

**STATE OF MINNESOTA**  
**MINNESOTA RACING COMMISSION**

In the Matter of the Proposed Adoption                    **STATEMENT OF NEED**  
of Rules Relating to Amendments to Existing            **AND**  
Rules    **REASONABLENESS**

**GENERAL**

In an effort to improve the quality of horse racing in this State, and to simplify rules relating to the conduct of County Fair (Class D) pari-mutuel horse racing, the Minnesota Racing Commission ("Commission") proposes certain amendments to the rules of racing. The proposed amendments are consistent with rules in other racing jurisdictions and are necessary in order for Minnesota to remain competitive in the horse racing industry. The Commission believes the proposed amendments are reasonable because they are customary in other racing jurisdictions. The burdens imposed on the participants are not undue, and compliance with similar rules has been obtained in other jurisdictions.

**STATUTORY AUTHORITY**

The Commission is empowered by Minn. Stat. ch. 240 to:

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

The Commission is also specifically authorized by Minn. Stat. ch. 240. to promulgate rules governing License Applications, Pari-Mutuel Rules on Televised Race Days, Simulcast Wagering on Televised Race Days, Appointment of Officials, Pari-Mutuel Rules, Direct Deposit and Reporting Requirements, Facilities and Equipment, Class C Licenses, Security Officers, Stewards, Thoroughbred/Quarter Horse/Arabian and other Breed races, Racing Equipment, Entries and Subscriptions, and Medical Testing.

These broad statutory provisions clearly authorize the Commission to promulgate the proposed amendments to the rules governing horse racing in Minnesota.

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

#### **7870.0800 DEADLINES FOR SUBMISSION OF CLASS D LICENSE APPLICATION.**

The Commission is proposing to change the time period for applying for a Class D license to 45 days prior to the proposed start of the race meet rather than 90 days, as currently reflected in the rule. The rule change is necessary in that it allows a Class D applicant the necessary time to proceed through the application process, especially for county agricultural societies that will be seeking licensure for the first time.

The rule change is reasonable, in that the Commission wishes to simplify the application process for Class D license applicants, and the change will not impede the Commission's investigative and regulatory work prior to the consideration and issuance of Class D licenses.

#### **7871.0010 APPLICATION FOR PARI-MUTUEL POOLS.**

The Commission is proposing to change subpart 1 (**submission of pari-mutuel requests**) and subpart 2 (**disposition of requests**), by inserting the words "or D" to include Class D licensees in this rule. The rule change is necessary in that Class D licensees may apply for pari-mutuel pools on televised race days in conjunction with a pari-mutuel county fair race meet, and the Commission must act on those requests.

The rule change is reasonable in that it provides a vehicle for the Commission to receive and consider pari-mutuel pool requests on televised race days from Class D licensees.

#### **7871.0020 APPROVAL OF PARI-MUTUEL POOLS ON TELEVISED RACE DAYS.**

The Commission is proposing to change subpart 1 (**request**), by inserting the words "or D" to include Class D licensees in this rule. The rule change is necessary in order to allow a county fair to apply for pari-mutuel pools on televised race days.

The rule change is reasonable because it allows the Commission the authority to grant the request, and also requires the Class D licensee to operate within the parameters of the rule in the same manner as Class B licensees.

#### **7871.0090 SIMULCAST WAGERING ON A TELEVISED RACE DAY.**

The Commission is proposing to change subpart 1 (**request**) by adding the words

"or D" to the existing language. The rule change is necessary in order to allow a Class D licensee (county fair association) to request pari-mutuel wagering on simulcast races televised to their facility on a televised race day assigned by the Commission. As the rule now stands, it only pertains to Class B licensees of the Commission.

The rule change is reasonable in that it allows Class D licensees to conduct simulcast wagering at their facility on televised race days assigned by the Commission, and allows the Commission to consider and decide on such a request. Further, the rule change requires the Class D licensee to conduct such simulcasting in keeping with all rules of the Commission.

7871.0120 APPOINTMENT OF PRESIDING OFFICIAL.

The Commission is proposing a change to subpart 2 (**communication with stewards**) to include the words "or D" immediately before the word "licensee" in the first sentence. The rule change is necessary in order to require a county fair to provide the Commission's presiding official with telephone communications with the stewards at a host track simulcasting into the county fair. The presiding official needs to be in constant communication with the stewards at host tracks to insure that wagering pools are properly comingled, and that all systems are in proper communication.

The rule change is reasonable in that it serves to insure the integrity of racing at county fairs and protect the wagering public in simulcasting situations. The rule change is also reasonable in that the Commission should not require less of a Class D licensee in this area than it does of a Class B licensee.

7874.0100 DIRECT DEPOSIT; REPORTING REQUIREMENTS.

The Commission is proposing a change to subpart 3 of the General Provisions section (**payment of unredeemed tickets**) to clarify the difference between a Class B and Class D licensee, and to mandate that ten days after the end of a Class D (county fair) meet, the licensee must remit to the Commission an amount equal to the value of unredeemed tickets from the race meeting. The rule change is necessary in order to clearly define the different requirements in this area for Class B and Class D licensees, and to provide a mechanism for insuring that unredeemed tickets from county fair pari-mutuel meets are paid in a timely manner.

The rule change is reasonable in that it more clearly defines requirements for

Class B and D licensees, and serves to ease the burden on Class D licensees, who operate on a non-profit basis. Class D licensees cannot be expected to keep personnel on staff for 100 days after the end of the race meeting in order to make payment to bettors on unredeemed tickets. Rather, the Commission will perform this function beginning ten days after the end of the meet. This rule is also reasonable, in that it serves to insure and protect the integrity of pari-mutuel wagering at county fairs, and those persons placing wagers at county fairs.

7875.0100 FACILITIES.

The Commission proposes to make a change to subpart 4 (**racing surfaces**) to add language requiring Class D licensees to submit documentation regarding their racetrack surface to the Commission seven days prior to the start of the meet. The rule change is necessary because the current rule requires licensees to make such submissions seven days after the start of a race meet. In the case of county fair racing, most meets will likely not run more than three or four days, making the submission of documentation to the Commission "after the fact" and of no use to the Commission.

The rule change is reasonable in that it imposes no burden on the Class D licensee to submit such documentation seven days prior to its race meet, and it allows the Commission to insure that the meet will be conducted on a racing surface deemed safe for all human and animal participants. The rule change is also reasonable in that it enhances the Commission's regulatory abilities in making determinations relative to the health, safety and welfare of racing participants.

7875.0200 EQUIPMENT.

The Commission is proposing to make a change to subpart 4 (**starting gates**) to allow Class D licensees to operate race meets with one starting gate, as opposed to two such gates for Class B licensees. The rule change is necessary in order to ease the burden on Class D licensees for conducting their meets and, at the same time, to still minimum standards for the safe conduct of pari-mutuel racing at county fairs.

The rule change is reasonable in that it eases the cost burden for county fairs conducting pari-mutuel racing, and does not impede the Commission's ability to regulate the safety and integrity of the sport.

The Commission is proposing a change to subpart 5 (**photo-finish**) to except the

requirement for Class D licensees to use a photo-finish system while conducting their races. The rule change is necessary in order to ease the cost burden on the licensee, and to allow for greater flexibility on the part of the licensee in the conducting of its races.

The rule change is reasonable, in that the Commission has determined that a photo-finish system is not cost-effective for county fair racing. The Commission has determined that the safety and integrity of pari-mutuel racing at county fairs will not be impaired by the absence of a photo-finish system.

The Commission is also proposing a change to subpart 7 (**film patrol**), to lessen the requirement for the use of cameras during county fair race meets. The rule change is necessary in order to lessen the cost burden of conducting county fair pari-mutuel racing, while still maintaining the use of some camera equipment during the conduct of races.

The rule change is reasonable because it allows the Commission to mandate the use of cameras for standardbred and quarter horse races, without "over-regulating" or requiring unnecessary equipment. The rule change is also reasonable, because it does not lessen the Commission's ability to insure the safety and integrity of pari-mutuel racing at county fairs.

#### 7877.0135 DUAL LICENSING.

The Commission is proposing to add a new subpart e to the rule which will allow stewards at county fair meets to also act as placing judges and timers. The rule change is necessary in order to ease the financial burden on licensees conducting county fair racing, while still maintaining the integrity of pari-mutuel racing.

The rule change is reasonable because it eases any undue hardships on county fair licensees, and will allow the Commission on an individual basis to determine what dual roles will be permitted. The rule is also reasonable in that it still allows the Commission to require additional officials if deemed necessary. Rules of this type have been used successfully in other racing jurisdictions without problem.

#### 7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES.

The Commission is proposing a change to subpart 3(G) (**jockeys and apprentice jockeys**) to allow jockeys and apprentice jockeys to determine whether or not they will wear flak jackets. The rule change is necessary in order to allow jockeys or apprentice jockeys to determine, on an individual basis, whether or not they will wear a flak jacket.

The rule change is reasonable in that it serves to allow individuals greater freedom in the area of personal safety, and does not require the jockey or apprentice jockey to accede to the wishes of individual trainers in this area. The rule change is reasonable because the Commission wishes to allow participants in the sport the ability to protect themselves from injury as much as possible. The change is also reasonable because the Commission has determined that an announcement can be made over the PA system regarding which individuals are wearing flak jackets, which might add about one pound in weight to any individual rider. Thus, the wagering public will not be impeded in handicapping individual riders wearing flak jackets.

7878.0170 CLASS D SECURITY OFFICERS.

The Commission is proposing to add this new section which will apply to security officers working at county fair meets. The rule provides that security officers at county fair meets may be provided by the sheriff's office in the county in which the fair is being held, that the county sheriff or his/her designee will act as the Director of Security for the meeting, and that the sheriff may utilize his deputies, reserve deputies, police officers, reserve officers, or any other individual who meets the Commission's standards for security officers as outlined in Mn. Rule 7878.0110. The new rule is necessary in order to ease the financial burden on county fair licensees, and to allow for expedient and timely response to security issues at the racetrack.

The new rule is reasonable in that it does not impede the Commission's ability to regulate in the security area, and it will allow for local security officers to be utilized for county fair race meets. In addition, the Commission's ability to insure the safety and integrity of pari-mutuel racing will not be deterred.

7879.0200 AUTHORITY AND DUTIES OF STEWARDS.

The Commission is proposing to add new language to subpart 1 (**general authority of stewards**) to allow the stewards flexibility in dealing with various matters that may arise during the conduct of a county fair race meet. The rule is necessary in that it will allow the stewards to take expeditious action on matters that may arise while a race meet is in progress.

The new language is reasonable in that it provides that the stewards shall consult with the Director of Security, Commission Veterinarian, Director of Pari-Mutuels, as determined

appropriate, before making the requested change. The new language is reasonable in that it allows for a race meet to continue without calling a special meeting of the Racing Commissioners to consider such changes. The rule has been applied successfully in other racing jurisdictions.

The Commission is also proposing new language to allow for hearings and other actions to take place for a period of 90 days after the conclusion of the meet, by a single knowledgeable person designated by the Commission. The new rule is necessary to order to allow for such hearings and actions to be conducted within the parameters of the Administrative Procedures Act and, at the same time, allow those actions to be conducted by a designate of the Commission rather than a board of stewards hired by the licensee. The rule is necessary to lessen the financial burden on Class D licensees, by not requiring them to keep stewards and other racing officials on the payroll for 90 days after the conclusion of a three or four day race meet.

The new rule is reasonable in that it does not impede the Commission's ability or authority to conduct such hearings, and it will insure that necessary hearings and other actions take place in accordance with all proper procedures. It is reasonable to protect the participants in the sport, and to foster the public's confidence in the Commission's ability to regulate it.

#### 7883.0100 ENTRIES AND SUBSCRIPTIONS.

The Commission is proposing to add new language to subpart 16 (**workout requirements**). The new language will ease the requirements for workouts for horses participating at county fair meets. The new language is necessary to prevent undue hardship for horsemen desiring to run horses that have no documentation or previous workouts and/or the necessary funds to employ persons to find the documentation.

The new language is reasonable because it maintains the integrity of racing by allowing the Commission veterinarian to make determinations on individual horses as to what will be required in order for that individual horse to start a race. The rule is also reasonable in that it will allow the wagering public to have confidence in the horses that are scheduled to start in these races, and to know that they have been examined by the Commission veterinarian.

#### 7883.0160 POST TO FINISH.

The Commission is proposing to add new language to subpart 6 (**inteference and**

**willful fouling**) of the thoroughbred, quarter horse, arabian and other breed racing rules. The new language pertains to jockeys' use of whips on horses during races. The rule is necessary in order to give the stewards the ability to discipline and fine jockeys for improper use of the whip. The rule is also necessary in that it clarifies the proper use of the whip, and conditions under which whipping is allowed.

The new rule is reasonable in that it will serve to protect against abuse to animals while still insuring that a jockey will always use his/her best efforts to win a race. The rule is also reasonable in that it serves to alleviate public concern over the use of whips during races, and demonstrates the Commission's concern for the welfare of the horses involved in the sport. Such rules have been applied successfully in other racing jurisdictions.

#### 7883.0170 RACING EQUIPMENT.

The Commission is proposing a new subpart 1 (**bridles and whips**) to clarify the weight of bridles and whips, and further specifying the types of whips allowed. The rule is necessary as a companion rule to 7883.0160, wherein the Commission is proposing rules regarding whips and whipping.

The rule is reasonable because it specifies and clarifies the types of equipment permitted, and allows the Commission to impose sanctions for violations of this rule. The rule also serves to foster the public confidence in the humane treatment of horses involved in the sport.

#### 7892.0100 DETENTION BARN.

The Commission is proposing to make a change to subpart 1 (**barn**), to allow county fair associations to provide two wash areas and three stalls to serve as a detention area. The rule is necessary to alleviate the financial burden which would be imposed if the same requirements were applied to Class D racing as are currently in effect for Class B licensees. The rule is necessary in order for the Commission to insure the integrity of racing and drug testing for horses participating in county fair racing.

The rule is reasonable in that the integrity of racing is not compromised, and the public confidence in the Commission's drug testing and regulatory ability is maintained.

#### 7895.0300 QUARTER HORSE BREEDERS' FUND

The Commission is proposing a change to subpart 2 (**division of money**) to delete



language referring to purse supplements being paid in restricted races. The change is being recommended after consultation with the Minnesota Quarter Horse Racing Association and, in fact, is being made at their request. The change is necessary in order to allow quarter horses racing in open company to collect purse supplements.

The rule change is reasonable in that it mirrors the rules currently in effect for thoroughbreds and other breeds racing in the state. The rule is also reasonable in that it allows for equitable distribution of purse supplement monies among the quarter horse owners and breeders, and serves to promote quarter horses racing in open company. Further, the Commission is not hampered in its regulation and oversight of the quarter horse breeders' fund, similar rules have been applied successfully in other racing jurisdictions.

7871.0100 TELEPHONE ACCOUNT WAGERING.

The Commission proposes to delete this entire rule. The rule change is necessary because a July, 1992 Minnesota Supreme Court ruling declared telephone account wagering unconstitutional in Minnesota.

The deletion of this rule is reasonable in order to make the Commission's rules conform to existing state law.

7873.0400 TELEPHONE ACCOUNT WAGERING.

The Commission proposes to delete this rule in its entirety. The rule change is necessary because a July, 1992 Minnesota Supreme Court Ruling declared telephone account wagering to be unconstitutional in Minnesota.

The deletion of this rule is reasonable in that serves to bring the Commission's rules into conformance with existing state law.

**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 to reducing the impact of the rule on small business.

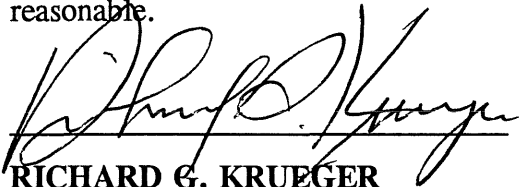
The proposed amendments to the racing rules and new rules indirectly impact small businesses in that these rules may affect vendors and material suppliers, as well as Class C occupational license holders. The rule does not affect small businesses disproportionately, nor does the rule prevent small businesses from participating in horse racing. On the contrary, these

rules and amendments serve to enhance the ease with which small businesses may participate in Class D racing. The Commission considered the methods 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 licensee than another. The Commission's review included evaluation of the impact of the rules not only on the county fair association, but also individual owners and trainers who will participate in county fair racing, and small business vendors providing goods and services to the county fair association.

Minn. Stat. 14.11, subd. 2 is not applicable 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. 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 existing rules and new rules governing horse racing are both necessary and reasonable.



**RICHARD G. KRUEGER**

**MINNESOTA RACING COMMISSION**