

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the Proposed
Adoption of Rules of the
Minnesota Racing Commission
Amending Existing Rules

STATEMENT OF NEED
AND REASONABLENESS

I. GENERAL

In an effort to improve the quality of racing in Minnesota, the Minnesota Racing Commission (Commission) has proposed minor amendments to the Racing Rule, Minn. Rule 7869.0100-7899.0100. The proposed amendments are consistent with the Rules and Regulations of the various racing jurisdictions in the country and are necessary to make Minnesota competitive in the racing industry. The Commission believes the proposed amendments are reasonable because they are customary in other racing states. Moreover, the burdens imposed on the participants are not undue; compliance with similar rules has been obtained in other jurisdictions.

II. STATUTORY AUTHORITY

The Commission is empowered by Minnesota Statute § 243.03 to:

- (1) Regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- (2) Enforce all laws and rules governing horse racing;
- (3) Supervise the conduct of pari-mutuel betting on horse races; and
- (4) Take all necessary steps to ensure the integrity of racing in Minnesota.

The Commission is also specifically authorized by Minn. Stat. § 240.23 to promulgate rules governing "the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results" and "any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare or safety."

These broad statutory provisions clearly authorize the Commission to promulgate amendments governing the conduct of racing at licensed racetracks in Minnesota.

III. RULE-BY-RULE ANALYSIS

7869.0100 DEFINITIONS

This part contains definitions of the terms that are used throughout the rules of the Minnesota Racing Commission. The Commission proposes a minor amendment to subpart 51, Item K. The rest of the part remains unchanged.

7869.0100, subp. 51, Item K

This item defines "quarter horse race" as a race on the flat at 870 yards or less. Thus, by definition, 870 yards is the maximum distance that a quarter horse can run. Deletion of the definition is necessary to allow quarter horses to race for greater distances so that the racetrack can match quarter horses against thoroughbreds during the 1987 mixed quarter horse and thoroughbred meet. Deletion of the item is reasonable because it unduly

restricts the type of races which may be run by quarter horses in the state, while thoroughbreds and standardbreds are not restricted in a similar manner.

7870.0480 Medical Services

This part sets forth the medical services that a race track must provide. The commission proposes to delete subpart C which requires a registered nurse to be on duty on all days during which the race track facility is open for exercising horses. Deletion of the subpart is necessary to remove the requirement of retaining a registered nurse during exercise hours. Deletion of the subpart is reasonable because it eliminates the unnecessary duplication of personnel. Minn. Rule 7870.0480, subp. D requires that the race track provide an ambulance for humans equipped with necessary staff whenever the facility is open for racing or exercising horses. The ambulance is staffed by trained personnel and is more than adequate to attend to any injury that may occur during the exercising of horses.

7873.0130 Prevention to Start

This part sets forth the procedures which must be followed by a race track when a horse on which pari-mutuel wagering has been conducted is prevented from leaving the starting gate due to a mechanical or electrical error. The commission has proposed amendments to subparts A and B. The remainder of the part is unchanged.

7873.0130, Subp. A

This subpart sets forth the procedure which a race track must follow with respect to straight wagering when the starting gate doors do not open due to a mechanical or electrical malfunction. The amendment is necessary to make it absolutely clear that the procedures set forth in Subpart A apply only to straight wagering pools. The amendment is reasonable because it does not substantively change the rule, but merely makes it clear that the subpart refers to straight wagering pools rather than to multiple wagering pools.

7873.0130 Subp. B

The commission has proposed an amendment to Subpart B which would eliminate the requirement that the entire amount wagered in a multiple wagering pool be refunded if a horse is prevented from starting. The commission proposes to adopt a procedure for multiple wagering pools that is similar to that employed with straight wagering pools. Thus, if a horse is prevented from starting, the amount in the multiple wagering pool need not be refunded unless the horse does not finish first or second. This amendment is necessary to conform the multiple wagering procedure to that of the straight wagering procedure. The amendment is reasonable in that it allows the betting public to collect on its bets when the horse finishes first or second in the race, even though the horse may have been inhibited slightly by the starting gate.

7873.0190 Pick Six

This part sets forth the requirements governing pick six wagering. The commission proposes to amend subpart 6, item C and subpart 9.

7873.0190 Subpart 6, Item C

This item sets forth the procedures governing the distribution and carry-over of the pick six pool on the last day of a race meeting. The commission proposes to amend this rule by allowing a race track to carry over the non-distributed pick six pool to the next succeeding racing date, regardless of the breed of horse that will be racing on the next racing date. The amendment is necessary because the previous rule did not take into account the fact that a particular breed may not be involved in racing every year. As a result, the amendment allows the race track to carry over non-distributed pick six money to the next succeeding racing date even if the racing date involves a different breed of horse. The amendment is reasonable because it allows the race track to distribute non-distributed pick six money to the racing public rather than placing the money in escrow until such time as a particular breed again races at the race track.

7873.0190 Subpart 9

This subpart addresses the method of distribution of the pick six carry-over whenever the races are terminated on the final day of racing. The amendment is necessary because the current rule does not take into account the cancellation of all six races

comprising the pick six wager. Thus, the amendment merely sets forth the procedures which must be followed by the race track when all six races comprising the pick six pool have been cancelled on the final day of racing. The amendment is reasonable because it provides a necessary method of distribution that was otherwise omitted from the rule.

7873.0191 Pick Three

This part introduces a new system of wagering to the State of Minnesota called the Pick Three. The Pick Three is similar to the Pick Six in that the object is to select the winning horse in each of three races designated by the race track. The amendment is necessary because a race track cannot conduct Pick Three wagering unless such wagering is approved by the commission and included in the commission's rules. The amendment is reasonable because it is essentially identical to the rule governing Pick Six wagering, and thus, familiar to the public and the race track.

7873.0195 Distribution of Pick Six and Pick Three Pools

This part authorizes the commission to determine the manner of disposing of the Pick Six or Pick Three pools on the final day of racing. The amendment is necessary because the rule did not address the method by which the race track was to dispose of the undistributed Pick Six or Pick Three pools on the last day of racing. In addition, 1987 marks the first year in which mixed breed racing will occur in Minnesota. Thus, because the Pick Six and Pick Three pools are generated during a particular breed of racing, the

commission must have the authority to designate what constitutes the next succeeding racing date for purposes of carrying over the Pick Six or Pick Three pools. This is particularly important since the next succeeding racing date may not involve the same breed of racing. The amendment is reasonable because it gives the commission, subject to certain guidelines, the authority to determine whether those fans who have contributed to the Pick Six or Pick Three pool should be eligible to receive the pool on the last day of racing. However, the amendment also gives the commission the authority to determine that it is in the best interests of the wagering public to carry-over the Pick Six and Pick Three pools to the next succeeding racing date for distribution among new or different racing patrons.

7876.0100 On-Track Stabling

The commission proposes to amend this part by adding a subpart which would designate the on-track stabling area as a secure area accessible only to designated licensees. The amendment is necessary to conform the rule to the procedure which has been employed at the race track for the past two years. The horses in the stable area are often extremely valuable and must be carefully protected from any possibility of tampering. Thus, the amendment is reasonable because its intended to protect the integrity of racing by designating the on-track stabling site as a secure area. No licensee who is in good standing and who needs to have access to the stable area for legitimate racing purposes will be excluded.

7877.0135 Dual Licensing

This part sets forth the criteria which the commission must consider in determining whether or not to issue more than one Class C license to an individual. The commission proposes an amendment to subpart B which would prohibit a racing official from serving in a unofficial capacity at a race meeting at which he or she is licensed as an official. The rule is necessary to clarify the ambiguity in the rule, and to make it clear that a racing official may substitute in another official capacity during the course of the race meet. The amendment is reasonable because no conflict of interest can exist when one racing official performs the duties of another racing official during the race meet. However, the rule continues to prohibit a racing official from becoming licensed in a non-official capacity to avoid any potential conflict of interest that may arise.

7877.0145 Emergency License

This part allows the commission to issue an emergency license to an individual who has not complied with the usual licensing requirements. The commission proposes to amend subpart 2 which sets forth the requirements for an emergency owner's license.

7877.0145, subp. 2

The commission proposes to amend subpart 2 to require an individual who has been granted an emergency owner's license to submit the required application information to the Commission within 21 days of the granting of the license. Failure to submit the

necessary information will result in the suspension of the emergency owner's license. This amendment is necessary to encourage owners to file complete application information with the commission. The commission is unable to perform the necessary background investigations until the application information is submitted, and therefore, unable to determine if the owner is eligible to race in Minnesota. Moreover, the amendment is necessary to prohibit individuals who have obtained emergency owner's licenses from allowing their licenses to expire, thereby avoiding disciplinary action by the commission. The amendment is reasonable because it allows individuals who are legitimately unable to provide the necessary information to the commission to obtain licenses, but merely requires that those individuals provide the necessary information within a reasonable period of time.

7877.0155 Conditions precedent to licensing

The commission proposes to amend subpart F of this part by allowing the director of security for the racing commission to request a blood, breath, or urine sample from a Class C licensee. The amendment is necessary because the rule did not specifically authorize the director of security to request a sample from a licensee, and the rule did not authorize breath testing. The amendment is reasonable because it clarifies the rule and allows the Commission to engage in the least intrusive method of testing, breath testing.

7877.0170 Duties and Responsibilities of Class C Licensees

This part sets forth the duties and responsibilities of all Class C licensees at the race track. The commission proposes minor amendments to subpart 1, item E, and subpart 8. The remainder of the part is unchanged.

7877.0170, subpart 1, Item E

The commission proposes to amend this subpart to require that all licensed owners who intend to race under a stable name register the stable name with the commission. The amendment is necessary to conform the rule to the current practice at the race track, and to clearly notify owners of their responsibilities under the rule. The amendment is reasonable because it merely codifies the current practice at the race track and insures that there are no duplicate stable names registered with the racing commission.

7877.0170 Subpart 8

The commission proposes to amend this subpart by adding item D, which provides that the horsemen's bookkeeper may not distribute any purse monies to an individual who holds an emergency owner's license. This amendment is necessary to encourage individuals who have obtained emergency owner's licenses to provide the necessary application information to the commission as quickly as possible. The amendment is reasonable because it does not impose an undue burden on the individual, but merely requires the individual to comply with the application requirements that are required of all other owners who race at the race track.

7877.0180 Conflicts

This part defines what situations constitute conflicts of interest for racing officials and veterinarians at the race track. The commission proposes to amend this part by adding subdivision 3, which would prohibit an individual who has a vested interest in a horse from wagering on certain other horses. This rule is necessary to protect the integrity of racing in Minnesota by eliminating the financial incentive to fix a race. The amendment is reasonable because it allows an individual who has a vested interest in a horse to wager on that particular horse. The amendment merely proscribes wagering on a horse that is in direct competition with a horse in which the wagering individual has a vested interest.

7878.0100 Definitions

The commission proposes to amend subpart 9 of this part by redefining "First Aid course." The amendment is necessary to more accurately identify the specific first aid training that is required of security guards. The amendment is reasonable because it does not substantively change the rule, but merely conforms the rule to the current method of teaching first aid.

7878.0140 Continuing Education

This part sets forth the continuing education requirements for all security officers licensed by the commission. The commission proposes to amend subpart 1. Subpart 2 remains unchanged.

7878.0140, subpart 1

The commission proposes to amend this subpart by reducing the number of hours of required continuing education, and by eliminating certain areas of instruction that are not applicable to the duties of a security officer at a licensed race track. The amendment is necessary to conform the continuing education requirements to the actual duties of a security officer at a race track. The amendment is reasonable because the experience of the last two years has led the commission to conclude that 8 hours of refresher training in the areas set forth in the amendment is adequate.

7879.0100 Qualifications and Appointment of Stewards

This part sets forth the qualifications and the procedure for appointment of stewards by the racing commission. The commission proposes to amend subpart 2, item A by correcting a typographical error and by conforming the language of the rule to the language of Minn. Stat. § 240.16.

7879.0100, Subp. 2, Item A

The commission proposes to amend this item by correcting a typographical error in the rule which referred to the "commissioner" rather than the commission. This amendment is necessary and reasonable because it does not substantively change the rule but merely corrects an inadvertent printing error. The commission also proposes to amend this item by conforming the language of the rule to the language set forth in Minn. Stat. § 240.16. Minn. Stat. § 240.16 provides:

All horse races run at a licensed racetrack must be presided over by a board of three stewards, who must be appointees of the Commission or persons approved by it. At least two stewards for all races either shall be employees of the Commission who shall serve in the unclassified service, or shall be under contract with the Commission to serve as stewards.

The amendment is necessary to give the commission the authority to appoint all three stewards as provided in the statute. The amendment is also necessary to insure the integrity of racing in Minnesota and to insure that the public interest is adequately protected. The amendment is reasonable because it merely conforms the rule to the language of the statute.

7883.0100 Entries and Subscriptions

This part defines the procedures necessary to enter a thoroughbred or quarter horse to race in Minnesota. The commission proposes to amend this part by adding subpart 15A, which provides that any horse to which blinkers have been added or removed may not be entered in a race without the prior authorization of the starter. The addition or renewal of blinkers can have a substantial effect on a horse's ability to race. Thus, this amendment is necessary to insure that the wagering public has accurate information about the horses that are racing at the race track, and to insure the safety of those individuals and horses that are participating in the race. The amendment is reasonable because it codifies the practice currently in use at the race track and conforms the rule to the standard practice in the industry.

7884.0230 Racing Equipment

This part sets forth the equipment which must be used during a standardbred race at the race track and sets forth the notification procedures which must be followed whenever equipment is altered or changed. The commission proposes to amend subpart 3 by clarifying the type of protective helmet which must be worn during a harness race. The amendment is necessary and reasonable because it conforms the rule to the generally accepted standards in the harness racing industry.

7890.0110 Medications Prohibited

This part sets forth the medications which may not be administered to a horse within 48 hours of a race in which it is scheduled to run. The commission proposes to amend the rule by providing that no horse participating in a race shall carry in its body any substance foreign to the natural horse. This amendment is necessary to make it absolutely clear that no horse may participate in a race in Minnesota with any prohibited medication in its system. While the rule currently prohibits a horse from participating in a race with prohibited medication in its system, this amendment is necessary to eliminate any possible argument that a horse may race with a prohibited medication in its system, so long as the medication is administered more than 48 hours before the race. This amendment is reasonable because it clarifies the rule governing prohibited medications and clearly states that races run in Minnesota are to be run without the interference of any prohibited medication.

7890.0120 Reporting Procedures

This part sets forth the procedure for reporting medication which has been prescribed for a horse. The commission proposes to amend subpart 2 by deleting numerous reporting requirements from the rule. The amendment is necessary because it eliminates a great deal of unnecessary paper work for the trainer and provides the public with more accurate information about the racing condition of the horse. The amendment is reasonable because it conforms the rule to the generally accepted practice in the racing industry.

7890.0150 Disclosure of Approved Medication to Public

This part requires that any horse that has been treated with bute or lasix must be so identified in the daily racing program on the day that the horse is scheduled to race. The commission proposes to amend this rule by deleting the requirement that horses treated with bute must be so noted on the daily racing program. This amendment is necessary to provide more accurate information to the wagering public. Frequent errors in the daily racing program lead to inaccuracies in the information provided and lead to confusing public address announcements. The commission proposes to amend this part by requiring the commission's veterinarian to post the names of those horses which have been treated with bute on the public information boards located throughout the grandstand. The amendment is reasonable because the procedure will provide the wagering public with accurate medication information and will help reduce substantial confusion.

7895.0100 General Provisions

This part sets forth the general provisions for the administration of the breeders fund money. The commission proposes to amend this part by adding subpart 7, which would prohibit a non-Minnesota resident from leasing a horse from a Minnesota resident for the purpose of participating in the breeders fund program. This amendment is necessary to prevent short term leases solely for the purpose of circumventing the breeders fund requirements. During 1986 the commission observed several one-day leases which allowed non-Minnesota residents to participate in the breeders fund program, a program designed to foster the racing industry in Minnesota. The amendment is reasonable because it insures the integrity of the breeders fund by prohibiting non-Minnesota residents from participating in the fund through short-term leasing agreements.

7897.0100 Use of Drugs and Alcohol

This part allows the commission to test for alcohol or controlled substance use in licensees. The commission proposes to amend subpart 1 by specifically authorizing the director of security for the racing commission to request a blood, breath or urine test for analysis. The amendment is necessary because the rule did not specifically authorize the director of security to request a test and the rule did not specifically authorize the commission to request breath samples for analysis. The amendment is reasonable because it clarifies the rule and allows the commission to engage in the least intrusive method of testing, namely, breath testing.

7897.0115 Failure to Appear

The commission proposes to add this part to aid local law enforcement agencies in insuring the appearance of licensees in courts of general criminal jurisdiction. During 1986, there were several non-Minnesota residents licensed by the Commissioner who committed criminal offenses in Minnesota and then fled the State. The amendment is necessary because currently the rules do not provide for disciplinary action against an individual who is required to appear but who leaves the State and fails to appear in a criminal Court. The amendment is reasonable because it subjects an individual to disciplinary sanctions for only as long as it takes to encourage the individual to appear in court. Moreover, the amendment will undoubtedly deter criminal behavior by eliminating the licensee's ability to flee the State without repercussion.

7897.0130 Schedule of Fines

This part sets forth the fine schedule which must be followed by the racing commission when it imposes a fine for a disciplinary violation. The commission proposes to amend subpart 6 by providing for the suspension of the license of an individual who fails to pay a fine within 72 hours of the time that the fine is imposed. This amendment is necessary to insure the payment of fines by individuals who violate the commission's rules. Currently the commission has no recourse against an individual who fails to pay a fine within the 72 hour period. This amendment will insure that the individual pays the fine in a timely fashion. The amendment is

reasonable because it merely creates an enforcement mechanism for requiring the payment of a fine which is imposed for a violation of the commission's rules.

7897.0150 Disciplinary And Appeal Procedures

This part governs the disciplinary and appeal procedures which must be followed by the racing commission when an individual has allegedly violated a commission rule or law. The commission proposes to amend subparts 5, 6 and 7. The remainder of the part is unchanged.

7897.0150, subpart 5

The commission proposes to amend this subpart to delete the reference to "executive secretary" and insert a reference to executive director. This amendment is necessary and reasonable because it conforms the language of the rule to the language of Minnesota Statute § 240.04, subd. 1.

7897.0150, subp. 6

The commission proposes to amend this subpart by providing that the time for appeal from a steward's decision is three days from the date the stewards verbally issue the decision to the licensee. The amendment is necessary because the current rule merely refers to the steward's ruling and does not delineate whether the ruling is verbal or written. Often the stewards issue a verbal ruling which is followed at some later time by a written ruling. The amendment clarifies the rule and clearly states that the time for appeal is limited to three days following the receipt of the

verbal ruling of the stewards. The amendment is reasonable because it conforms the rule to the customary practice in the industry and clearly informs the licensee of the time for appeal.

7897.0150 Subpart 7

This subpart requires an individual who appeals a steward's ruling to the commission to deposit the sum of \$50 with the commission at the time that the appeal is filed. The commission proposes to amend this subpart by authorizing the imposition of a fine of not more than \$450 against any individual who appeals a stewards' ruling in bad faith or for the purposes of delay. This amendment is necessary to preclude licensees from appealing stewards' decisions simply to stall the imposition of a suspension or fine to a more convenient time. The amendment is reasonable because it allows the commission to impose an additional fine of \$450 only in the case of a bad faith appeal or if the appeal was unreasonable and without substance or merit. The fine may not be imposed against any individual who has a legitimate argument for the reversal of the stewards' decision.

IV. OTHER STATUTORY REQUIREMENTS

Minn. Stat. § 14.115 requires agencies proposing a new rule or amending existing rules which affect small businesses, to consider certain methods for reducing the impact of the rule on small businesses. The proposed amendments to the racing commission rule may indirectly impact small businesses. However, the rule does not affect small businesses disproportionately nor does the rule

prevent small businesses from participating in racing in Minnesota. The commission considered the impact of the amendments on small businesses and determined that because of the nature of the industry, the commission cannot be less rigorous in its regulation of one type of business than another.

Minn. Stat. § 14.11, subd. 2 is inapplicable because the proposed amendments will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1; 116.07, subd. 6 and 144A.29, subd. 4 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments do not set any fee. Likewise, a fiscal note is not required pursuant to § 3.982 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

Based on the foregoing, the Minnesota Racing Commission's proposed amendments are both necessary and reasonable.

Dated:

DON PRICE
Executive Director
Minnesota Racing Commission