

R-04816

Minnesota Racing Commission

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Governing Horse Racing: Definitions, Duties and Responsibilities of Class C Licensees, Duties and Responsibilities of Racing Officials, Entries and Subscriptions, Preference System, Scratches and Nonstarters, Claiming Races, Post to Finish, Entering and Drawing of Horses at Class D Facilities, Qualifying Races, Post Time and Starting, Driving Rules, Mortality Review Committee and Prohibited Acts; Chapters 7869, 7873, 7877, 7883, 7884, 7891, 7897.

INTRODUCTION

The Minnesota Racing Commission (MRC) continuously strives to keep its rules current and relevant as the industry evolves. This rulemaking initiative will modify, clarify, and update various existing MRC rules pertaining to licensing, animal welfare, and the safety of all participants. There is an emphasis on horse health, veterinary practices, medications, and racing rules. Many of these changes are necessitated by new Federal legislation. Following is a summary of the changes.

7869.0100 Subp. 49a. Definitions.

This definition is being added to define “Pylons” which is used elsewhere in the rules.

7869.0100 Subp. 51a. Definitions.

This definition is being updated to allow a fewer number of live races/racing day for Thoroughbreds and Quarter Horses (7 live races/racing day) and keeping the number for Standardbreds consistent at 8 live races/racing day.

7873.0188 Subp. 7. Restrictions on superfecta races.

This rule is being changed to allow five betting interests on superfecta wagering. This is a reduction from six betting interests.

7877.0170 Subp. 9L. Veterinarians.

This rule is being updated to include new criteria set forth by the Horseracing Integrity and Welfare Unit (HIWU).

7877.0170 Subp. 9O. Veterinarians.

This rule is being added to provide the commission veterinarians with written documentation of when veterinarians and veterinary assistants enter and leave the grounds of the racetrack.

7877.0170 Subp. 9a. B11. Veterinary assistants.

This rule is being added to prohibit veterinary assistants from having contact with an entered horse within 24 hours of the race in which the horse was entered.

7877.0170 Subp. 9b. A10. Equine masseuse.

This rule is being added to prohibit an equine masseuse from having contact with an entered horse within 24 hours of the race in which the horse was entered.

7877.0175 Subp. 8b. A6. Veterinarian's list.

This rule adds a requirement for the commission veterinarians to place Thoroughbreds that have received an intraarticular injection on the Veterinarian's list. This is consistent with a HISA rule.

7877.0175 Subp. 8b. A7. Veterinarian's list.

This rule is being renumbered from "A6" to "A7."

7877.0175 Subp. 8b. A8. Veterinarian's list.

This rule is being renumbered from "A7" to "A8."

7877.0175 Subp. 8b. A9. Veterinarian's list.

This rule is being renumbered from "A8" to "A9."

7877.0175 Subp. 8k. Commission veterinarian.

This rule is being added to require all commission veterinarians to be licensed and in good standing with the Minnesota Board of Veterinary Medicine.

7883.0100 Subp. 6K. Prohibited entries.

This rule change prohibits entry of a horse that, as of January 1 of the calendar year, has not started in two or more years. This is a reduction from three or more years.

7883.0100 Subp. 6L. Prohibited entries.

This rule is being added to prohibit entry of a horse where all requirements to compete in the entered race are not completed.

7883.0100 Subp. 8a. Cancellation and postponement.

This rule is being added to specify which racetrack personnel will be involved in the determination of race cancellations due to questionable racetrack or racing conditions.

7883.0100 Subp. 9. **Closing of entries.**

The word “telegraphed” in this rule is being updated to “tele facsimiled” for clarity.

7883.0100 Subp. 10. **Loss of entries.**

The word “telegraphed” in this rule is being updated to “tele facsimiled” for clarity.

7883.0100 Subp. 11A. **Drawing of entries.**

This rule is being updated to clarify how entries will be reduced when the proper number of starters is exceeded. The Association’s established Preference Date System will be used instead of an outdated lot system.

7883.0100 Subp. 16C. **Workout requirements.**

This rule is being updated to specify that a first-time starter less than four years of age must have a timed workout out of the gate no more than 60 days prior to and no less than 48 hours before the race in which it is entered.

7883.0100 Subp. 16D. **Workout requirements.**

This rule is being updated to clarify requirements for first-time starters four years of age or older including gate approval no more than 60 days prior to the race in which it is entered, and at least one timed workout out of the gate no more than 60 days prior to the race in which it is entered, and one timed workout observed by the commission veterinarian no less than 48 hours before the race in which it is entered.

7883.0100 Subp. 17. **Refused entries.**

This rule is being updated to strike unnecessary language.

7883.0110 Subp. 2. **In-today horses.**

This rule is being updated to include “main track only” horses that are also entered the following day as “in today” horses. In this instance, horses have no preference date and are only considered if the race underfills.

7883.0120 Subp. 1a. A. **Stewards must approve scratching horses.**

The word “the” is being added as a housekeeping change.

7883.0120 Subp. 1c. B. **Drawing horses into a race from also-eligible list.**

This rule updates the language, so all horses drawn into a race from the also eligible list start in the outermost post position.

7883.0140 Subp. 7B. **Invalid claims.**

This rule is being updated to include “or fee”.

7883.0160 Subp. 14E. **Horse becomes disabled or otherwise unable to finish.**

This rule is a housekeeping change to correct the term “steward” to “stewards”.

7884.0125 K. ENTERING AND DRAWING OF HORSES AT CLASS D FACILITIES.

This rule is being added so that any horse being entered or drawn into a race at a Class D facility must have all requirements completed to compete.

7884.0190 Subp. 2F. QUALIFYING RACES.

This rule is being removed as it is found elsewhere in the section 7884.

7884.0240 Subp. 8A. Determination of a fair start.

This proposed rule is being added to require a fair start pole to be erected at a point before the start that is clearly identifiable.

7884.0240 Subp. 8B. Determination of a fair start.

This proposed rule is being added to require the Judges to call for an inquiry sign to be displayed immediately, should a horse not reach the fair start pole when the horses are released at the starting point.

7884.0240 Subp. 8C. Determination of a fair start.

This rule is being renumbered from subpart “8” to subpart “8C.”

7884.0240 Subp. 10. Helmets and safety vest to be worn.

This rule is being changed to require any person driving a horse on the racing track surface to have a properly fastened protective riding helmet and safety vest.

7884.0260 Subp. 7. Use of stirrups.

This rule is being updated to add that at no time during the race should the driver’s foot or feet contact any part of the horse’s body.

7884.0260 Pylon violations

This proposed rule strikes out older language and replaces it with the USTA rule, which is clearer and more specific.

7891.0120 Subp. 1. Committee.

This rule changes the chief steward to the HISA Safety Director and removes “or designee”.

7891.0120 Subp. 1B. Committee.

This rule is being updated to add “chief”.

7891.0120 Subp. 1C. Committee.

This proposed rule is being added to include the on-track veterinarian or commission designee in the mortality review committee. This replaces the association veterinarian for HISA rules.

7891.0120 Subp. 1D. Committee.

This rule is being renumbered from subpart “1C” to subpart “1D.”

7891.0120 Subp. 1E. Committee.

This rule is being renumbered from subpart “1D” to subpart “1E.”

7891.0120 Subp. 1F. Committee.

This rule is being renumbered from subpart “1E” to “1F.”

7891.0120 Subp. 1G. Committee.

This rule is being renumbered from subpart “1F” to “1G.”

7891.0120 Subp. 1H. Committee.

This rule is being renumbered from subpart “1G” to “1H.”

7891.0120 Subp. 1I. Committee.

This rule is being added to include the horseperson’s representative. This is a recommended HISA change.

7891.0120 Subp. 1J. Committee.

This rule is being renumbered from subpart “1H” to “1J.” It is also being updated so the HISA Safety Director replaces the chief steward or designee.

7897.0100 Subp. 25 PROHIBITED ACTS.

This rule is being added to prohibit the possession of thyroid powder, tablets, or any other form of thyroid supplement on the grounds of the racetrack, unless prescribed for a specific horse with documented hypothyroidism and approved by the Chief Commission Veterinarian.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact E. Joseph Newton at the Minnesota Racing Commission, 15201 Zurich Street, Suite 212, Columbus, MN 55025; phone 651-356-1200; fax 651-925-3954; or email joseph.newton@state.mn.us. TTY users may call the Racing Commission at 800-627-3529.

STATUTORY AUTHORITY

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.03, 240.23 and 240.24.

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.23, which provides as follows:

The Commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing: a) 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, b) wire and wireless communications between the premises of a licensed racetrack and any place outside the premises, c) information on horse races which is sold on the premises of a licensed racetrack, d) liability insurance which it may require of all racetrack licensees, e) the auditing of the books and records of a licensee by an auditor employed or appointed by the Commission, f) emergency action plans maintained by licensed racetracks and their periodic review, g) safety, security, and sanitation of stabling facilities at licensed racetracks, h) entry fees and other funds received by a licensee in the course of conducting racing which the Commission determines must be placed in an escrow account, i) affirmative action in employment and contracting by licensed racetracks, and j) procedures for the sampling and testing of any horse that is eligible to race in Minnesota for substances or practices that are prohibited by law or rule; and (k) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Minnesota Statutes section 240.24 authorizes the Racing Commission to “make and enforce rules governing medication and medical testing for horses running at licensed racetracks.” And Minnesota Statutes section 240.03 specifies Racing Commission powers and duties which include regulating horse racing in Minnesota to ensure that it is conducted in the public interest and to take all necessary steps to ensure the integrity of racing in Minnesota.

REGULATORY ANALYSIS

- (1) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

The people probably affected by these proposed rule changes are racetracks, horse owners, horse trainers and other persons involved in horse racing. All stakeholders will benefit from the updating, simplification, and clarification of existing rules. The Racing Commission believes that there will be no increased cost to anyone.

- (2) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

There is no anticipated change in costs to the Racing Commission or to any other state or local agency due to these proposed amendments.

- (3) A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

The Racing Commission believes the proposed changes will not be intrusive, as they mainly seek to clarify and simplify existing rules or bring current rules into alignment with industry

standards. The cost to implement them will be minimal. The Racing Commission has not identified any less costly or less intrusive methods for achieving the purposes of the proposed rules.

- (4) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

There were no alternative methods available. Several meetings were held with industry participants and stakeholders. Many of the proposed rules reflect changes in national racing standards and were presented by industry participants and stakeholders. Other rules changes are proposed to update, clarify, or simplify existing rules.

- (5) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

There are no significant anticipated costs to governmental units, businesses, or individuals. Most of these proposals seek to clarify or simplify existing rules, conform the rules to industry practices, or conform rules to national trade association rules to keep them up-to-date and consistent with requirements in other racing jurisdictions.

- (6) The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.**

The consequences of not adopting the proposed rules would be that some of Minnesota's horse racing and medication rules would be outdated and inconsistent with national practices. This is especially true with Thoroughbred rules as this breed currently rules under HISA and HIWU national rules.

- (7) An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.**

In January 2021 federal legislation was enacted creating the Horse Racing Safety and Integrity Authority. There are new federal regulations in place regarding Thoroughbred horse racing. There are no current differences between the federal regulations regarding these proposed rule changes. Non-Thoroughbred horse racing is regulated by the various individual state racing commissions. Several of the proposed rules are aimed at achieving uniformity across states, reciprocity with other jurisdictions, and adoption of industry model rules and safety initiatives and to stay abreast of current Federal regulation.

(8) An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

These rules are specific to horse racing but when required are consistent with state regulations for the Boards of Animal Health and Veterinary Medicine and USDA APHIS requirements. Many of these proposed rules are meant to align with the new federal HISA program which went into effect on July 1, 2022, and HIWU rules that became effective June 1, 2023. The cumulative effect is unknown as the program is still evolving. The remainder of the rules are updates or minor changes to existing rules with no specific cumulative effects.

PERFORMANCE-BASED RULES

These rules are proposed to support the horse breeding industry consistent with the Racing Commission's mission. As required by Minnesota Statutes, section 14.002, they were developed with every effort to emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated parties and the agency in meeting those goals. We consulted with staff, commissioners, the Office of the Attorney General, interested industry members, and regulators from other states. We also reviewed model rules and rules in effect in other states.

ADDITIONAL NOTICE

The Racing Commission began work on these rule proposals in July of 2023 after receiving recommendations from racing stewards, racetracks, Racing Commission staff and industry members. Several stakeholder meetings were held to discuss the proposals. Meetings were held at various times with Class A and B license holders and industry stakeholder groups. Horse trainers, owners, racetrack representatives, racing officials, horsepersons groups, the Jockey's Guild, and Racing Commission staff were consulted. The public was encouraged to submit additional proposals.

The proposed rules were revised and then thoroughly discussed at a public meeting of the Racing Commission's Racing Committee, a panel comprised of three commissioners, on February 8, 2024. Members of the horseperson's groups public provided valuable input at this meeting. The Racing Committee unanimously voted to recommend the rules to the full Racing Commission with some minor modifications. After the initial 60-day comment period, on February 15, 2024, the full Minnesota Racing Commission met and accepted the Racing Committee's recommendation and voted to publish the Notice of Intent to Adopt Rules. The rules discussion was clearly included on all agendas duly prepared and mailed or e-mailed 7 days prior to these public meetings. Agendas were also posted on the Racing Commission's website. Minutes and recordings of the meetings are available on the Racing Commission's website at www.mn.gov/mrc/.

Our Notice Plan includes:

1. Publishing the Request for Comments in the July 24, 2023, edition of the State Register.

2. Posting the Request for Comments on the Commission's website at <https://mn.gov/mrc/> with a link to the Office of Administrative Hearings rulemaking e-comments website.
3. Posting the Request for Comments on the Office of Administrative Hearings rulemaking e-comments website with a link from commission's website.
4. Posting the Request for Comments on the Commission's Facebook page.
5. E-mailing the Request for Comments to everyone registered to be on any of the Commission's mailing lists, in addition to those persons on the rulemaking list required under Minnesota Statutes, section 14.14, subdivision 1a.
6. E-mailing the Request for Comments to each of the commission's contact persons with the Class A & B licensees.
7. E-mailing the Request for Comments to each person holding a Class C license from the Commission to work as a racing veterinarian in the past two years.
8. E-mailing the Request for Comments separately to each of our contacts at the six horsepersons' organizations that are affected by horse racing in Minnesota, along with a specific request that they post it on their website or otherwise communicate it to their members. These organizations include: the Minnesota Thoroughbred Association, the Minnesota Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Jockey's Guild, and the United States Trotting Association.
9. E-mailing the Request for Comments to organizations in Minnesota that we have identified as having an interest in animal health, including the Minnesota Board of Animal Health, the Minnesota Board of Veterinary Medicine, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University of Minnesota College of Veterinary Medicine. We will request that these organizations disseminate the Request for Comments to their members and constituents as they see fit.
10. The start of this rulemaking project was announced at the July 18, 2023, public meeting of the Minnesota Racing Commission.
11. Commission staff will hold a public stakeholder meeting within the 60-day comment period, to obtain input from interested persons. This meeting will be announced at Commission meetings, via our website, and via our mailing lists as described above.
12. Commission staff will update the Commission and the public on the progress of rule development at each regularly scheduled public meeting of the Minnesota Racing Commission.

CONSULT WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Racing Commission will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of

the documents that we send to the Governor's Office for review and approval. We will do this before the Racing Commission publishes the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Racing Commission will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation to comply with these rules. The Racing Commission has determined that they will not, because all activity that these amendments affect occurs on licensed racetrack grounds or private farms, not out in the local community. There are times where we may have to contact local law enforcement or county/city attorney offices, but that is in the normal course of fulfilling our duties and responsibilities when events warrant. It is not anticipated that these amendments will either increase or decrease those contacts.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Racing Commission has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Racing Commission has determined that the cost of complying with the proposed rules will be negligible and could not exceed \$25,000 for a small business. The Racing Commission has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small city.

RULE BY RULE ANALYSIS

7869.0100 DEFINITIONS.

Subp. 49a. Pylons.

Pylons, flexible poles marking the inner portion of the racetrack, are present to limit accidents from horses going off course or to keep drivers from gaining an unfair advantage by taking a shorter route. This definition is added as pylons are mentioned elsewhere in this rule packet. Exhibit 1 and Exhibit 2.

Subp. 51a. Racing Day.

A portion of this rule, specific to Thoroughbred and Quarter Horse racing, has been changed from eight live races to seven live races. This rule is needed for several reasons. The number of racehorses and racing-bred foals in the United States has steadily decreased in recent years. (Exhibit 3) This makes it more difficult to successfully card full fields of competitive racehorses, which then impacts the fans' ability to enjoy horse racing. In addition, having the option to card seven races per day will have a natural effect of helping increase average Thoroughbred field size, which decreased to a low of 7.40 in 2023. (Exhibit 4) Larger fields typically correlate with larger pari-mutuel handle numbers, which then increase purse account contributions for horsepersons. Many other comparable tracks throughout the country utilize a seven-race program, including Emerald Downs, Hawthorne Park, Ohio, Lone Star Park, Louisiana Downs and Penn National. Most of these are done under house rule, although Ohio has added it to their administrative rules (Exhibit 5).

The Horse Racing Integrity Safety Act (HISA), which now regulates Thoroughbred racing, also plays a role in decreasing field size, primarily due to the long turnaround time for drug testing and removing horses from the Veterinarian's list. For instance, prior to HISA a horse working in front of a MRC commission veterinarian to be removed from the Veterinarian's list could accomplish this in 5 to 7 days; under HISA that time frame is 14 to 21 days. It is a similar problem for those horses returning to racing after being off for a year. Under HISA these horses need several workouts with a final MRC commission veterinarian approved workout and drug testing. Again, this process now takes about 14 to 21 days to complete if all goes as expected. A horse cannot enter any race if it is on the Veterinarian's list and cannot be removed until all drug testing is complete and reported as negative. Entries are taken seven days before the race, which means that a horse could be unavailable to race for at least 3 weeks, if not more, making for shorter field sizes. Exhibit 6, Exhibit 7.

There is no change for the Standardbred horses as their number of foals and racehorses has increased over the past years. (Exhibit 8) In addition, Standardbred races are run every 22 minutes versus 31 minutes for Thoroughbred and Quarter Horses, keeping fans more engaged as horses are continually on the track surface either warming up or racing.

7873.0188 SUPERFECTA.

Subp. 7. Restrictions on superfecta races.

The number of horses required for superfecta racing in this proposed rule change has been decreased from a 6-horse field to a 5-horse field again primarily due to the nation-wide shortage of racehorses and ability to fill races. Too often races are run with only five horses, which restricts a racetrack's ability to offer certain wagers, including the Superfecta. This change in Superfecta wagering is needed to support the betting interests of fans and horsepersons.

Other jurisdictions throughout the country offer superfecta wagering on 5 horse fields, including New York and Florida. Ohio, and other jurisdictions, allow an option for the association to offer Superfecta wagering on 5 horse fields. Kentucky allows for the chief state steward to authorize the association to offer this wager at the request of the association. Going even further,

California only restricts the Superfecta wager based on field size until the Superfecta pool has opened for wagering in California, which reduces the need to cancel active wagers after a late scratch. Exhibit 9, Exhibit 10.

7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES.

Subp. 9. Veterinarians.

L.

This proposed rule is modified as attending veterinarians treating Thoroughbred racehorses are now disciplined under HISA and may be provisionally suspended, depending on the violation. Provisional suspensions occur for various reasons, none of which are in the best interest of the racehorse. For those veterinarians that are provisionally suspended, once all appeals to HISA have been exhausted, the Minnesota Board of Veterinary Medicine needs be notified as the attending veterinarian, at the very least, has exhibited unprofessional conduct, deceived, or defrauded the betting public, and shown a clear disregard for the health, welfare, or safety of their patient. This violates the Minnesota Board of Veterinary Medicine rule 9100.0700, Unprofessional Conduct, subp.1B. Once notified, it is up to the Board of Veterinary Medicine as to whether they take any disciplinary action against the veterinarian. Exhibit 11.

O.

This has been a house rule at both racetracks for at least ten years, but with the advent of heightened security from HISA and other groups it needs to be added as an administrative rule. (Exhibit 12) It is important for stable gate personnel, racetrack security, and MRC veterinarians to know which attending veterinarians or their assistants are present on the backside of the racetrack should an emergency occur. Accidents happen in stalls, on pathways, and on the main and training tracks and knowing which veterinarians are present alleviates confusion and saves time in those instances where a rapid response is needed. It also ensures that attending veterinarians are present during training and racing, again to assist with any accidents that may occur. It is reasonable to know whether a specific veterinarian is present as MRC rule 7877.0175, subp. 8(i) allows MRC commission veterinarians to treat horse emergencies only if the attending DVM is not on the grounds. Further, the form provides a day-by-day view not only of which attending veterinarians licensed by the MRC are present but, also when they are on site. This serves two purposes: (1) It allows the MRC veterinarians and HISA to monitor and ensure that the veterinary daily reports are correct as submitted and (2) Monitors the actual times present, as no veterinarian should be present on the grounds at 3AM or other odd hours unless there is a documented veterinary emergency.

Subp. 9a. Veterinary assistants.

B.

This is an oversight that needs to be corrected. Like veterinarians and animal chiropractors, already covered under MRC rules 7877.0170, subp. M and 7877.0170 subp. 9C, no veterinary assistant should have contact with a horse within 24 hours of a race. Veterinary assistants should

be kept to the same high standards as the individuals employing them. While attending veterinarians are allowed limited access for furosemide administration and emergencies, there is no legitimate reason for a veterinary assistant to compromise the safety and wellbeing of a racehorse on race day.

Subp. 9b. Equine masseuse.

A.

This is an oversight that needs to be corrected. Like animal chiropractors, already covered under MRC rule 7877.0170 subp. 9C, no masseuse should have contact with a horse within 24 hours of a race. Masseuses should be kept to the same high standards as the individuals employing them and there is no legitimate reason for them to compromise the safety and wellbeing of a racehorse on race day.

7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS.

Subp. 8b. Veterinarian's list.

A (6).

This proposed rule change, specific to Thoroughbreds, is needed to comply with HISA regulations. Corticosteroids are a group of medications used to relieve pain and inflammation in all animal species. Due to their ability to mask pain and compromise pre-race examinations, HISA established a mandatory stand down time when a corticosteroid is used in an intraarticular manner, i.e., placed in a joint space. Currently this stand down time is 14 days on the Veterinarian's list, although proposed HISA rules now under FTC review seek to increase that to 30 days on the Veterinarian's list when used in the fetlock (best described in human terminology as the ankle joint.) This change is proposed as the fetlock is the most injured joint in Thoroughbred racehorses and is frequently injected with a corticosteroid more than once or twice in rapid succession. In addition, attending veterinarians must provide HISA and MRC veterinarians with documentation regarding the specific corticosteroid, date and time injected, and anatomical location of injection. This information is added to their record visible to commission veterinarians throughout the United States and used to ensure that multiple injections into the same joint do not occur. Exhibit 13, Exhibit 14, Exhibit 15.

Subp. 8k. Commission Veterinarian.

Under this proposed rule change, MRC commission veterinarians will be in full compliance with the Minnesota Board of Veterinary Medicine rules and HISA rules. It is both needed and reasonable to expect that veterinarians working for the Racing Commission are licensed and able to provide all the services required for them to perform their duties. Exhibit 16, Exhibit 17.

7883.0100 ENTRIES AND SUBSCRIPTIONS.

Subp. 6. Prohibited entries

K.

This proposed rule is a change from 3 years currently present in MRC 7883.0100, subp. 6K to 2 years. It is not unusual for a racehorse to be laid up or “rested” for 30 to 60 days. Most often this is done to allow the horse to freshen mentally and physically or to give a minor physical ailment like a sore foot or cut time to heal. During this time, cardiovascular and musculoskeletal strength decrease but are both are regained readily during training. Tendons and ligaments, components of the musculoskeletal system, lose strength much more rapidly, but again a slow return to training and racing should ameliorate this effect. A horse laid off for longer periods of time usually has an injury to a tendon, suspensory ligament, or bone such as a condylar or sesamoid fracture, both fractures associated with the fetlock joint. Typically, this horse has been scratched (removed from racing) during a prerace inspection by a commission veterinarian and placed on the Veterinarian’s list for a specified period, often 90 to 180 days. Current data shows that a horse falling into this category is at increased risk of suffering a fatal catastrophic injury. The more times the horse has been on the Veterinarian’s list the higher the risk, and the longer the horse has been laid off, the more deconditioned the heart and musculoskeletal system, including tendons and ligaments, has become.

The goal for the MRC is to lower the incidence of life ending horse injuries. This rule is needed to assist with that goal. Horses that have not started in two or more years have a very high potential for suffering a catastrophic injury. Typically, these horses are older and have suffered a serious prior injury such as a total suspensory rupture, complete tendon failure, or fracture needing surgical fixation that should have resulted in a career change or has required substantial time off prior to moving onto another career. Two years is conservatively more than enough time for rehabilitation and a return to training and racing. Past two years, the potential for reinjury is very high as the original injury may not have healed well or is never going to heal successfully. In addition, like horses laid off for 90 to 180 days, the lack of muscle strength to support the horse’s joints and poor cardiovascular conditioning increase the risk for catastrophic injury. Should this happen during training or a race, the health and potentially the lives of riders and the horse are in jeopardy. Exhibit 18, Exhibit 19.

L.

Proposed HISA rules under FTC review mandate that all requirements to compete in an entered race must be completed prior to entry. It is reasonable to extend this rule to all breeds as it prevents horses from entering that have not been designated fit to race by their attending veterinarian, are missing a critical vaccination, have not successfully completed workout requirements, or when their Coggins test for equine infectious anemia has expired. Exhibit 20.

Subp. 8a Cancellation and postponement.

This rule change is needed so that cancellation and postponement of races due to inclement weather occurs in an orderly and agreeable fashion. It is like the MRC administrative rule 7884.0240, Subp.1a, used for Standardbred racing which has worked well for several years. The

only difference is that in the unlikely event no conclusion could be reached, the HISA Safety Director is given the final determining vote. The rule combines the interests of the racing commission, horsepersons, and management and allows everyone to carry a portion of the decision. The rule is reasonable as it ensures that the welfare of both racehorses and horsepersons is fully supported by all participants and not just a single entity. It also incorporates newly proposed HISA rules that have been submitted to the FTC for approval. Exhibit 21, Exhibit 22.

Subp. 9. Closing of entries.

This is a housekeeping update where outdated language is corrected.

Subp. 10. Loss of entries.

This is a housekeeping update where outdated language is corrected.

Subp. 11. Drawing of entries.

This proposed change is needed to align the current rule with the actual Canterbury Park Racing Office practice for dealing with overfilled Thoroughbred and Quarter Horse fields. The Racing Office began using a preference system for filling these races rather than a lot draw system several years ago and the rule has not been updated accordingly. (Exhibit 23). The preference system allows trainers with horses they intend to race at Canterbury Park and horses that have gone the longest time without a racing opportunity to enter and race. Under the lot draw system entries are randomly chosen by lot which means that every horse is treated the same. Using the preference system as opposed to a lot draw is reasonable because drawing by lot into overfilled races allows entries for horses that may not be ready to race as well as horses that may not even be on property. Both lot draw examples have the potential to result in a scratch from the race, which would then reduce the field size. Reductions in field size correlate to reduced handle, which reduces purse account contributions. When horses that are ready to race and intend to race at Canterbury Park are given preference into races, field size is maintained.

Subp. 16. Workout requirements.

C.

This proposed rule is needed so all entry requirements are completed prior to entry into a race and trainers don't attempt to complete a workout the day before or the morning of race day. Not only do late workouts cause a problem as they won't appear on the program, but the definition of "working" in the horse world means a horse traveling at race speed or in other words, going full out to win. It is not in the best interest of any racehorse to do this closer than 48 hours prior to a race as there is little, if any time, for large muscle groups to recover. Horses that are tired not only do not race well but may suffer a career or life ending injury when racing so soon after a workout. The language "no less than 48 hours" is reasonable as it allows both Quarter Horses and Thoroughbreds, who work under HISA rules, to complete a workout in a reasonable time.

D.

A first-time starter is a horse that has never started in a race. Most racehorses start at two or three years of age. Rarely do horses start at an older age unless there is an underlying problem. Generally, a first-time starter four years of age and older has trained and received gate approval at some prior time, often as a two- or three-year-old but has never raced. This may be due to an injury needing a long recovery period, mental unfitness, multiple owners, and trainer changes, or being entered and scratched by a commission veterinarian during a prerace examination. Some of these horses are brought directly to the racetrack from the field, which is a big change in terms of environment and human interaction, often resulting in a horse that is emotionally unsteady. The requirement for gate approval within 60 days of a race is needed to ensure that a first-time starter four years of age and older has current gate training i.e., can stand quietly in the starting gate and come out of the starting gate under saddle without incident and that the horse is sound while doing so. It also allows the starter to determine if there are any special circumstances such as a gate aversion or need to load last that may have developed since the horse last stood in the starting gate.

Subp. 17. Refused entries.

This is primarily a housekeeping change as there are no unreasonable causes for refusing an entry. Either the entry made by the trainer, or their agent is good, or it is not.

7883.0110 PREFERENCE SYSTEM.

Subp. 2. In-today horses.

A “main track only” (MTO) entry is a horse entered into a turf (grass) race that will draw into the race only if the race comes off the turf. When it rains, turf races are generally transferred to the main (dirt) track as the wet grass can become slippery and unsafe. Typically, a MTO horse enters a turf race rather than a dirt race because it needs to go the longer distance provided by a turf race yet is not capable of racing on the turf. Most MTO horses are not able to race shorter distances and as such are dependent on inclement weather for an opportunity to race. If it rains an MTO horse races; if the sun shines, it does not.

Turf races are very popular and normally overfill. Under the current rule, an “in today” MTO horse would not be allowed to enter an overfilled race. This proposed rule change would allow a MTO horse to enter an overfilled race and be ready to race should the race be moved from the turf to the dirt track. The change is needed and reasonable as it aligns with the Racing Office’s current practice and allows as many horses as possible the opportunity to start. (Exhibit 24) Further, allowing one or more MTO entries the ability to be carded into an overfilled turf race protects field size. When turf races are moved to the dirt track, it is typical for a majority of the field to scratch. However, moving to the dirt track lets the MTO entries race and these entries not only add to, but protect, the field size. Finally, MTO entries protect contributions to the purse accounts as too many turf scratches reduce betting opportunities, which correlate to reduced handle and less income for horsepersons.

7883.0120 SCRATCHES AND NONSTARTERS.

Subp. 1a. Stewards must approve scratching horses.

This is a simple housekeeping update where the word “the” is added to make the sentence grammatically correct.

Subp. 1c. Drawing horses into a race from the also eligible list.

Post positions are randomly drawn after entries have closed so each racehorse has a specific post position number. An also eligible (AE) horse is one officially entered for a race, but not permitted to start unless the field is reduced by scratches below a specified number. An AE horse is not in the draw and is not given a specific post position number. A post position number indicates the gate position from which a horse will start in a race. The starting gate is comprised of identical stalls lined in a row; the horses enter and stand ready until the gates open. In Thoroughbred racing, where racetracks are shaped like ovals, post 1 is the gate position closest to the inner rail. In Quarter Horse racing, post position 1 is also close to the inner rail, but most Quarter Horse races are run on courses without turns, i.e., straight-line racing. Many Thoroughbred and Quarter Horse owners and trainers believe that the innermost gate positions are preferable for a positive race outcome.

Scratches affect the post positions. If a race draws 12 entries, and #7 scratches, it’s customary for all the horses drawn outside of #7 to shift inward one slot in the starting gate to eliminate the gap. Thus, #8 starts from post 7, #9 from post 8, and so on.

Under this proposed rule, all AE horses drawing in from the also-eligible list, regardless of the breed, race distance, and number of turns will start in the outermost post position. This rule is needed to ensure that the starter, responsible for where each horse loads in the starting gate, is doing so correctly. It also prevents an AE horse, which did not participate in the post entry draw for post position, from gaining an unfair advantage by being loaded into a preferable post position.

7883.0140 CLAIMING RACES.

Subp. 7. Invalid claims.

Claiming a horse is a method of purchasing or buying a racehorse. This proposed rule is needed to ensure that a person claiming a horse has enough money in an account with the horseperson’s bookkeeper to pay for all the costs of buying the horse. This includes not only the dollar amount for the horse but any taxes or other fees that may be added to the cost. Other fees include the “claiming fee”, the dollar amount paid to the racetrack to cover the cost of the race. It is usually a percentage of the claiming price. It is reasonable to add the cost of fees as it ensures that all persons claiming a horse understand the total cost and have enough money in their account to purchase the horse. If there is not enough money in their account, the claim is invalid.

7883.0160 POST TO FINISH.

Subp. 14. Horse becomes disabled or otherwise unable to finish.

E.

This is a housekeeping correction as the stewards, and not a single steward, need to be notified after a horse has been euthanized.

7884.0125 ENTERING AND DRAWING OF HORSES AT CLASS D FACILITIES.

K.

This proposed addition is like the newly proposed rule 7883.0100, subp. 6, L for Thoroughbred and Quarter Horses and simply ensures that every horse that is entered has all the necessary credentials to do so and is deemed “fit or ready to enter”. It is needed to prevent ineligible horses from entering and scratching when a portion of that requirement is not met. This could include the lack of a current Coggins’ test for equine infectious anemia, incomplete vaccination, no qualifying race, presence on the Veterinarian’s list or other problems. Unless there is an AE horse entered, a late scratch due to an inappropriately entered horse results in a shorter field.

7884.0190 QUALIFYING RACES.

Subp. 2. Horses required to compete in qualifying races for race meets longer than two weeks.

F.

This rule is being removed as a similar, more correct rule (7884.0120, subp. 18, Declaring Hobbles) is present in the MRC rules.

7884.0240 POST TIME AND STARTING.

Subp. 8. Determination of a fair start.

This newly proposed rule is a United States Trotting Association (USTA) rule used in many Standardbred racing jurisdictions to ensure that each horse doesn’t trail far behind the field prior to starting. It clearly describes the placement and size of the pole so each driver can easily locate it. Those horses that have not reached the fair start pole when the horses are released at the starting point are unlikely to catch up with the field. Under this rule money wagered on any horse that does not reach the fair start pole when horses are starting will be returned. This rule is needed to ensure that the betting public is protected and has a fair chance to win with the horse they have chosen. Exhibit 25, Exhibit 26, Exhibit 27.

Subp. 10. Helmets and safety vest to be worn.

Under this proposed rule the requirements for a safety vest are expanded to include use anytime an individual is driving a horse on the track surface. It is needed as the MRC rule 7884.0230, subp. 3a for safety vests only requires the use when racing, either during a qualifying races or actual races. It is reasonable to change this rule as accidents are not restricted to racing and can just as easily happen during training sessions.

7884.0260 DRIVING RULES.

Subp. 7. Use of stirrups.

The use of feet during a race to encourage a horse to move faster is contrary to the best interests of the betting public or safety of the horse and driver. This rule is needed so all drivers clearly understand that any portion of their feet cannot touch the horse's body.

Subp. 11. ~~Pylon rule for horses racing without interference~~ Violations.

The original rule is struck and replaced with the more current USTA rule for Standardbred racing. The proposed rule provides more specific language for how the Judges should deal with a horse that goes inside the pylons yet gives them discretion in instances where a horse has gained an unfair advantage or improved its race position. It provides for an unbiased and fair response by the Judges and in those circumstances where discretion is used, videos of the race are available for viewing should any controversy arise. The rule is used successfully in several Standardbred racing jurisdictions throughout the United States and Canada, and it is reasonable to use it here as well. Exhibit 28, Exhibit 29.

7891.0120 MORTALITY REVIEW COMMITTEE.

Subp. 1. Committee.

This proposed rule change is needed to align the Mortality Review Committee with HISA rules. Under new language the burden of convening and chairing the committee is moved to the HISA Safety Director, the individual responsible for reporting postmortem findings and committee minutes to HISA. The rule also adds an ontrack veterinarian to the committee. This is necessary as most of the incidents occur while horses are training or racing on the track surface and the ontrack veterinarian is often there to witness events as they unfold. The HISA requirement for an association veterinarian is covered by the ontrack veterinarian, as the MRC, like many other jurisdictions, does not have an association veterinarian. Finally, it allows the HISA Safety Director to add an individual as needed. This may be a nonbiased witness to the death, the pathologist responsible for the postmortem examination, or any other person who may be helpful in working through the events surrounding the horse's death. Exhibit 30.

7897.0100 PROHIBITED ACTS.

Subp. 25. Thyroid supplementation.

Due to the association with sudden death in racehorses, the use of all thyroid products is prohibited under MRC rule 7890.0110. subp. 7b and HISA. Prior to this restriction it was not unusual for trainers to put their entire barn on thyroid supplementation, some trainers feeling that it made the horses “feel better”. It is very difficult to test blood or urine for the abuse of thyroid supplements as circulating thyroid hormones (T3 and T4) are endogenous hormones, meaning they occur naturally in the body. The only way to be certain that horses are not receiving a thyroid supplement is to prevent the presence in veterinary vehicles and trainer’s tack rooms and offices, which this rule would accomplish.

The possession of any thyroid product is banned under HISA 3214(a) and this proposed rule change is needed to put the MRC in compliance as well as stop the abuse of a product associated with sudden death. It is a reasonable rule as it keeps an unsafe product off the racetrack and helps prevent owners, trainers, and veterinarians from a HISA violation. If no product is available, abuse should stop or decrease significantly.

Exhibit 31, Exhibit 32, Exhibit 33, Exhibit 34, Exhibit 35.

EXHIBITS

Exhibit 1	California Code of Regulations Section 1472 (a1); Rail Construction and Track Specifications
Exhibit 2	Alcohol and Gaming Commission of Ontario 18.08.02
Exhibit 3	The Jockey Club; North American Foal Crop Graph 2014-2023
Exhibit 4	The Jockey Club; Starters and Average Field Sizes Chart 1950-2023
Exhibit 5	Ohio Laws and Administrative Rules; Section 3769.089 Simulcast horse racing
Exhibit 6	HISA Rule 2241; Duration of Stay on the Veterinarians’ List
Exhibit 7	HISA Rule 2242; Removal of Horses from the Veterinarians’ List
Exhibit 8	The United States Trotting Association; United States and Canada Foal Crop Chart 2006-2023
Exhibit 9	Canterbury Park Letter to Minnesota Racing Commission request to change rule 7873.0188 Subp. 7
Exhibit 10	Kentucky, New York, California, Ohio, and Florida wagering and superfecta rules
Exhibit 11	HISA Rule 3247; Provisional Suspensions
Exhibit 12	Canterbury Park Veterinarian Sign-In Log
Exhibit 13	HISA Proposed Rule 2240 (3iv); Veterinarian’s List
Exhibit 14	Example of Intra-Articular Injection stand down time; Triamcinolone HIWU Comments
Exhibit 15	HIWU: Notice of Period of Ineligibility; Elliot Sullivan, Intra-Articular Injection Violation
Exhibit 16	Minnesota Statutes 2023 156.10; Unlawful Practice Without License or Permit; Gross Misdemeanor

Exhibit 17	HISA Rule 2134 (a2); Regulatory Veterinarian
Exhibit 18	American Association of Equine Practitioners; Strategic Layoffs by Hilary Clayton (original article 2002; reviewed by author in 2016)
Exhibit 19	Georgopoulos SP, Parkin TDH. Risk factors associated with fatal injuries in Thoroughbred racehorses competing in flat racing in the United States and Canada; J Am Vet Med Assoc 2016;249(8):931-939.
Exhibit 20	HISA Rule 9000 (i); Registration of Covered Persons and Covered Horses
Exhibit 21	Minnesota Rule 7884.0240 Subp. 1a; Cancellation and Postponement
Exhibit 22	HISA Rule 2164 (a, a1); Hazardous Weather
Exhibit 23	Example of Preference Date System
Exhibit 24	Example of Main-Track Only Entries
Exhibit 25	The United States Trotting Association Rule 16.18; Fair Start Pole
Exhibit 26	Indiana Administrative Code 7-2-3.5; Fair start Pole
Exhibit 27	Example of Fair Start Pole
Exhibit 28	The United States Trotting Association Rule 18.19; Pylon Violations
Exhibit 29	Pennsylvania Code 205.421; Pylon Violations
Exhibit 30	HISA Rule 2121; Racetrack Safety and Welfare Committee
Exhibit 31	HISA Rule 4115.S4 (e); Hormone and Metabolic Modulators
Exhibit 32	HISA Rule 3214 (a); Other Anti-Doping Rule Violations Involving Banned Substances or Banned Methods
Exhibit 33	HIWU 1/08/2024: Notice of Period of Ineligibility; Daniel Robles, Possession of a Banned Substance-Levothyroxine (Thyro-L); from 1/08/2024 through 1/07/2026
Exhibit 34	HIWU 3/28/24: Notice of Provisional Suspension; Robertino Diodoro, Possession of a Banned Substance-Levothyroxine (Thyro-L); ineligibility dates not yet provided
Exhibit 35	Paulick Report; Diodoro Provisionally Suspended by HIWU for Possession of Banned Substance (March 30, 2024)

LIST OF WITNESSES

If these rules go to a public hearing, the Racing Commission anticipates having the following principal witnesses testify in support of the need for and reasonableness of the rules:

1. Kyle Gustafson, Executive Director, Minnesota Racing Commission.
2. Dr. Lynn R. Hovda, Chief Commission Veterinarian, Minnesota Racing Commission.
3. E. Joseph Newton, General Counsel, Minnesota Racing Commission.

Additional witnesses could be called as needed. The Racing Commission does anticipate calling non-agency witnesses.

CONCLUSION

Based on the foregoing, the proposed rules are both reasonable and necessary to protect the integrity of racing in Minnesota.

7/11/2024

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DATE:
**This document available for
public review on this date.**

Kyle Gustafson
Executive Director
Minnesota Racing Commission