

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption  
of Rules of the Minnesota Racing Commission  
Rules Governing Class E (Teleracing) licenses,  
Simulcasting and Pari-Mutuel Betting.

**STATEMENT OF NEED AND REASONABLENESS**

**GENERAL**

Minn. Stat. 240.03 (1991) empowers the Minnesota Racing Commission to regulate horse racing in the state to ensure that it is conducted in the public interest, to take all necessary steps to ensure the integrity of racing, to issue licenses, to supervise pari-mutuel betting on horse racing and to conduct necessary investigations and inquiries and compel the submission of information, documents and records it deems necessary to carry out its duties.

Minn. Stat. 240.02-240.29 (1991) mandate or authorize the Commission to promulgate a wide variety of rules. Section 240.23 (1991) specifically authorizes the Commission to adopt rules governing any aspect of horse racing or pari-mutuel betting which in the opinion of the Commission affects the integrity of racing or the public health, welfare or safety. Laws Minn. 1991, ch. 336 gives the Commission specific authority to promulgate rules governing simulcasting and teleracing.

The repeated statutory references to "integrity" in pari-mutuel betting and horse racing, the "public interest" and "public health, welfare or safety" reflect a legislative intent and public sentiment that the Commission act to ensure the financial strength and good character of all license applicants who construct, own and operate horseracing, including teleracing, facilities.

The Commission believes the proposed rule is necessary to ensure the integrity of pari-mutuel betting and horse racing in Minnesota. The Commission submits that each rule is necessary to ensure that Class E licensees are financially strong, possess good character and will operate, sponsor and manage the facilities, equipment, personnel, and systems in a safe and responsible manner. The proposed rule must be promulgated in order that an applicant for a Class E license may know the nature of the business it seeks to enter, as well as the application procedure and criteria for issuance of the licenses.

The Commission believes the proposed rules are reasonable, because they are customary in the horse racing industry. Portions of the proposed rule were borrowed from the states of

Pennsylvania and Illinois, as well as from the model rules of the Association of Racing Commissioners International. Moreover, the proposed rules are very similar to the rules promulgated for the licensing of persons to obtain Class A and B licenses to own and operate racetracks and Class D licenses for County Fair Associations to conduct pari-mutuel racing meets. Although the rule requirements are stringent, successful entrance into and participation in the industry has not in any way been deterred.

### CLASS E LICENSES

Laws Minn. 1991, ch. 336 authorizes Class E licenses for the management of a telercing facility to be issued to current holders of Class B licenses. Minn. Stat. 240.05, Subd. 1(d) and Subd. 3 clearly indicate that the Commission is not required to issue any license. Rather, Laws Minn. 1991, ch. 336 provide that the Commission may issue a Class E license to a current Class B licensee to sponsor and conduct simulcasting if the Commission determines that the applicant will act in accordance with all applicable laws and rules and will not adversely affect public health, welfare and safety and that the license will not create a competitive situation which will adversely affect racing and the public interest.

The proposed rules require complete disclosure of the applicant and all its officers, directors and shareholders as well as those of any holding company. Moreover, the proposed rule permits the Commission to require disclosure of persons holding direct, indirect or beneficial interests of any kind in the applicant, whether the interest is financial, administrative, policymaking or supervisory.

Further, the proposed rules require applicants for Class E licenses to submit affidavits setting forth that no officer, director or other person with a present or future direct or indirect financial or management interest in the applicant is in financial default to the state, has been convicted of or is charged with a felony, is connected with an illegal business, has been found guilty of fraud or misrepresentation in connection with the racing or breeding of horses, has been found guilty of a serious violation of a horseracing, pari-mutuel betting or other gambling law or rule or has knowingly violated a Minnesota racing law or rule.

The proposed rule requires a Class E applicant to submit detailed plans and specifications for the proposed facility and grounds, as well as any improvements to existing facilities.

The proposed rule also requires a comprehensive background and financial investigation of an applicant for a Class E license, including all sources of financing. The investigation must be conducted by the Commission in cooperation with the Minnesota Department of Public Safety, Gambling Enforcement Division. Access is afforded the Commission to all criminal history information which the Gambling Enforcement Division compiles on applicants and licensees.

The proposed rule mandates disclosure of all changes in directors, officers or other persons with a direct or indirect financial or management interest and changes in ownership of

more than 5 percent. The proposed rules also require submission of affidavits from those persons regarding their finances and character.

Finally, the proposed rule provides that the Commission and its representatives may inspect a licensee's premises, books and records at any time to ensure financial strength, integrity and high quality of facilities, equipment, management, personnel and systems.

### **RULE-BY-RULE ANALYSIS**

**7869.0100.** This part sets forth definitions of terms indigenous to the horse racing and pari-mutuel industry. It is necessary that the Commission define terms and phrases that have a specific meaning to those connected with the industry.

Subpart. 7 defines the term "Alternative Facility". The term is used in the statute authorizing simulcasting without definition. This subpart is necessary to adequately identify those facilities which may transmit, receive or engage in commingled wagering with a Class E licensee. The proposed language assures that the alternative facilities have the necessary equipment and be subject to state regulation.

Subpart. 15 defines the term "Commingled (Common) Pool". The term is used in the Statute authorizing simulcasting without definition. This definition is needed as it relates to the simulcasting of races to and from Class B licensed racetracks to alternative facilities or Class E (teleracing) facilities. The definition ensures that the commingling will occur subject to necessary restrictions and oversight necessary to protect the public.

The definition of "Day" in Subpart 19. has been stricken as it is no longer pertinent.

Subpart. 31 defines "grounds" and has been rewritten to encompass simulcasting and teleracing facilities within its scope. This is necessary to ensure that the Commission's broad regulatory authority extends beyond the racetrack to any Class E facility.

Subpart. 32 has been rewritten to make it clear that a Class B licensed racetrack which receives broadcasts of races by television outside of this State is known as a "Guest or Receiving" racetrack. This language also conforms the rule to the statute.

Subpart. 35 has been rewritten to make it clear that a licensed racetrack outside of this State which broadcasts its races by television to a licensed racetrack within this State is known as a "Host or Sending" racetrack. This language also conforms the rule to the statute.

The definition of "Live Racing Day", as it appeared in Subpart 33a. has been stricken as it is no longer applicable.

The definition of "Presiding Official" in Subpart 51 has been rewritten to make it clear that a presiding official is an official of the Commission who presides over simulcasting. The

duties of the presiding official are contained in part 7871.0120.

The definition of "Racing Day" in Subpart 56 has been changed to make it clear that it pertains only to days assigned by the Commission on which live horse racing is conducted.

Subpart 62. has been rewritten to make it clear that "Simulcasting" means the televised display for pari-mutuel wagering purposes, of one or more horse races conducted at another location where the televised display occurs simultaneously with the race being televised.

The definition of "Televised Racing Day" in Subpart 65a has been stricken as it no longer pertains to current racing law and rule. The references to televised racing days were repealed by the 1991 legislation.

The remainder of other changes in this chapter are the renumbering of subparts to incorporate the newly added definitions.

The proposed changes are necessary in order to provide clarification and definition to terms and phrases used throughout the rules related to horse racing, simulcasting, and pari-mutuel betting. The proposed changes are reasonable in that they place no undue burden on applicants or participants. The proposed definitions are customary in pari-mutuel betting and horse racing and have been used successfully in other jurisdictions.

7870 contains rules related to Class A, B, and E license applications and licensing criteria. The rule is necessary to provide for the adequate regulation of teleracing facilities. The rule is reasonable in that it imposes no undue burdens, and because the Commission cannot be less stringent in its regulation of Class E licensees than other areas of licensure regulated by the Commission.

7870.0180 has been amended to include references to Class E license applications. The rule is necessary to provide for the adequate regulation of teleracing facilities and the pari-mutuel betting conducted at the facilities. The rule is reasonable in that it imposes no undue burdens on the license applicant, and because the Commission cannot be less stringent in its regulation of Class E licensees than other areas of licensure regulated by the Commission.

7870.0190 has been amended to include references to Class E license applications. The rule is necessary to provide for the adequate regulation of teleracing facilities. The rule is reasonable in that it imposes no undue burdens on the license applicant, and because the Commission cannot be less stringent in its regulation of Class E licensees than other areas of licensure regulated by the Commission.

7870.0200 has been amended to include references to Class E license applications. The rule is necessary to provide for the adequate regulation of teleracing facilities. The rule is reasonable in that it imposes no undue burdens on the license applicant, and because the Commission cannot be less stringent in its regulation of Class E licensees than other areas of

licensure regulated by the Commission.

7870.0210 has been amended to include references to Class E license applications. The rule is necessary to provide for the adequate regulation of teleracing facilities. The rule is reasonable in that it imposes no undue burdens on the license applicant, and because the Commission cannot be less stringent in its regulation of Class E licensees than other areas of licensure regulated by the Commission.

7870.0220 has been amended to be specific to Class B licensees only.

7870.0221 is a new section mandating disclosure of the development process for Class E license applicants. The rule is specific to Class E licensees, and is necessary to comply with the specific information required by the statute. The section requires the license application to contain documentation on the total cost of construction or renovation of a teleracing facility, separate identification of those costs, documentation of fixed costs, the schedule for construction or renovation of the facility, schematic drawings, copies of all pertinent contracts, and documentation regarding whether the site has been acquired or leased by the applicant. In addition, this section mandates disclosure of the address of the facility; name, address and telephone number of the owner of the real estate upon which the building will be located; a copy of the lease, purchase option or purchase agreement; pro forma financial statements projecting attendance, handle and revenue; statement of the projected cost of operation of the facility; statement of sources of funds used to construct or renovate the facility inclusive of all documentation; statement of projected revenue and taxes to be paid; anticipated impact on attendance, handle, and purse structure at licensed facilities conducting live racing in the state; areas from which the applicant expects to draw patrons; population of the area within 35 air miles of the location; owner and description of other business or uses to be conducted at the location; number of floors, total square footage and seating capacity of the facility; description of dining accommodations and concession areas including types of food and beverages to be available, seating capacity, and description of the kitchen area; number and location of fire escapes and emergency exits; number of restrooms; description of the general demeanor of the facility, including decor and lighting, type of seating, and areas where patrons can handicap races; description of the exterior of the facility; architectural or engineering drawings of the facility; description of heating, air conditioning, smoke removal and climate control equipment and smoke and fire detectors; provisions for ensuring access to the physically handicapped; description of parking areas, including documentation for leased parking facilities and traffic control to be provided; copies of contracts relating to and a complete description of the totalisator equipment to be used in the facility; copies of contracts relating to, and descriptions of, equipment to be used for receiving transmissions of races and race-related information; names, addresses and telephone numbers of persons supplying equipment to the facility; a description of procedures to be used to resolve patron complaints; a description of security plans for the facility; copies of insurance policies applicable to the facility; statement indicating whether the applicant has entered into an agreement for the simulcasting of races to the facility; copies of building, fire, occupancy, health and sanitation or other permits required by units of government. The rule is necessary in order to enable the Commission to adequately review and

decide upon a for Class E license application. The rule sets forth the minimum equipment the Commission deems necessary for a teleracing facility. To the extent possible and practicable, the equipment has required the same equipment required for a racetrack facility. The rule is reasonable in that it imposes no undue burdens, and because the Commission cannot be less stringent in its review and decision-making regarding Class E licenses than in other areas of licensure regulated by the Commission.

7870.0240 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of financial resources. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0250 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of a financial plan. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0260 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of action by other governmental agencies.. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0270 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of a management plan, personnel and position descriptions. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0280 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding plans for promotion and public education pertaining to horse racing and pari-mutuel wagering. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0290 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of the economic impact of conducting pari-mutuel wagering. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0300 has been amended to include references to Class E license applications. The

rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure of public support and opposition to its application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0310 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the applicant's effect on competition within the horse racing and pari-mutuel industry. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0320 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the identification of those who assisted in the preparation of the application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0330 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding disclosure and release of personal information of individuals making application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0340 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the criteria the Commission must consider in approving an application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0350 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the format and content of an application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0360 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding formal submission of an application to the Commission. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0370 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding submission of an application fee to the Commission along with the application. The

rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0380 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the Commission's responsibility to designate one individual to make all clarifications to an application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0390 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the requirement that no substantive changes can be made to an application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0400 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding deadlines for submission of an application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0410 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding the opportunity to make an oral presentation of the application to the Commission. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0420 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees which stipulates deadlines and amounts of license fees. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0430 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding penalties for submitting false or misleading information or omitting information in the application. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0450 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees requiring Commission approval prior to making any alterations to a facility exceeding \$10,000. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.



7870.0470 has been amended to include references to Class E license applications. The rule is necessary in order to conform Class E license requirements to those of Class B licensees regarding Commission authority to order modifications of security measures at licensed facilities. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission.

7870.0500 has been amended to include references to Class E license applications and to strike subpart 6 pertaining to affirmative action issues. The rule is necessary in order to conform Class E license requirements to those of Class B licensees. The rule is reasonable in that the Commission cannot be less stringent in the regulation of Class E licensees than in other areas of licensure regulated by the Commission. The section on affirmative action issues has been deleted and moved to a "stand-alone" chapter. The change is necessary in order provide continuity in Commission rules and to allow affirmative action requirements to be applied equally to all areas of licenses issued by the Commission. The rule is reasonable in that it imposes no undue burdens and, in fact, the goals cited in the rule have been attained by the current Class B license holder.

7870.0510 is a new section dealing with affirmative action, requiring Class A, B, D and E license holders to provide economic opportunities for disadvantaged and emerging small business. For the category of disadvantaged and emerging small business it establishes goals of 10% for construction subcontract and material suppliers, and labor and employment goals of 10% for disadvantaged and emerging small businesses in on-site construction jobs. It establishes a goal of 20% of total vendor, supplier and other contracts with disadvantaged and emerging small business for the postconstruction period and a two-year window for achievement of this goal after construction. The rule requires Class A, B, D and E license holders to provide economic opportunities for racial minorities. It establishes a goal of 10% for hiring of racial minorities in all categories of the licensees workforces and requires a good faith effort to achieve this goal within two years after commencing operations. It also establishes a goal of making available up to 10% of available equity ownership to racial minorities. The rule requires Class A, B, D and E licensees to provide economic opportunities for women. It establishes a goal of 51.4% for hiring women in all categories of the licensee's workforces and requires a good faith effort to achieve this goal within two years after commencing operations. It establishes a goal of making available up to 10% of available equity ownership to women. The rule requires Class A, B, D and E licensees to provide economic opportunities for the disabled. Specifically, the rule requires the licensee to establish reasonable goals to assist in providing economic opportunities for the disabled with respect to construction subcontracts/material suppliers, on-site construction jobs, postconstruction labor force, postconstruction vendor, supplier and other contracts, and available equity ownership opportunities. The rule requires Class A, B, D and E licensees to file quarterly compliance reports with the Commission. The rule provides definitions for "Disabled Individual", "Good Faith Effort", "Disadvantaged and Emerging Small Business", and "Racial Minority". The rule is necessary to enable the Commission to effectively regulate Class A, B, D and E licensees in the area of affirmative action. The rule is reasonable in that it imposes no undue burden, is modeled after an affirmative action program in place in the city of Minneapolis, and the goals cited in the rule have been attained by the current Class

B licensee.

7871 has been renamed to delete the reference to televised racing days and to refer to "Simulcasting" only. The proposed rule on simulcasting is nearly identical to the rule promulgated in 1990 governing televised racing. By and large, only the terminology has been changed to conform to the statute and the expansion to telereading facilities. This is necessary because the 1991 legislation authorizing simulcasting deleted all references to televised racing days as well. Under the proposed rules, all televised broadcasting of horse races, whether at the racetrack or a telereading facility, must conform to the rules governing simulcasting.

7871.0005 (Application for Simulcasting). Subpart 1 defines the timeframe within which applicants for a Class E license must submit an application. It also specifies documentation to be included along with the request for simulcasting. The rule is necessary in order for the applicant to know the proper procedure for applying for dates and the requisite detail needed to accompany the request. The rule is reasonable in that it has been used successfully in other classes of licensure for pari-mutuel horse racing in Minnesota. The rule is necessary to remove references to "televised race day" to conform to the statute. The rule is reasonable in that it imposes no undue burden on the licensee and has been applied successfully in other areas of licensure regulated by the Commission.

Subpart 2 specifies the criteria the Commission must consider when deciding whether or not to approve simulcasting requests. The rule is necessary in order for the applicant to know the standards by which its application will be judged. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 3 establishes the timetable which the Commission must use in considering requests for simulcasting. The rule is necessary in order for the applicant to know when to file its application and it ensures that the Commission will act on the request in a timely manner. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 4 provides for variations in previously approved simulcasting requests. The rule is necessary in order to provide flexibility for making changes to programming schedules on an emergency basis. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

7871.0010 (Application for Pari-Mutuel Pools for Simulcasting.) Subpart 1 deals with the submission of pari-mutuel pool requests. It outlines what information the applicant must supply to the Commission when requesting pari-mutuel pools for simulcasting, and the information the Commission must consider in deciding whether or not to approve the requested pari-mutuel pools. The rule is necessary in order for the applicant to know how to apply for pools. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 2 is new language, exclusive to simulcasting, requiring the Commission to approve, deny or give qualified approval to the request for pools within 30 days after receipt of the application. The rule is necessary so that the applicant can know when to apply for pools, and it imposes on the Commission a requirement to act in a timely manner. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 3 allows the Commission to designate pari-mutuel pools for simulcasting. The rule is necessary to empower the Commission to mandate certain pari-mutuel pools and the procedures by which the pay-offs will be calculated. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 4 requires the licensee to submit copies of its contracts with other racetracks for simulcasting of races. The rule is necessary to allow the Commission to monitor the simulcasting, and to more effectively regulate this area of pari-mutuel racing. A review of the contracts will help the Commission ensure that the simulcasting is conducted in accordance with all laws and rules. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

7871.0020 (Approval of Pari-Mutuel Pools for Simulcasting). Subpart 1 outlines the basis for approving pari-mutuel pools by the Commission, and enumerates the indices the Commission must consider in its deliberations. The rule change is necessary to remove references to "televised race day" and to conform the rule to the statute. The rule is reasonable in that it imposes no undue burden on the licensee, and ensures that the Commission has criteria by which to approve or disapprove pari-mutuel pools for simulcasting.

Subpart 3 has been amended to allow the Commission's Director of Pari-Mutuels to approve variations and changes in pari-mutuel pools and the placement of pools in the racing program. The rule is necessary to allow for more than one Commission representative to make such decisions in the event that the Director is unavailable. The rule is reasonable in that it allows for more flexibility on the part of the Commission.

7871.0030 (Pari-Mutuel Betting). Subpart 1 has been amended to encompass the statutory language of "Alternative Facility" when dealing with minimum returns and insufficient monies in net pools. The statute permits commingled pool wagering with an alternative facility and this subpart is necessary to give effect to the statutory language. The rule is reasonable in that it allows for the same practices to be conducted with alternative facilities as with host racetracks.

Subpart 2 has been amended to allow Class B or E licensees to commingle pools with host racetracks or alternative facilities provided that the necessary equipment is in place and the commingling goes through the Class A racetrack's computer. The rule is necessary to make it easier to monitor and regulate the commingled pools by eliminating the need to be on-site at each telereading facility. The rule is reasonable in that it has been used successfully in other

racing jurisdictions.

Subpart 3 (Information Window). This section is new language requiring Class E facilities to provide essentially the same information services to patrons at Class E facilities as are available at the racetrack. The rule is necessary for public convenience. The rule is reasonable in that it imposes no undue burden on the licensee.

Subpart 4 (Deficiencies). This section is new language requiring the association to pay deficiencies in net pari-mutuel pools. This rule is standard in the industry and is necessary to protect the wagering public. The rule is reasonable in that it has been used successfully in other racing jurisdictions.

Subpart 5 (Simulcasting to locations outside the state). This section is new and allows the licensee, with the prior approval of the Commission, to transmit telecasts of its races to locations outside the state, and allows for commingled pools on those telecasts. The rule is necessary to allow Minnesota races to be broadcast in other parts of the country, thereby promoting Minnesota racing and breeding. The rule is reasonable in that it has been used successfully in other racing jurisdictions.

7871.0080 (Tip Sheets). The rule has been amended to include Class E licensees, and allow for no less than two independently handicapped tip sheets to be available at Class E facilities. The rule is necessary to allow the public maximum independent input for handicapping purposes. The rule is reasonable in that it has been used successfully by the Minnesota Racing Commission for tip sheets at the racetrack.

Subpart 2 requires previous days' tip sheets to be posted at telerracing facilities. The rule is reasonable because it serves to protect the wagering public and inform them of independent handicappers' prior results. Review prevents collusion and cheating on the part of the tip sheet handicappers. The rule is reasonable because it has been used successfully in other racing jurisdictions.

Subpart 3 has been amended to require tip sheet vendors at Class E facilities to be licensed by the Commission. The rule is necessary to provide the Commission the opportunity to perform background investigations on tip sheet vendors and to protect the wagering public. The rule is reasonable in that it has been used successfully in other areas of licensure by the Minnesota Racing Commission.

7871.0100 (Telephone Account Wagering). Existing language in subpart 1 was amended for clarification and grammatical purposes. Subpart 3 was amended to drop the requirement for certified checks, and to allow telephone accounts to be maintained and opened with credit cards. The language under subpart 3(d) has been stricken. The rule is necessary to allow the licensee to remain competitive with other forms of legalized gambling, and to allow for race results to be divulged to telephone account customers during racing hours. The rule is reasonable because it allows greater ease for the patrons in placing wagers and learning the results of those wagers

in a prompt manner.

7871.0110 (Distribution of Purse Money). The language in subpart 1 has been amended to reflect a statutory change, and to clarify that all amounts required to be withheld from pari-mutuel pools must be allocated for purses by an association conducting simulcasting. Subpart 2 of this rule requires that outside of the racing season, all money withheld by associations for purses must be placed in interest-bearing escrow accounts and retained for purse monies for the next race meeting of the breed involved. The rule is necessary in order to conform Commission rules to the statutes, and to protect the horsemen and secure the purse monies earned by their respective breeds. The rule is reasonable in that it has been used successfully in other racing jurisdictions.

7871.0115 (Teleracing Mutuel Manager). This rule is new, and requires the Class E licensee to designate a teleracing mutuel manager at each facility. The rule outlines the duties of the manager. The rule is necessary to protect the wagering public, and to mandate that a certain designated person at each facility is on-duty at all times the facility is open to deal with patrons, the Class B facility, and the Commission. The rule is reasonable in that it was adopted from the Pennsylvania rules of racing and has been successfully used there and in other racing jurisdictions.

7871.0120 (Presiding Official). This rule has been amended to allow for the Commission's Director of Pari-Mutuel Racing to appoint one or more of the stewards to act as Presiding Officials for the purposes of simulcasting. It also requires a Class E licensee to provide telephone communication between the licensed racetrack, host racetrack and alternative facility, as well as designating a pari-mutuel manager to communicate with the presiding official at all times when simulcasting is being conducted. The rule is necessary to insure that all lines of communication remain open during simulcasting so that in the event of a problem with the satellite link, the officials may continue to monitor the live race. The rule is reasonable because it has been applied successfully in other racing jurisdictions.

7871.0130 (Authority and Duties of Presiding Official). The rule has been amended to clarify the duties of a Presiding Official, provide authority to impose fines in accordance with Commission rules, to eject or exclude persons for violations of rules, remove the reference of the phrase "customs of the turf", and to request and receive assistance from Commission employees, racing officials, track security, and federal, state and local police in the investigation of possible violations of Commission rules. The rule is necessary in order to give the presiding official the same broad powers as possessed by the stewards during a live race meet and is necessary to protect the wagering public. The rule is reasonable because it has been applied successfully in other areas of licensure by the Minnesota Racing Commission.

Subpart 2 amends the language of "Duties of Presiding Official" to pertain to simulcasting, and makes minor clarifications in existing language. The rule is necessary to ensure that the duties of the Presiding Official as they relate to simulcasting are clearly defined. The rule is reasonable in that it has been imposed successfully in other racing jurisdictions.

7871.0140 (Disciplinary and Appeal Procedures). The existing language has been amended to make minor clarification changes. The rule is necessary in order to protect the wagering public and to ensure that violations of law and rule during simulcasting are handled in a fair and expeditious manner. The rule is reasonable in that it has been used successfully in other racing jurisdictions and, indeed, in other areas of licensure regulated by the Minnesota Racing Commission.

7871.0160 (Emergency Procedures). The entire existing section of rules dealing with televised racing days has been repealed and replaced with new language. However, the language is, in most respects, identical to the repealed language. The proposed language simply expands the scope of simulcasting to include teleracing facilities, alternative facilities and the problems that could occur with them. The new language was necessary in order to conform the Commission rules to the statute, and to clearly define procedures to be followed in the event of an interruption of the audio or visual signal from the host racetrack, a computer interface interruption, a wagering data transfer interruption at a teleracing facility, a complete totalisator failure at a Class B racetrack, and/or a complete totalisator failure at a host racetrack. The new language is necessary in order to clearly define procedures to be followed in each of the preceding instances. The rule is reasonable in that it provides guidance and clarification to the Class B and E licensees, and imposes no undue burden on them and has been used, at least in part, without incident during televised racing.

7873.0110 (Approval of Pari-Mutuel Pools). Subpart 3 has been amended to include the Commission's Director of Pari-Mutuels in having the authority to approve variations and changes in pari-mutuel pools and placement of pools within the program. The rule change is necessary to allow for greater flexibility on the part of the Commission in the event the Director is unavailable. The rule change is reasonable in that it imposes no undue burden on the licensee or the wagering public.

7873.0120 (Pari-Mutuel Betting). The existing rule has been amended to require the licensee to pay deficiencies in net pools for \$1 as well as \$2 wagers. The rule change is necessary to protect the wagering public. The rule change is reasonable in that it has been applied successfully in other areas of licensure regulated by the Minnesota Racing Commission. Subpart 2 has been stricken since this chapter now deals exclusively with live racing.

7873.0190 (Pick Six). The existing rule has been amended to provide that if one or two of the races comprising the Pick Six are canceled or one or two of the races are declared no contest, 100% of the current program's net pari-mutuel pool will be distributed among the holders of pick six tickets which correctly designate the most official winners of the remaining races comprising the pick six. It also provides that the cumulative net pool shall not be distributed, but carried over to the next consecutive racing day. The rule change is necessary in order to clarify ambiguities in the existing rule. The rule change is reasonable in that it will protect the wagering public and allow for more orderly pay outs on pick six wagers. This rule, as well as the proposed language to 7873.0198, are modeled after the Uniform Pari-Mutuel Rules adopted by the Association of Racing Commissioners International.

7873.0198 (Pick Seven). The existing rule has been amended to provide that if three or fewer of the races comprising the pick seven are canceled, or three or fewer of the races are declared no contest, 100% of the current program's net pari-mutuel pool will be distributed among holders of pick seven tickets which correctly designate the most official winners of the remaining races comprising the pick seven. It also stipulates that the cumulative net pool from previous programs shall not be distributed, but carried over to the next consecutive racing day. The change also provides that if four or more races comprising the pick seven are canceled after wagering has been accepted, a full and complete refund of the pari-mutuel tickets sold on the pick seven that day must be made. The rule change is necessary in order to clarify ambiguities in the existing rules. The rule change is reasonable in that it will protect the wagering public and allow for more orderly payouts on pick seven wagers.

7873.0300 (Simulcast Wagering). The entire section has been repealed and included in chapter 7871 which deals exclusively with simulcasting. The deletion was necessary in order to have rules which more clearly pertain to simulcast wagers and live racing wagers. The deletion is reasonable because it clarifies existing rules and makes them easier for the public and industry persons to understand.

7873.0400 (Telephone Account Wagering). Existing language in subpart 1 has been changed for the purpose of making minor clarifications and grammatical changes. Subpart 3 has been changed to allow for persons to use credit cards to open and maintain telephone wagering accounts, and to drop the requirement for a certified check to be received. The change also deletes the requirement for not divulging race results to telephone account customers during racing hours. The rule change is necessary in order to allow the licensee to remain competitive with other forms of legalized gambling. The rule change is reasonable because it imposes no undue burden on the licensee, and makes it easier for patrons to use telephone wagering accounts.

7874.0100 (Direct Deposit; Reporting Requirements, General Provisions). Subpart 3 has been changed to more clearly define the types of race meetings involved and when patrons may redeem tickets from the association or the Commission. The rule change is necessary in order to more easily serve patrons wishing to redeem tickets in light of the live meet and several simulcast programs. The rule change is reasonable in that it imposes no undue burden on the licensee, and has been used successfully in other racing jurisdictions. Subpart 4(E) has been changed to change the word "Commission" to "State". The change is necessary to more accurately define where the breakage monies go. The change is reasonable in that it imposes no undue burden on the licensee, and is merely a grammatical change. The subpart also requires that separate recapitulations be filed for each full card simulcast. The change is necessary for accurate verification by category of General and Breeders' Fund taxes. It is reasonable in that it places no undue burden on the licensee.

7875.0100 (Facilities). The scope of this chapter has been broadened to include requirements for Class E licensees. The rule is necessary to allow the Commission to regulate teleracing facilities. The rule change is reasonable in that it imposes no undue burden on the

licensee, and it has been used successfully in other jurisdictions.

7875.0200 (Equipment). New language has been added to the rule to define the scope of the rule, and to include Class E licensees in this section. Subpart 1 has been specifically changed to require a Class E licensee to provide reports and/or telecommunications equipment necessary to transmit information requested by the Commission for regulatory purposes. The rule change is necessary in order to make the requirements of this chapter inclusive of Class E licensees. The rule change is reasonable in that it imposes no undue burden on licensees, and has been used successfully in other racing jurisdictions.

7877.0100 (Class C Licenses, General Requirements). Subpart 1 has been expanded to provide that employees of Class E licensees must obtain Class C licenses from the Commission. Subpart 4 has been amended to include Teleracing Mutuels Manager under the definitions of racing officials requiring approval by the Commission. The rule change is necessary to protect the integrity of racing by insuring that all employees of teleracing facilities are licensed by the Commission, and to insure that the teleracing mutuels manager is qualified and approved by the Commission. The rule change is reasonable in that it imposes no undue burden on the licensee, and has been used successfully in other areas of licensure by the Minnesota Racing Commission.

7877.0155 (Conditions Precedent to Licensing). Section E has been amended to delete the reference to the Minnesota Bureau of Criminal Apprehension and to substitute the Minnesota Department of Public Safety, Gambling Enforcement Division. It also has been amended to include employees of Class E licensees. E(2) has been amended to include employees of Class E licensees. The rule change is necessary to allow the Commission to investigate Class E licensees and employees of Class E licensees prior to the issuance of a Class C license. The inclusion of these individuals serves to protect the public interest. The rule change is reasonable in that it imposes no undue burden on the licensee, and has been successfully applied in other areas of licensure by the Minnesota Racing Commission.

7878.0100 (Security Officers/Definitions). The rule has been amended to include Class E licensees, and to define "Division" as the Minnesota Department of Public Safety, Gambling Enforcement Division. Subpart 12 has been amended to include security officers at teleracing facilities. The rule change is necessary to provide for proper security officers at all teleracing facilities. The rule change is reasonable in that it imposes no undue burden on the licensee and has been successfully applied in other areas of licensure controlled by the Minnesota Racing Commission.

7878.0110 (Minimum Selection Standards). Subpart 1 has been amended to reflect that security officers at teleracing facilities must meet the same selection requirements as at Class B facilities. It further deletes the requirements for duplicate fingerprint cards to be furnished to the Bureau of Criminal Apprehension. The rule change is necessary in that the Commission cannot be less diligent in its regulation of security of Class E facilities than at currently licensed Class B facilities in the state. The rule change is reasonable in that it imposes no undue burden on the licensee, has been successfully applied in other areas of licensure controlled by the



Commission, and requires less paperwork in the fingerprinting of licensees.

7871.0160 (Security Cooperation). This section has been amended to include Class E licensees and to require that security, injury and incident reports regarding Class E facilities be made available for inspection by the Commission. The rule change is necessary in order to protect the public health and safety. The rule change is reasonable because it imposes no undue burden on the licensee and has been used successfully in other areas of licensure by the Minnesota Racing Commission.

7879.0100 (Qualifications and Appointment of Stewards). The section has been amended to correct an error in the title of Executive Secretary to Director of Pari-Mutuel Racing. The change is necessary to conform this rule to other rules of the Commission and the racing statutes. The change is reasonable in that it imposes no undue burdens.

7897.0100 (Prohibited Acts). Subpart 1 (Scope). This subpart has been amended to include Class E licensees. The rule change is necessary in order to insure that Class E licensees abide by all rules of the Commission. The rule change is reasonable in that it imposes no undue burden, and the Commission cannot be more lenient with one Class of license than another.

7897.0130 (Schedule of Fines). Subpart 5 (Amount of Fines) has been amended to include Class E licensees. The rule change is necessary in order to allow the Commission to impose fines on Class E licensees for infractions of Commission rules and laws. The rule change is reasonable in that it imposes no undue burden on the licensee, and has been used successfully in other areas of licensure controlled by the Commission.

**REPEALER.** Sections 7871.0020, S.1; 7871.0070, 7871.0090, 7871.0150, 7873.0120, S.2, and 7873.0300 are repealed as all references to televised racing days was stricken by 1991 legislation and references to simulcasting are presently included elsewhere in Commission rule.

#### **OTHER STATUTORY REQUIREMENTS**

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

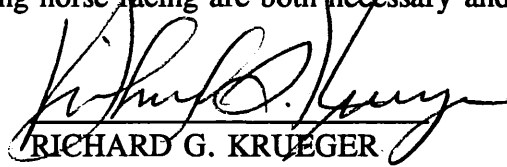
The proposed amendments to the racing rules and new rules indirectly impact small businesses in that these rules may affect vendors and material suppliers in areas where telereading facilities are located. The rule does not affect small businesses disproportionately nor does the rule prevent small businesses from participating in horse racing. The Commission considered the method to reduce the impact of the amendments and new rules on small business pursuant to Minn. Stat. 14.115, subd. 2 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. The Commission's review included evaluation of the impact of the rules not only on the racetrack but also individual owners and trainers who work at the racetrack and small business vendors

providing goods and services to the racetrack.

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 and 116.07, subd. 6 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments or new rules 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 additions and amendments to the existing rules governing horse racing are both necessary and reasonable.



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MINNESOTA RACING COMMISSION