stewards or the MRC to take disciplinary action against a racing official or commission employee should such an instance occur. The proposed rule is not intended to prohibit a licensed horse owner or trainer or an association employee from having lunch or dinner with a steward or commission employee. It is not intended to prohibit usual social contact, such as a round of golf or other activity from occurring between racing officials and other licensees. The rule is necessary to eliminate racing personnel from performing unethical acts and to provide a basis for punitive action should the rule be violated. The rule is reasonable because it provides another safeguard for the integrity of racing and the fairness of the outcome of all races.

23. Basic course

The proposed changes found in part 7878.0130, subp. 1, item H, accomplishes two things. First, the requirement for firearms training has been eliminated because no security officer employed by an association is permitted to carry a gun. Second, a requirement for security officers to have training in cardiopulmonary resuscitation (CPR) has been established. The rule is necessary to provide greater protection for patrons should an emergency or life threatening situation occur. The proposed rule is reasonable because it eliminates unnecessary training in one area and establishes training in the vital area of providing

emergency service for patrons.

24. Continuing education

Subpart 1, item E of part 7878.0140 has been changed to conform with the deleted language in part 7878.0130, subp. 1, item H, and to substitute training in another area therefor. The requirements for continuing firearms training has been eliminated and instruction in the security plan, policy, and procedures of the association has been made a requirement. The rule is necessary to conform with earlier parts and to ensure that security are well versed as to policy of the association in the area of security. The rule is reasonable because it eliminates unnecessary refresher instruction and provides the licensee with knowledge that will better enable him or her to perform the required duties.

25. Security cooperation

Part 7878.0160, subp. 2, requires association security personnel to inform the MRC within 24 hours of any searches conducted, to provide the MRC with an inventory sheet of all items seized in such a search, and to immediately deliver all contraband seized during a search to local law enforcement agencies. The proposed rule is necessary for several reasons. First, the MRC must be kept informed of all searches, as the result of the search may involve MRC disciplinary action. Second, inventory sheets must be received by the MRC to guarantee that association security is not retaining evidence nor violating chain of evidence procedures. Additionally, the inventory sheet provides protection for the licensee ensuring that the items that have been seized are his or her property. The inventory sheet also will eliminate the possibility of a security officer retaining a licensee's property for personal possession. Third, the proposed rule is necessary to guarantee that all illegal contraband is immediately delivered to local law enforcement officials. No person, including private security, is legally permitted to possess illegal contraband other than law enforcement personnel. The rule also prevents private security from disposing of illegal contraband in a possible effort to avoid negative publicity. The proposed rule is reasonable because it provides strict conduct requirements for private security personnel while keeping the MRC informed of searches being conducted. The rule is also reasonable because it provides protection for licensees and causes private security to follow chain of evidence procedures.

26. Coupled entries

It was necessary to strike language in part 7883.0100, subp. 7, items A and B to eliminate requirements that proved at times to be somewhat discriminatory to horse owners that have several horses of the same calibre. The proposed changes are necessary to provide owners the opportunity to race their horses more often without the undue restrictions of rules that were of direct impact on them. The proposed rule is reasonable because it relieves the burden upon horse owners being unable to race their horses while keeping the regulatory control of coupling legitimate stable entries.

27. Prohibitions on claims

The added language in part 7883.0140, subp. 9, item J, requires that any horse that has a lien or mortgage filed against it, must be so displayed in a conspicuous place where prospective claimants or private buyers may attain the information. The rule as originally promulgated only required that the information be made known to the racing secretary. However, it is necessary to provide that information to prospective claimants so that he or she may make a determination as to whether or not to assume the lien against the horse in addition to its claiming price. Additionally, the proposed rule provides protection for a buyer or claimant against receiving a horse that, without prior knowledge, may have a lien filed against it. The rule is reasonable because it provides necessary display of information to prospective buyers of race horses without imposing undue burden upon the racing secretary to make the information public.

28. Bandages and blankets

The language deleted from part 7883.0150, subp. 3, was necessary to conform with part 7877.0175, subp. 4, item G, subitem (2).

29. Commission veterinarian

Part 7891.0100, subp. 1, has been amended to conform with part 7877.0175, subp. 8.

30. Purse may be redistributed

Part 7892.0150, subpart 1 and new subpart 2 has been amended for the following reasons. It was necessary to redraft the rule to provide the stewards and the MRC the ability to penalize violators of medication rules in a fair and equitable manner. As the rule was originally drafted, all violators, whether for a minimal overage of permitted medication or for a finding of an illicit or prohibited medication, were subject to the same penalty. Current state law permits a trainer to have phenylbutazone in the amount of three micrograms per milliliter of blood plasma. If the test sample shows even a trace above that level, the trainer has committed a medication violation resulting in a fine and purse redistribution. The same penalty applies to a trainer that with wrongful intent has administered a stimulant to a horse. Both trainers, in entirely different circumstances are painted with the same brush. The amendments to the rule are necessary to provide the stewards and the MRC with the ability to distinguish between a corrupt act involving illegal drugs and the retention in an animal of a small amount over the limit of permitted medication. The proposed rule does not prohibit the stewards or the MRC from taking more severe action against any trainer should the trainer exhibit a history of chronic medication violations. Criteria has been established by which penalties may be assessed based upon singular or compounding circumstances. The rule is reasonable because it provide that penalties fit the violations. Further the rule is reasonable because it does not restrict the stewards or the MRC from taking disciplinary actions in the manner that it could as originally drafted. The rule is reasonable because it does not mandate that purses

be automatically redistributed without considering facts, circumstances, and intent.

31. Thoroughbred Registration

Minnesota Statutes §240.18 (1984), as amended, establishes a Minnesota breeders' fund (hereinafter "fund") to encourage the horse breeding industry in Minnesota. The statute requires the MRC to adopt rules governing the distribution of the fund, and allows the MRC to appoint advisory committees to advise it in drafting the rules.

In collaboration with the Thoroughbred Breeders' Fund Advisory Committee, the MRC Rules Committee and MRC staff, the rules for the distribution of the fund were promulgated by the MRC in 1985. The text of the proposed rules to be discussed are the requirements the MRC feels are necessary to register thoroughbred stallions, broodmares, and foals to ensure the integrity of the program and to verify that horses are eligible to participate in the fund. The need for and the reasonableness of the registration rules are demonstrated below.

Subpart 1 of part 7895.0125 states that to be eligible for breeders' awards payments the following must be met: A.) Prior to foaling, a broodmare must be in Minnesota and registered with the MRC on or before January 31 of the year it will foal; B.) If an unregistered broodmare foals in Minnesota before January 31, the owner must submit a sworn affidavit that the broodmare did foal in Minnesota; and C.) Failure to comply with items A or B will disqualify any subsequent claim for breeders' award payments or to register the foal as Minnesota-bred.

Subpart 2 of this part sets forth the requirements that must be met in order for persons to qualify for stallion awards. Item A states that stallions must be in the State and registered with the MRC by February 1 of each current breeding year. Item B requires the stallion to remain in Minnesota for the entire breeding season from February 15 to July 31. Item C requires that stallion reports must be received by the MRC on or before September 30 of the immediately preceding breeding season, and item D states that failure to comply with any of the requirements shall disqualify the stallion owner to make claim for any stallion awards.

Subpart 3 outlines the requirements that must be met to register and subsequently certify a foal as Minnesota-bred. First, the foal must be registered with the MRC within 30 days of its birth and, second, the foal's original registration papers must be embossed by the MRC prior to entry into any restricted race.

Subparts 4 through 6 describe what procedures must be followed by persons protesting any horse's inclusion in the breeders' fund, the disposition of the protest, and the findings of the stewards.

Part 7895.0125 is necessary for a number of reasons. First, registration of the stallions, broodmares and foals is vital to identify the eligible participants. Second, registration enables the MRC to verify claims by horse owners for inclusion into the fund. Third, deadlines for regis-

tration allow the MRC time to investigate and substantiate the fact that the horses are residing in Minnesota. Finally, the registration, investigation and subsequent verification establishes the basis by which a protest regarding eligibility is determined. The rule is reasonable for at least three reasons. First, it is reasonable to expect that persons desiring to participate in the fund must meet requirements that ensure the integrity of the fund. Second, the MRC, without requiring the identification of the participants would be unable to determine who is eligible for subsequent breeders' awards. Third, the deadlines established by the rule are reasonable because they afford the MRC the time and resources necessary to verify residency, ownership, eligibility, and participation in the program. Without the deadlines, the MRC could find itself in a situation in which it could not substantiate the authenticity of breeders' fund payments. The rule establishes no undue burden upon the participants. Further, nearly every jurisdiction that provides breeders' fund incentives have similar, if not identical, requirements and deadlines.

32. Standardbred and Quarter Horse Breeders' Fund

As was demonstrated in the thoroughbred breeders' fund rules, similar requirements are necessary for the administration of the standardbred and quarter horse breeders' funds. After many meetings involving discussion with the respective Breeders' Fund Advisory Committees, parts 7895.0250, 7895.0275, 7895.0300, and 7895.0350 established how the funds would be distributed, set forth the requirements for registration, and provided the mechanisms to protect against participation of horses alleged to be ineligible. The rules in many ways are similar to the thoroughbred rules in intent, but do contain different deadlines and percentages of distribution that are both unique and best suited to the particular breeds of horses. The rules are necessary to serve as the foundation for determining breeders' award payments and to encourage the breeding industry in the State. The rules are reasonable because they have been drafted in collaboration with horse breeders within the State that serve on MRC advisory committees. The rules provide for the regulation and disbursement of the fund without imposing undue burdens on the participants. The requirements are reasonable because they are consistent with the respective breed programs currently in place throughout the United States.

SMALL BUSINESS CONSIDERATIONS

The MRC considered the impact of the proposed rules on small business. Considerations included less stringent schedules for deadlines; consolidation and simplification of reporting procedures; less stringent performance standards as an alternative to operational standards; and exemptions for small business.

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

After consideration, the MRC determines that a small business can cause

a scandal, attempt to fix a race, attempt to commit fraud in the breeding industry, or otherwise harm the integrity of racing. The MRC, therefore, cannot be less rigorous in its regulation of one type of business than another.

CONSEQUENCES

The proposed rules, and especially the proposed amendments to existing rules, provide the industry the means to function with greater efficiency while more clearly defining the MRC's regulatory authority. The industry will continue with integrity and the rules will impose some costs. The costs are beginning to minimalize as benefits have been realized.

Also, costs have begun to subside as compliance has become more familiar to affected persons. Affected persons now are better able to comply more easily, more quickly, more effectively and less expensively as they have become accustomed to the rules.

Compliance has become more efficient than in the beginning, because the MRC minimizes the burden and proposes rules consistent with other jurisdictions.

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

IMPACT ON AGRICULTURAL LAND

The rules will not require expenditure of public monies by local bodies, nor do they have a direct and substantial adverse impact on agricultural land in the State. See Minn. Stat. §14.11.

DATE: January 31, 1986

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