

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 horse racing in this state, the Minnesota Racing Commission ("Commission") has proposed minor amendments to the Rules of Racing. The proposed amendments are consistent with rules in other racing jurisdictions and are necessary to make Minnesota competitive in the horse racing industry. The Commission believes the proposed amendments are reasonable because they are customary in other racing jurisdictions. Moreover, the burdens imposed on the participants are not undue, and compliance with similar rules has been obtained in other jurisdictions.

II. STATUTORY AUTHORITY

The Commission is empowered by Minnesota Statute, section 240.03 to: (1) regulate horse racing in Minnesota to insure that it is conducted in the public interest; (2) enforce all laws and rules governing horse racing; (3) supervise the conduct of parimutual betting on horse races; and (4) take all necessary steps to insure 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 parimutual betting which in its opinion effects the integrity of racing or the public health, welfare or safety." Moreover, the legislature has specifically directed the Commission to promulgate rules governing medication and medical testing for horses running at licensed racetracks. Minn. Stat. § 240.24 (1986 and Supp. 1987).

These broad statutory provisions clearly authorize the Commission to amend the rules governing horse racing at licensed racetracks in Minnesota.

### III. RULE-BY-RULE ANALYSIS

#### 7873.0190 PICK SIX

This part sets forth the requirements for conducting a type of parimutual wagering called a "Pick Six." The Commission proposes to amend subpart 6 by changing the method of distribution of the Pick Six wagering pool. The rest of the part remains unchanged.

#### 7873.0190, Subpart 6

This subpart sets forth the method by which the Pick six wagering pool must be calculated and distributed. The rule currently provides that 100% of the net amount in the Pick Six

wagering pool shall be distributed to the holder(s) of a winning ticket. Under the current rule, if all six winning horses are not correctly chosen by anyone, 75% of the wagering pool is carried over to the next day's Pick Six wagering pool, and 25% of the wagering pool is distributed to the those persons selecting the greatest number of the horses in the Pick Six.

The Commission proposes to amend this subpart to allow a licensed racetrack to choose one of two different methods for calculating and distributing the Pick Six wagering pool. Under the proposed rule, the chosen method of distribution must be approved by the Racing Commission prior to implementation. The first method, contained in Subpart 6A, provides that 75% of the parimutual wagering pool shall be distributed among the holders of parimutual tickets which correctly designate the official winner in each of the six races comprising the Pick Six. Twenty-Five percent of the pool shall be distributed among the holders of tickets which correctly designate the second greatest number of winners in the six races comprising the Pick Six. In the event there are no holders of a parimutual ticket which correctly designates the official winner in each of the six races comprising the Pick Six, 75% of the parimutual wagering pool shall be carried over and included in the Pick Six parimutual pool for the next succeeding racing date. However, 25% of the parimutual wagering pool must be distributed among holders of tickets which correctly designate the greatest number of official winners of the Pick Six races.

An alternative method of distribution is contained in Subpart 6B which provides that a licensed racetrack may distribute 50% of the parimutual wagering pool among the holders of parimutual tickets which correctly designate the official winner of each of the six races comprising the Pick Six. The proposed amendment also provides for the distribution of 50% of the parimutual pool to those individuals who designate the second greatest number of official winners of the six races comprising the Pick Six. In the event there are no holders of parimutual tickets which designate the official winner of each of the six races comprising the Pick Six, 50% of the Pick Six wagering pool will be distributed among holders of parimutual tickets which correctly designate the greatest number of official winners of the six races comprising the Pick Six, and 50% of the wagering pool shall be carried over to the next succeeding race day.

The proposed rule allows a racetrack operating Pick Six parimutual wagering to choose a method of distribution of the Pick Six wagering pool. This is necessary to allow the racetrack to choose the method of distribution which is most favored by the wagering public. The racetrack cannot determine which method of distribution the public favors until implementing a particular method. Therefore, the rule allows the racetrack to apply to the Commission during the course of a race meeting to change the method of distribution without the necessity of waiting for the Commission to formally promulgate a rule specifying the method of distribution of the Pick Six pool. The proposed amendment is

reasonable because it specifically sets forth the only two permissible methods of distributing the Pick Six wagering pool. The Commission retains complete authority to approve the method of distribution that will be employed by the racetrack. The rule benefits the wagering public because both alternatives distribute more of the Pick Six wagering pool to a greater number of wagerers, and both alternatives prevent one individual from winning the entire Pick Six wagering pool.

7875.0200 EQUIPMENT

This part sets forth certain pieces of equipment that must be provided by each racing association conducting parimutual wagering in Minnesota. The Commission proposes to amend subpart 8. The remaining subparts are unchanged.

7895.0200, Subpart 8

This subpart provides that all photo finish film or videotape records must be preserved by a racing association for a minimum of 90 days after the close of a race meeting, or until legal proceedings involving a recorded race are concluded, whichever is later. The Commission proposes to amend this subpart by reducing the number of days a film or videotape must be preserved to 30 days. This is necessary to allow the racing association to re-use the film and/or videotape records after the expiration of the 30 day period. The proposed amendment allows the racing association to use fewer tapes during the course of a race meeting, and reduces the number of tapes which must be stored during the course of a race meeting. The rule is

reasonable because 30 days is a sufficient period of time to determine whether or not a photo finish film or videotape must be retained for purposes of legal proceedings. The rules of the Racing Commission require any race protest to be filed within 3 days of the race. Moreover, if legal proceedings have been initiated, the rule allows the Commission to require the racing association to preserve any photo finish film or videotape until the conclusion of the legal proceedings.

#### 7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY

This part sets forth the criteria necessary for obtaining a Class C Occupational License in Minnesota. The Commission proposes to amend subpart 2. The remaining subparts are unchanged.

#### 7877.0125, Subpart 2

This subpart currently provides that if an individual's license has been suspended or revoked, or if the individual has been excluded by another racing jurisdiction, the Minnesota Racing Commission may consider that person to be unfit for a class C occupational license in Minnesota. The Commission proposes to amend this subpart to expand the circumstances under which the Commission may refuse to grant a class C license. The proposed amendment is necessary to exclude individuals who have demonstrated behavior which would directly effect the public health, welfare, and safety, or the integrity of racing in Minnesota. This is important because not all racing jurisdictions are as concerned and dedicated to protecting the

integrity of racing as is the Minnesota Racing Commission. Therefore, individuals who engage in egregious behavior in other racing jurisdictions may not be subject to license suspension or revocation. The rule, as currently written, would preclude the Racing Commission from denying class C licenses to those individuals. The proposed rule is reasonable because it parrots the language of Minnesota Statute 240.08 (1986), which provides that the Racing Commission may issue a class C occupational license if the Commission determines that the licensing "will not adversely effect the public health, welfare and safety or the integrity of racing in Minnesota." The proposed rule is also reasonable because it places the burden on the license applicant to prove that the conduct at issue does not adversely effect the public health, welfare and safety or the integrity of racing in Minnesota. Therefore, the rule does not automatically preclude an individual who has engaged in egregious conduct from obtaining a class C license in Minnesota, the rule merely shifts the burden to the applicant to show that he or she is qualified to obtain a license in this state.

7883.0140 CLAIMING RACES

This part sets forth the eligibility and procedural requirements for claiming a horse in a claiming race conducted by a licensed racetrack. The Commission proposes to amend subpart 1 of this part by modifying the eligibility requirements for claiming a horse. The remainder of the part is unchanged.

7883.0140, Subpart 1

The rule as currently written, allows a licensed owner who loses his or her last horse through fire, misfortune, or claim, to claim a horse within thirty racing days after he or she loses the horse. The rule prohibits a licensed owner from claiming a horse outside of that 30 day period, thereby requiring the owner to purchase a horse through some other means. The Commission proposes to amend this subpart by allowing a licensed owner who loses his or her last horse through fire, misfortune, or claim to claim a horse at any time during the race meeting at which the last horse was lost, or to claim a horse at another racetrack licensed by the Minnesota Racing Commission that is operating a race meeting concurrently with the race meeting at which the last horse was lost. The proposed amendment is necessary to allow licensed owners a greater period of time to claim horses and to prevent licensed owners from deceptively acquiring a horse for a short period of time simply to establish eligibility to claim in a claiming race. For example, under the current rule, a horseman could claim a horse outside of the 30 day period simply by acquiring for a day a racehorse from another owner. Under this procedure, once a horse was claimed, the licensed owner simply transferred the acquired horse back to the previous owner, and the licensed owner proceeded to race the claimed horse at the racetrack. The new rule is necessary to avoid such transfers, and to give licensed owners a greater opportunity to claim horses in Minnesota rather than claiming them elsewhere or purchasing



them through other means outside the State of Minnesota. The proposed amendment is reasonable because it encourages the purchase of Minnesota horses, eliminates a hardship that was imposed upon the horsemen, and eliminates the ability of licensed owners to engage in deceptive practices simply to be eligible to claim a horse in this state.

#### 7890.0110 MEDICATIONS PROHIBITED

This part provides that no medication may be administered to a horse within 48 hours of a race in which it is scheduled to run, and that no horse participating in a race shall carry in its body any substance foreign to the natural horse. The Commission proposes a minor modification to this part to eliminate an unintended ambiguity that exists in the rule as it is currently written. The amendment provides that except as permitted by part 7890.0100, subpart 13, items A-D, no horse shall participate in a race carrying in its body any substance foreign to the natural horse. The amendment is necessary to clarify that the substances permitted to be in a horse by Minn. R. 7890.0100, subpart 13, items A-D, are not prohibited by this rule. Although the substances permitted during a race by items A-D are substances "foreign to the natural horse," the substances are permitted to be in the body of a horse during the race. The rule is reasonable because it merely clarifies an otherwise ambiguous rule.

#### 7890.0130 FINDINGS OF CHEMIST

The Commission proposes several minor modifications to subpart 1 of this part to make the rule less ambiguous, and much easier to enforce. The proposed amendments are necessary to conform the rule to the language of Minn. Rule 7890.0110, and to eliminate confusing language. The proposed amendment is reasonable because it does not change the intent of the rule, but merely clarifies the current ambiguous language.

#### 7892.0100 DETENTION BARN

Subpart 1 of this subpart sets forth the equipment that must be provided by a licensed racetrack in the detention barn. The Commission proposes to amend this subpart to require all licensed racetracks to equip the detention barn in a manner that has, after three years of racing experience, been determined as minimally acceptable by the Commission. The rule is necessary because the Commission's experience at Canterbury Downs has revealed a need for equipment that exceeds the requirements of the current rule. Canterbury Downs, the only licensed racetrack currently operating in the state, has provided all of the equipment mandated by the proposed rule. However, the rule is necessary to insure that any licensed racetrack operating in the near future will provide all the equipment that the Commission has deemed to be necessary in the detention barn. The rule is reasonable because it merely reflects the current physical situation at Canterbury Downs. Therefore, no additional demands are being placed on the currently operating licensee by the

proposed amendment. Moreover, newly licensed facility will have an adequate opportunity to review the detention barn requirements prior to the time a detention barn is equipped.

The Commission proposes to amend subpart 2 of this part by requiring each racing association to furnish not less than one security officer to guard the detention barn during racing hours or until the last specimen is secured for the day. This amendment is necessary to allow the Commission to demand additional security on important race days, such as the St. Paul Derby. The experience of the last three years, has revealed that one security officer on an important race day is not sufficient to adequately protect the detention barn from unauthorized entry. The rule is reasonable because it gives the Commission the authority to require additional security guards, but does not require the racing association to provide additional security when the Commission deems that such security is not necessary. The Commission also proposes a minor grammatical modification to the rule by changing the word "taken" to the word "secured." This is necessary to insure that the security personnel assigned to the detention barn do not leave the area until the specimen is taken from the horse, covered, sealed, and locked in the refrigerator or storage container. The rule is reasonable because it merely gives effect to current procedure and clearly informs the security personnel that they are not permitted to leave the detention barn until the last urine specimen has been secured for the day.

7895.0110 THOROUGHBRED BREEDERS FUND

This part sets forth the procedures that must be employed in distributing the Minnesota Breeders Fund. The Commission proposes several changes to this part, primarily to conform the rule to the provisions of Minnesota Statute section 240.18 (1986). That statute provides that the Minnesota Racing Commission may expend the proceeds of the Minnesota Breeders Fund to "supplement purses for races held exclusively for Minnesota bred, Minnesota foaled, or Minnesota owned horses until January 1, 1988, and for Minnesota bred and Minnesota foaled horses after that date." The proposed rule amendments remove the references to "Minnesota owned" horses and provide that purse supplements shall be paid for races held exclusively for Minnesota bred or Minnesota foaled horses only.

7895.0100, Subpart 1

The Commission proposes to amend this subpart by eliminating all references to "Minnesota owned" horses. The amendment is necessary to conform the rule to the directive of Minnesota Statute, section 240.18, subd. 2a (1986). The rule is reasonable because pursuant to the statute, the Racing Commission is precluded from supplementing purses for races including "Minnesota owned" horses.

The Commission proposes to amend what is currently labeled as item B by inserting the phrase "or Minnesota bred" into the definition of a Minnesota foaled horse. This amendment is

necessary and reasonable because it merely consolidates what was previously two identical but separate definitions.

Item D of the current rule has been amended to become item B. The proposed item B changes the date by which a stallion must be in Minnesota in order to be eligible for stallion awards. The proposed rule changes the date from February 15 to January 31. The proposed amendment is necessary and reasonable because it conforms the thoroughbred breeders fund rule to the date a stallion must be in Minnesota for purposes of breeders fund participation for the standardbred and quarterhorse breeds.

7895.0100, Subpart 2

This subpart sets forth the method by which the breeders fund for the thoroughbred breed category shall be divided. The Commission proposes to eliminate all awards paid to owners of Minnesota bred horses and to increase the amount of money paid to supplement purses for races which are restricted to Minnesota bred or Minnesota foaled horses. This amendment is necessary to eliminate what has proved to be a confusing distribution scheme. The owners of Minnesota bred horses are the same people who race those horses in races restricted to Minnesota bred or Minnesota foaled horses. Thus, the owners of Minnesota bred horses often receive both owners awards and purse supplements for racing the same horse in a restricted race. The proposed amendment increases the amount of money available to supplement purses in races which are restricted to Minnesota bred or Minnesota foaled horses. The amendment is reasonable because the owners of

Minnesota bred horses are allowed to compete for larger purses, thereby providing greater incentive to own and race a quality Minnesota bred horse in Minnesota.

The Commission also proposes to include Minnesota foaled horses in the restricted race category. This is necessary to conform the rule to the definition of Minnesota bred and Minnesota foaled horses.

7895.0110, Subpart 3

The Commission proposes to amend this subpart by limiting the payment of breeders or stallion awards to the breeder of a Minnesota bred horse that finishes third or better in any parimutual race. (The breeder of a Minnesota bred horse is usually different than the "owner" of a Minnesota bred horse) The proposed amendment was recommended by the Thoroughbred Breeders Fund Advisory Committee, a committee made up of breeders of thoroughbred race horses in Minnesota. The rule is necessary to provide incentive to breeders to breed horses that are capable of winning in a parimutual race. There is little incentive to breed excellent race horses if breeders and stallion awards are paid to persons who breed horses that finish near the end of the field.

The Commission also proposes to amend this subpart by providing that breeders awards and stallion awards shall only be paid in a parimutual race. This amendment is necessary to clarify that breeders and stallions awards will not be paid in any race on which parimutual betting is not conducted. In the

past, Canterbury Downs has held "exhibition races" on which no parimutual betting was conducted. The rule clarifies that any horse participating in a non-parimutual race shall not be eligible for a breeders or stallion award.

7895.0110, Subpart 4

The Commission proposes to amend this subpart to provide that purse supplements for races restricted to Minnesota bred and Minnesota foaled horses shall not be included in determining the amount of breeders or stallion awards. The rule is necessary to prevent the double payment of breeders fund money for a particular race. The amount of breeders or stallion awards is based on the distribution of purse money in the race. The proposed rule would require the Racing Commission to subtract any breeders fund purse supplements from the amount of the purse prior to determining the amount of breeders or stallion awards that must be paid. The proposed rule allows the owner of the horses who place first, second, or third to receive the full amount of the breeders fund purse supplement, but bases the amount of breeders or stallion awards on that portion of the purse that was not comprised of breeders fund money. The rule is reasonable because it conforms the rule to the practice of the Racing Commission in determining breeders fund awards, and insures that the breeders fund monies are distributed more evenly.

7895.0110, Subpart 5

The Commission proposes to amend this subpart by eliminating the requirement that the Commission set percentages to be applied to each category of the breeders fund for the purposes of determining the amount of breeders and stallion awards that may be earned. The proposed amendment eliminates the Racing Commission's authority to limit the amount of breeders and stallion awards that may be earned during a particular race meeting. The effect of the amendment is to allow the Commission to pay the breeders of Minnesota bred horses the full 31% of the breeders fund money and pay stallion owners the full 7% of the breeders fund money. The amendment is reasonable because it gives full intent to the breeders fund program, which is to provide incentive to breed Minnesota horses.

The proposed amendment leaves the Racing Commission with the discretion to set the amount of purse supplements that may be earned in races restricted to Minnesota bred or Minnesota foaled horses. This is necessary to allow the Commission to divide 62% of the breeders fund money in a fair and equitable manner among the participants in the several races that are restricted to Minnesota bred and Minnesota foaled horses.

7895.0110, Subpart 6

The Commission proposes to amend this subpart to eliminate all references to "owners awards," since such awards are precluded by statute after January 1, 1988, and to specify that the breeders and stallion awards must be distributed within 30



days of the end of the thoroughbred race meeting. The amendment is necessary to insure that the thoroughbred breeders fund monies are distributed quickly and efficiently following the close of the thoroughbred race meeting. It is conceivable that a single racetrack could hold three separate "race meetings" during the course of a "race meeting"; a thoroughbred race meeting, a standardbred race meeting and a quarterhorse race meeting. The proposed amendment is reasonable because it clearly requires the Racing Commission to distribute the thoroughbred breeders fund monies within 30 days of the close of the thoroughbred race meeting, rather than within 30 days of the end of the entire race meeting, which may include additional breeds of horses.

7895.0110, Subpart 7

The Commission proposes to delete this subpart in its entirety. The deletion is necessary to allow the breeders fund participants to earn the full amount of the breeders fund, thereby providing money and incentive to increase Minnesota's breeding stock. The rule is reasonable because it creates an added benefit to Minnesota breeders by making more money available for breeding programs.

7895.0110, Subpart 8

The Commission proposes to amend this subpart by eliminating all references to the breeders fund "owners award" account. The proposed amendment is necessary to conform this rule to part 7895.0110, subpart 1, (discussed previously) which eliminates the awards paid to owners of Minnesota bred horses.

Because subpart 1 eliminates all owners awards accounts, the redistribution of residual funds through the "owners awards" account becomes meaningless. The rule is reasonable because it eliminates an inconsistency in the rule by conforming subpart 8 to the proposed language of subpart 1.

7895.0125 THOROUGHBRED REGISTRATION

This part sets forth the registration requirements that must be complied with in order to be eligible to obtain breeders or stallion awards from the Minnesota Breeders Fund. The Commission proposes to amend subpart 2 of this part. The rest of the part remains unchanged.

7895.0125, Subpart 2

The Commission proposes to amend item A of this subpart by changing the registration date from February 1 to January 31 of the current breeding year. This amendment is necessary to conform the registration date to all other dates that are contained in the various provisions of the breeders fund rules. The proposed amendment is reasonable because it requires breeders and stallion owners to use one date for all necessary registrations. The rule will cause less confusion in the breeding industry, and will provide for a more efficient administration of the breeders fund.

The Commission proposes to amend item B of this subpart by changing the date on which a stallion must arrive in Minnesota from February 15 to January 31 of the current breeding season. The amendment is necessary to conform the date on which the

stallion must be in Minnesota to the date on which the stallion registration application must be received by the Racing Commission.

The Commission also proposes to amend item B of this subpart by providing that a stallion acquired after January 31 may be eligible for stallion awards if the stallion has been properly registered prior to servicing any mare in the state of Minnesota. The provision is necessary to allow the purchase of a stallion after January 31 and to allow the stallion owner to be eligible for stallion awards. The amendment is reasonable because many prestigious horse sales do not take place until after the January 31 deadline. The rule will allow the stallion owner to purchase a quality stallion and bring that stallion to Minnesota for breeding purposes. This will provide incentive to stallion owners to purchase quality horses, and will encourage excellence in the breeding stock in Minnesota.

7895.0110, subparts 4-6

The Commission proposes to delete subparts 4-6 in their entirety. These subparts are unnecessary and conflict with other provisions of the rules. The deletion is necessary to establish a single procedure for disqualification of an ineligible horse, thereby causing less confusion among horsemen and racing officials. The deletion is reasonable because it makes the procedure more understandable and does not diminish the rights of the horsemen.

7895.0250 STANDARDBRED BREEDERS FUND

This part sets forth the procedure to be employed by the Racing Commission in distributing the standardbred breeders fund. The rule is nearly identical to the thoroughbred breeders fund rule. Moreover, the proposed amendments to this part are nearly identical to the amendments proposed to the thoroughbred breeders fund rule. Therefore, much of the discussion contained in the previous section on the thoroughbred breeders fund rule can be equally applied to the amendments to the standardbred breeders fund rule.

7895.0250, Subpart 1

The Commission proposes to amend this subpart by deleting the definition of "Minnesota owned horse." The amendment is necessary because Minnesota owned horses are no longer eligible for purse supplements from the breeders fund. See, Minn. Stat. § 240.18 (1986). Thus, the proposed amendment conforms the rule to the statute, and is therefore necessary and reasonable.

The Commission proposes to amend item E of this subpart by changing the date by which a stallion must arrive in Minnesota from January 1 to January 31, and by changing the date on which the stallion may leave Minnesota from September 1 to July 31. This amendment is necessary to conform the standardbred rule to the thoroughbred and quarterhorse breeders fund rule. The amendment is reasonable because it creates a consistent set of dates for horsemen, thereby creating less confusion.

7895.0250, Subpart 2

The Commission proposes to amend this subpart by deleting the reference to "Minnesota owned" horses and by deleting the requirement that Minnesota bred and Minnesota foaled horses have first preference in all restricted races. This amendment is necessary to conform the rule to Minn. Stat. § 240.18 (1986), which eliminated the requirement that a racetrack allow Minnesota owned horses to participate in restricted races.

7895.0250, Subpart 4

The Commission proposes to amend this subpart by providing that purse supplements earned shall not be included in determining the amount of breeders or stallion awards. As discussed herein regarding the thoroughbred breeders fund rule, this amendment is necessary to avoid the double payment of breeders fund monies, and to distribute breeders fund money more widely and equitably.

7895.0250, Subpart 5

The Commission proposes to amend this subpart by deleting the phrase "among the Minnesota breeders and owners" from item C of this subpart. The deletion is necessary to eliminate the references in the rule to "Minnesota owned" horses, and make the rule more grammatically accurate.

7895.0250, Subpart 6

The Commission proposes to amend this subpart to make the rule more clear and to conform the rule to the standard practice of breeders fund administration. The amendment is necessary because the current rule did not provide that the breeders and

stallion awards must be distributed within 30 days of the end of the standardbred race meeting. As discussed in the section covering the thoroughbred breeders fund, it is not uncommon for a single racetrack to hold separate race meetings for separate breeds of horses. The amendment would require the Racing Commission to distribute the breeders fund money for the standardbred category within 30 days of the end of the standardbred race meeting. This insures a fair and efficient distribution of standardbred money within a reasonable period of time following the standardbred meet.

7895.0250, subpart 7

The Commission proposed to delete this subpart to eliminate the maximum award a horseman can earn from the standardbred breeders fund. This deletion is necessary to encourage breeding and is reasonable because the rule specifically applies only to the year 1986.

7895.0250, subpart 8

The Commission proposes to amend this subpart by conforming the rule to the proposed repeal of subpart 7. For purposes of clarity, the proposed amendment is both necessary and reasonable.

7895.0275 STANDARDBRED REGISTRATION

This part sets forth the registration requirements for eligibility in the standardbred breeders fund program. As discussed in the previous section, the proposed amendments to this part are identical to the amendments proposed to the thoroughbred breeders fund registration rule. Thus, the comments

to the proposed changes to the thoroughbred breeders fund registration rule are equally applicable to the proposed changes to this part.

7895.0275, Subpart 1

The Commission proposes to amend item A of subpart 1 by changing the date on which the stallion must be in Minnesota and registered with the Minnesota Racing Commission. The date is changed from January 1 to January 31 of the current breeding year. The proposed amendment conforms the date contained in this subpart to all other dates contained in the thoroughbred, standardbred and quarterhorse breeders fund rules. The rule eliminates confusion for those participating in the breeders fund program and provides one date for which all registrations must be complete and on which all horses must be in Minnesota to be eligible to participate in the program. The rule is therefore necessary and reasonable.

The Commission proposes to amend item B of subpart 1 by changing the dates in which the stallions must remain in Minnesota for breeding purposes from January 1 to January 31, and from September 1 to July 31. As discussed previously, this amendment is necessary to conform the rule to all other sections of the thoroughbred, standardbred, and quarterhorse breeders fund rules.

The Commission also proposes to amend this item by providing that a newly acquired stallion may be eligible for awards if the stallion arrives in Minnesota after January 31, and if the

stallion is registered with the Commission prior to servicing any mare in the state of Minnesota. As discussed in the thoroughbred breeders fund rule, the proposed amendment is necessary to allow stallion owners to purchase horses from several prestigious sales that are held after January 31. The rule is necessary and reasonable because it encourages the purchase of excellent horses, thereby increasing the quality of Minnesota's breeding stock.

7895.0275, subparts 3 to 5

The Commission proposes to delete these subparts in their entirety. See, comments to Minn. Rule 7895.0110, subparts 4 to 6. The deletion makes the standardbred rule consistent with the thoroughbred and quarterhorse rules governing the same subject.

7895.0300 QUARTERHORSE BREEDERS FUND

This part sets forth the requirements for the distribution of the quarterhorse breeders fund. The rule and the proposed amendments are essentially identical to those amendments proposed to the standardbred and thoroughbred breeders fund rules. Therefore, the comments to the thoroughbred and standardbred breeders fund rules are equally applicable to the proposed amendments to the quarterhorse breeders fund rule.

7895.0300, Subpart 1

The Commission proposes to amend this subpart by deleting the definition of "Minnesota owned." As discussed previously, the proposed deletion of "Minnesota owned" is necessary to conform the rule to the directive of Minnesota Statute, section



240.18 (1986). As a result, the rule is both necessary and reasonable.

The Commission also proposes to amend this subpart by changing the date by which a quarterhorse stallion must be in Minnesota for breeding purposes from February 15 to January 31 of the current breeding season. The proposed amendment changes the date in the quarterhorse rule to that contained in the standardbred and thoroughbred breeders fund rules. Therefore, for all breeds of horses, a stallion must be in Minnesota from January 31 through July 31 of the current breeding season in order to be eligible for stallion breeders fund awards.

7895.0275, Subpart 2

The Commission proposes to amend items A, B, and C, by deleting several confusing dates contained therein. The rule as currently written makes absolutely no sense. The proposed amendment is necessary to clarify the rule and to clearly specify the percentages of the quarterhorse breeders fund that will be paid to the various categories contained in the rule.

In addition, the Commission proposes to amend the rule to delete the reference to "Minnesota owned" horses. This amendment is necessary to conform the rule to the directive of Minnesota Statute section 240.18 (1986). Moreover, because the reference to "Minnesota owned" horses has been deleted, the Commission also proposes to delete that portion of the rule which requires that in all restricted races Minnesota bred or Minnesota foaled horses shall be preferred. This deletion is necessary because Minnesota

bred and Minnesota foaled horses are the only horses which may participate in restricted races after January 1, 1988.

Therefore, the rule as proposed by the Commission is both necessary and reasonable.

7895.0275, Subpart 4

The Commission proposes to amend this subpart by providing a section which requires that purse supplements earned shall not be included in determining breeders or stallion awards. As discussed previously herein, this amendment is necessary to preclude double payment from the breeders fund, and to distribute the breeders fund to more participants. Therefore, the rule is both necessary and reasonable.

7895.0275, Subpart 6

The Commission proposes to amend this subpart by requiring that all breeders, owners, and stallion awards shall be distributed within 30 days of the end of the quarterhorse race meeting, rather than by December 31 in the year in which they are earned. The amendment is both necessary and reasonable because it conforms the time of payment of quarterhorse awards to that contained in both the standardbred and the thoroughbred breeders fund rules. Thus, in each category of the breeders fund, all payments must be distributed within 30 days of the end of the race meeting for the particular breed involved.

7895.0350 QUARTERHORSE REGISTRATION

This part sets forth the requirements for registering a quarterhorse for participation in the quarterhorse breeders fund

program. The Commission proposes to amend subpart 2 of this part.

7895.0350, Subpart 2

The Commission proposes to amend this subpart by adding the word "be" to item A to make the section more grammatically correct. The Commission also proposes to amend item A of subpart 2 by changing the date on which a stallion must be in Minnesota and registered with the Racing Commission from February 1 to January 31 of the current breeding year. This proposed amendment is both necessary and reasonable because it simply conforms the quarterhorse breeders fund rule to the standardbred and thoroughbred breeders fund rules. As a result, January 31 has become the date on which stallions must be in Minnesota and registered with the Racing Commission for all breeds of horses.

The Commission proposes to amend item B of this subpart by changing the date which a stallion must be in Minnesota from February 15 through January 31. This proposed amendment is both necessary and reasonable because it makes item B consistent with the requirements of item A.

The Commission also proposes to delete item C of subpart 2. The proposed deletion is both necessary and reasonable because the requirement that stallion reports must be filed with the Racing Commission causes unnecessary paperwork and provides no benefit or incentive to those participating in the breeders fund program.

Finally, the Commission proposes to amend subpart C by allowing a newly acquired stallion to be eligible for stallion awards if the stallion is brought to Minnesota after January 31 and if the stallion has been properly registered with the Commission prior to servicing any mare in the state. As discussed previously herein, this rule is both necessary and reasonable because it allows breeders to purchase stallions from prestigious sales that are held after January 31, thereby creating incentive to increase the quality of Minnesota's breeding stock.

The Commission proposes to amend item D by deleting it in its entirety. This deletion is both necessary and reasonable because the Commission is no longer going to require that stallion reports be filed. Therefore, it is not necessary to create any penalty for failure to file a stallion report in a timely manner.

7895.0350, subparts 4 to 6

See, comments to parts 7895.0275, subparts 3 to 5 and 7895.0110, subparts 4 to 6.

7897.0100 PROHIBITED ACTS

This part sets forth those acts which are prohibited and which may subject a licensee to disciplinary action by the Commission. The Commission proposes to amend subparts 1, 6, 10, and 19. The rest of the part remains unchanged.

7897.0100, Subpart 1

The Commission proposes to amend this subpart by increasing the scope of the Commission's authority to impose disciplinary

sanctions against licensees who commit prohibited acts while off the grounds of the racing association. The current rule allows the Commission to take action only if the prohibited acts are committed or attempted to be committed while on the grounds of an association. Certain prohibited acts, primarily those relating to financial responsibility, must fall within the jurisdiction of the Racing Commission even if the acts are committed off the grounds of the association. In fact, with respect to financial responsibility, the vast portion of the financial responsibility claims filed with the Commission involve actions of licensees that occur off the grounds of the association, but in the immediate are around Shakopee. The proposed rule will allow the Commission to take action against licensees who willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, regardless of whether or not the refusal to pay occurred on the grounds of the association. The rule is reasonable because it does not unduly extend the authority of the Racing Commission, but extends that authority only in circumstances that are fair and reasonable.

7897.0100, Subpart 6

The Commission proposes to amend this subpart by adding the phrase "while on the grounds of an association." This amendment is necessary and reasonable because fairness dictates that the Commission's authority over such activities extends only to the grounds of an association. The rule will not allow the

Commission to take action against a licensee who engages in a physical altercation while off the grounds of the association.

7897.0100, Subpart 10

The Commission proposes to amend this rule by providing that a creditor may prove a lack of financial responsibility by presenting a check to the stewards, which indicates on its face that the check was drawn on a closed or nonexistent account or on one without sufficient funds or was issued by alteration, or forgery. This rule is necessary to eliminate the requirement that the creditor must obtain a judgment to prove financial irresponsibility when the creditor has adequate proof of the irresponsibility. The amendment allows the stewards to take disciplinary action against a licensee in a more timely manner rather than after a considerable amount of time due to the need to obtain a judgment. Horsemen are generally transient, and in order to protect the surrounding business community, it is necessary to allow the stewards to take action on such claims before the individual leaves the area. The amendment is reasonable because it does not subject horsemen to arbitrary or capricious action, and other racing jurisdictions have similar rules which have been used to great success.

7897.0100, Subpart 19

The Commission proposes to add this subpart to discourage the use of abusive language against racing officials. Racing officials are often the target of angry horsemen. This amendment is necessary to discourage abusive language, which creates delays

and hinders the efficient racing of horses. The rule is reasonable because it is not unduly vague and it encourages the respectful treatment that is due racing officials by horsemen.

#### IV. OTHER STATUTORY REQUIREMENTS

Minn. Stat. § 14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule on small business.

The proposed amendments to the racing rule indirectly impact small businesses. However, the rule does not affect small businesses disproportionately nor does the rule prevent small businesses from participating in horse racing. The Commission considered the impact of the amendments on small business 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 section 3.892 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 to the existing rules are both necessary and reasonable.

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DONALD PRICE  
Minnesota Racing Commission