

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1254 Mary Harper 05.0009.0733

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-11-86
DATE FOR REVIEW ~~2-20-86~~ 2-20-86
DATE DUE 2-25-86

Adopted w/a hearing _____
Adopted w/o hearing X
Temporary rule _____

Approved 2.25-86 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 2-25-86 Revisor approved _____ disapproved _____

_____ Rule as Adopted not submitted correctly - mary - medications

✓ Rule as Proposed

✓ Order Adopting 1.22.86 Date combined w/ FF

✓ Notice of Intent to Solicit Outside Opinion SR. 9.12.83.

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency, contains small biz statement.
establishes end of comment period as less than 30 days from date of mailing

✓ Affidavit of Mailing Notice or rulemaking
10. 4.85. At least 30 days prior to ~~hearing~~/adoption

✓ Affidavit of Additional Mailing

✓ Mailing list Certificate

✓ Publication in State Register
9.30.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact Separate document from FF as noted above

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules labelled "authorizing"

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Affidavit of Receiving no comment
Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: DAVID J. FREEMAN, Executive Director
Minnesota Racing Commission

DATE: 2/25/86

ATTN: JERRY ANDERSON
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Minnesota Racing Commission Governing Reciprocity of Rulings, Direct Deposit and Reporting of Payments, Possession of Electrical Devices, Distribution of Purse Money, Stewards, and Breeders' Fund

The above-referenced rule has been approved as to its legality by the Attorney General on February 25, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1253

AG copy

Racing Commission

Adopted Rules Governing Horse Racing Regulations; Minnesota Racing Commission

RECEIVED
MN RACING COMMISSION
NOV 21 1985
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Rules as Adopted

7897.0100 PROHIBITED ACTS.

Subpart 1. to 17. [Unchanged.]

Subp. 18. **Possession of electrical devices.** No person, while on the grounds of an association, shall have in his or her possession any electrical or mechanical device or other appliance, other than an ordinary riding whip, that could be used for the purpose of stimulating a horse or affecting its speed in a race or workout.

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Reciprocity of rulings.** The commission or the stewards may suspend or revoke a Class C license if it is found that the licensee, or any person who is an agent, employee, or associate of such licensee:

A. is presently under suspension or his or her license has been revoked for any reason by a legally constituted racing commission of another jurisdiction; or

B. becomes suspended or has his or her license revoked for any reason by a legally constituted racing commisssion of another jurisdiction while such licensee is participating in racing in Minnesota.

Before considering a licensee for reinstatement in Minnesota, the commission or stewards shall require such licensee to obtain reinstatement in the original racing jurisdiction where his or her license was suspended or revoked, and to establish his or her fitness to be reinstated in Minnesota.

Rules as Proposed (all new material)

7873.0550 DISTRIBUTION OF PURSE MONEY.

Subpart 1. **Purse amounts.** Pursuant to Minnesota Statutes, section 240.13, subdivision 5, an amount equal to not less than five percent of all money in all pools must be allocated for purses by an association conducting horse racing. In making the distribution of purse money, an association must, to the extent possible, maintain purse amounts in proper relationship to actual pari-mutuel handles.

Subp. 2. **Adjustments to purses.** Should the levels of pari-mutuel handle create overpayment or underpayment of purses paid during the course of the race meeting, the association must make adjustments in each publication of it's condition book to attempt to keep purses consistent with mutuel handles.

? no apostrophe

Subp. 3. **Overpayments carried over.** If, at the end of each race meeting, an overpayment of purses has occurred, the overpayment shall be carried over to the next race meeting of the same breed and such overpayment may be recovered by the association. The association must make its best effort to recover the overpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 4. **Underpayments carried over.** If, at the end of a race meeting, an underpayment of purses has occurred, the underpayment shall be carried over to the next race meeting of the same breed. Such underpayment must be paid to horse owners by adding the underpayment to purses. The association must make its best effort to repay the underpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 5. **Willful underpayment.** Should the commission determine that an association willfully failed to adjust purse levels in violation of subpart 1, for the purposes of retaining purse underpayments from one race meeting to the next, the association will be subject to disciplinary action by the commission.

Subp. 6. **Escrow accounts.** All money received by an

association for races that charge nominating, sustaining, entry, or starting fees must be placed in interest bearing escrow accounts, and all accrued interest must be added to such races if:

A. the total fees received for such a race exceed $15,000; or

B. fees are due and payable for such a race more than 180 days in advance of the advertised date of the running of the race.

CHAPTER 7874

MINNESOTA RACING COMMISSION

DIRECT DEPOSIT REQUIREMENTS AND REPORTING OF PAYMENTS

7874.0100 GENERAL PROVISIONS.

Subpart 1. **Scope.** For the purpose of administering the direct deposit of taxes, breakage, and unredeemed tickets pursuant to Minnesota Statutes, section 240.15, subdivisions 1, 2, and 5, and subparts 2 to 4 shall apply.

Subp. 2. **Payment of pari-mutuel tax, admissions tax, breakage, and breeders' fund.** Taxes, breakage, and breeders' funds collected by an association must be remitted to the commission within seven days of the day on which it was collected. However, the amount allocated for purse supplements, pursuant to part 7895.0110, subpart 2, item C, may be deducted and retained by the association as reimbursement for purse supplements paid by it. The remittance must be accomplished by a direct deposit in a financial institution designated by the commissioner of finance and approved by the commission. On those days when the seventh day is a holiday or a weekend day, the payment must be made by the succeeding business day.

At the close of each month in which racing is conducted, the association must report to the commission all deposits of taxes and breakage for that month.

Subp. 3. **Payment of unredeemed tickets.** After reporting to the commission, pursuant to Minnesota Statutes, section 240.13, and not later than 100 days after the end of a race meeting, an association must remit to the commission an amount

equal to the total value of unredeemed tickets from the race meeting in the same manner as in subpart 2.

Subp. 4. **Recapitulation.** On each day that deposits are made by the association, a report must be filed with the commission containing the following recapitulation:

A. total take-out;

B. pari-mutuel tax;

C. state and local admissions taxes;

D. total breakage;

E. commission's share of breakage; and

F. breeders' fund tax.

CHAPTER 7879
MINNESOTA RACING COMMISSION
STEWARDS

7879.0100 QUALIFICATIONS AND APPOINTMENT OF STEWARDS.

Subpart 1. **Qualifications for stewards.** No person may qualify for commission appointment or approval as a steward unless:

A. he or she has served as a steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge, or clerk of scales at one or more recognized race meetings for a period of not less than 60 days per year during at least three of the five preceding calendar years or has had at least five years experience as a jockey;

B. he or she has satisfactorily passed an optical examination within 90 days prior to approval as a steward evidencing 20-20 vision (corrected) and the ability to distinguish colors; and

C. the commission is satisfied that income, other than salary as a steward, which may accrue to a person under consideration for appointment as a steward is independent of and unrelated to patronage of or employment by any licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of a licensee.

Subp. 2. **Appointment and approval of stewards.** The

following procedures must be observed in the appointment of stewards:

A. There shall be three stewards for each race meeting, two of whom shall be appointed by the commissioner and one of whom shall be nominated by the association for approval by the commission. The name of the association nominee for steward must be submitted no later than 30 days before commencement of a race meeting and be accompanied by biographical data setting forth the experience and qualifications of the nominee. The association may submit successive nominees until one person is approved by the commission as qualified to serve as steward. No steward may serve until approved by the commission.

B. In the event a steward becomes ill, resigns, or is unable to serve for any reason, the remaining stewards shall nominate a temporary steward to the commission for approval. In emergencies, the executive secretary may approve appointment of a temporary steward.

7879.0200 AUTHORITY AND DUTIES OF STEWARDS.

Subpart 1. **General authority of stewards.** The stewards shall exercise immediate supervision, control, and regulation of racing at each licensed race meeting on behalf of the commission and shall be responsible only to the commission. The powers of the stewards shall include:

A. the authority over all horses and all persons, licensed or unlicensed, on association grounds during a race meeting as to all matters relating to racing;

B. the authority to determine all questions, disputes, protests, complaints, or objections concerning racing matters which arise during a race meeting and to enforce such determinations;

C. the authority to suspend, according to applicable law, the license of a participant in racing;

D. the authority to eject or exclude according to applicable law, from association grounds or any part thereof, licensed or unlicensed persons for violations of law;

E. the authority to interpret and enforce commission rules and determine all questions pertaining to racing matters in conformity with applicable law and the "customs of the turf";

F. the authority to issue decisions or rulings pertaining to racing matters which shall supersede orders of the officers, directors, and officials of the association, which may vary any arrangement relating to the conduct of a race meeting, including postponing or canceling a race, or ruling a race "no contest";

G. the authority to request and receive assistance from commission employees, racing officials, track security, and federal, state, or local police in the investigation of possible violations of law;

H. the authority to conduct hearings on all questions, disputes, protests, complaints, or objections concerning racing matters;

I. in the event a jockey, driver, trainer, or racing official, other than a steward, is determined to be unable for any reason to perform his or her duties, the authority to appoint a substitute therefor; and

J. the authority to excuse a horse or any jockey, driver, trainer, or racing official other than a steward.

Subp. 2. **Specific duties and responsibilities of stewards.** In addition to the duties and responsibilities necessary and pertinent to general supervision, control, and regulation of race meetings, and without limiting the authority of the stewards to perform those and all other duties listed in this part, the stewards shall have the following specific duties and responsibilities:

A. To consider and review all allegations of misconduct or rule infractions and, when warranted, initiate investigations of the allegations and conduct necessary hearings; or take the action necessary to prevent rule infractions.

B. At least one steward shall be on association grounds from scratch time (or, if not a racing day, when entries

are first taken) until entries are closed. At least one steward shall be present for the regular showing of racing films or video tapes. All three stewards shall be on association grounds for a continuous period beginning not less than one hour before post time for the first race until conclusion of the last race.

C. At least one steward, or a designated representative of the stewards, shall be present in the paddock before each race and remain there until the horses leave for the starting gate, to observe the conduct of all persons in and around the paddock.

D. To review applications for Class C licenses and administer, or cause to be administered by technically qualified persons, standard examinations to all first-time applicants for a trainer, jockey, apprentice jockey, driver, or farrier license, and to make recommendations to the commission as to the qualifications of all applicants for Class C licenses.

E. To review all license applications, registration certificates, contracts, papers, and other documents pertaining to the sale or ownership of a horse, payment of purse money, appointments of agents, and applications for racing colors or stable name.

F. To require proof of eligibility of a horse or person to participate in a race if the eligibility is in question and, in the absence of sufficient proof to establish eligibility, to rule the horse or person ineligible.

G. To supervise the taking of entries and receive all declarations and scratches and determine all questions arising and pertaining to same; the stewards may refuse the entry of any horse by any person, or refuse to permit a declaration or scratch, or may limit entries when necessary to protect the safety or integrity of racing.

H. To lock all pari-mutuel betting machines not later than the start of a race.

I. To cause the "inquiry" sign to be posted on the infield totalizator board immediately after the horses have crossed the finish line in a race if any doubt is held by any

steward as to the fairness of the running of the race.

J. To cause the "objection" sign to be posted on the infield totalizator board upon the lodging of an objection.

K. To cause the "official" sign to be posted on the infield totalizator board after determining the official order of finish for purposes of pari-mutuel payoff.

L. To review the video tapes of each day's races before commencement of the successive day's races and to draw up and post a list of jockeys (including all apprentice jockeys) whom the stewards feel should review such films for instructional purposes.

M. To maintain daily reports of actions taken and observations made during the conduct of each day's racing program. The report must contain the name of the track, the date, weather and track conditions, claims, inquiries and objections, and any unusual circumstances or conditions. The reports must be signed by all three stewards and filed with the commission within 24 hours.

N. During racing hours, make periodic inspections of the jockeys' and drivers' room and observe security, and note the inspections and observations made in the stewards' daily report.

O. To maintain detailed records of all questions, disputes, protests, complaints, or objections brought to the attention of the stewards, and a summary of interviews, reports of investigations, and rulings issued thereon. If a ruling is not unanimous, the dissenting steward shall record the reasons for the dissent. The stewards' log must be available to the commission for inspection at all times.

P. Within seven days after the conclusion of a race meeting, the stewards must submit to the commission a written report containing their observations and comments concerning the conduct of the race meeting and the condition of the association grounds and any appropriate recommendation for improvement.

Subp. 3. **Criteria and bases for stewards' decisions.**

A. When making judgments with respect to the conduct

of horse racing, the stewards shall take into consideration the following:

(1) their prior experience in horse racing;

(2) the applicability of similar prior decisions to the decision being made;

(3) all relevant circumstances surrounding the decision under consideration;

(4) what effect, if any, the decision being made has upon the integrity of racing and the safety, health and welfare of the participants and the general public; and

(5) any other relevant factors which affect the integrity of horse racing, so long as the same factors are considered with regard to all similar decisions.

B. When making a determination or recommendation regarding the qualifications of an applicant for a Class C license, the stewards shall consider the following factors:

(1) whether the applicant's ability is sufficient so as to not endanger the life or safety of the applicant, other participants, racetrack patrons, horses, or property;

(2) whether the applicant is able to perform in a competitive manner so as to enhance the quality of horse racing;

(3) whether the applicant's ability and/or qualifications are at least equal to those of current licensees; and

(4) any other relevant factors which affect the integrity of horse racing, or the health, safety, or welfare of persons and animals so long as these same factors are applied uniformly to all applicants for Class C licenses.

7879.0300 COMPENSATION OF STEWARDS.

Subpart 1. **Commission to be reimbursed.** An association must reimburse the commission, on a weekly basis, for the cost of providing state stewards. The level of compensation and benefits for all stewards shall be determined by the commission.

Subp. 2. **Compensation level.** In determining the level of compensation for stewards, the commission shall consider the following criteria:

A. the current comparable rate of compensation for stewards in other racing jurisdictions;

B. the experience and background of the stewards, as well as their responsibilities and required hours of work; and

C. the cost of any necessary equipment used or specialized courses required to fulfill their duties.

CHAPTER 7895
MINNESOTA RACING COMMISSION
BREEDERS' FUND

7895.0100 GENERAL PROVISIONS.

Subpart 1. **Scope.** The purpose of this chapter is to administer the breeders' fund under Minnesota Statutes, section 240.18, and the required race provision of Minnesota Statutes, section 240.29.

Subp. 2. **Registration.** To qualify for payment of awards and for entry into restricted races, all foal certificates must have the Minnesota registration seal affixed upon them. The seal shall be proof that the requirements of this part have been met.

Subp. 3. **Decisions regarding eligibility for registration.** Questions regarding the registration, eligibility for registration, or breeding of a Minnesota-bred horse shall be decided by the commission. An official registering agency may be designated by the commission and empowered to act in matters relative to registration, eligibility for registration, or breeding. A decision of the official registering agency shall be subject to review by the commission which retains the right to make the final decision as to any right or liability under this chapter. All original foal registration certificates must be submitted for inspection to the commission or official registering agency. Affidavits or other substantive proof, as the commission or official registering agency deems necessary, may be required to support any claim for Minnesota-bred registration.

Subp. 4. **Decision regarding eligibility to enter restricted races.** Questions as to the eligibility for

nomination or entry in restricted races shall be decided by the commission or the official registering agency.

Subp. 5. **Basis for allocation.** The amount of money allocated for any particular race should reflect the quality of the race being run.

? do they mean "may" or "must" what mean

Subp. 6. **Breeders' fund advisory committees.** All money allocated pursuant to this chapter shall be determined by the commission after consultation with the appropriate breeders' fund advisory committee.

7895.0110 THOROUGHBRED BREEDERS' FUND.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meaning given them unless another intention clearly appears.

A. "Minnesota-owned" means:

(1) In the case of a horse owned by an individual, the owner must reside in Minnesota, declare himself or herself to be a resident of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that he or she is not a resident of any other state.

(2) In the case of a horse owned by a corporation, the corporation must:

(a) be legally incorporated in the state of Minnesota;

(b) have its principal place of business in Minnesota;

(c) have at least 51 percent of all outstanding shares of stock owned by shareholders who are residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and who declare that they are not residents of any other state.

(3) In the case of a horse owned by a limited partnership, the general partners and at least 51 percent of the limited partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

(4) In the case of a horse owned by a

partnership, all partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

Every owner of a Minnesota-owned horse must hold a Class C owner's license issued by the commission as required in part 7877.0130, subparts 1 and 2.

B. "Minnesota-foaled" means a horse foaled in Minnesota.

C. "Minnesota-bred" means a horse foaled in Minnesota.

D. "Minnesota-sire" means a stallion owned at least 50 percent by residents of Minnesota or leased entirely by Minnesota residents, and which has stood the entire breeding season, between February 15 and July 31, in Minnesota.

Subp. 2. **Division of money.** The money available from the breeders' fund for the thoroughbred breed category shall be divided as follows:

A. 31 percent shall be set aside and paid to breeders of Minnesota-bred horses as breeders' awards;

B. 31 percent shall be set aside and paid to owners of Minnesota-bred horses as owners' awards;

C. 31 percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or Minnesota-owned horses. In all such races Minnesota-bred horses shall be preferred, and the purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission.

D. Seven percent shall be set aside and paid as stallion awards to the owners of the Minnesota-sire at the time of breeding.

Subp. 3. **Distribution of money.** The money available from the thoroughbred breeders' fund, other than purse supplements, shall be distributed as follows:

A. "Breeders' awards" shall be paid to the breeder of a Minnesota-bred horse, as reflected on the Jockey Club certificate that finishes fifth or better in any race.

B. "Owners' awards" shall be paid to the owners of

Minnesota-bred horses that finish fifth or better in any race.

C. "Stallion awards" shall be paid to the owners of the Minnesota-sire of a Minnesota-bred horse that finishes fifth or better in any race.

Subp. 4. **Methods of payment.** The amount of money distributed by the commission for awards or purse supplements pursuant to subpart 3 shall be paid out in the same percentage as the purse money in the race. The amount of money to be distributed shall be in accordance with subpart 5.

Subp. 5. **Adjustments.** The racing commission shall set percentages to be applied to each category of the breeders' fund for the purpose of determining the amount of awards and purse supplements that may be earned during the current race meeting. The racing commission may, in its discretion, during the course of a race meeting vary the percentages set in each category for the purpose of keeping awards and purse supplements consistent with the amount of money being earned in the breeders' fund and subsequent awards disbursements. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the number of potential award recipients;

B. the total amount of awards and purse supplements to be distributed;

C. the need to distribute awards and purse supplements among Minnesota breeders and owners in a fair and equitable manner with a view toward encouraging the continued support of the horse industry in Minnesota, thereby providing incentive to breeders and owners of thoroughbred horses within the state; and

D. that the set amount of the awards and purse supplements or any adjustments made thereto are in the best interest of horse racing within the state.

Subp. 6. **Time of payment.** Purse supplements are part of the purse and shall be credited to owners' accounts at the time such purses are earned. All money allocated for breeders' awards, owners' awards, and stallion awards shall be distributed

within 30 days of the end of the race meeting.

Subp. 7. **Maximum awards permitted.** The maximum amount of any award, exclusive of purse supplements, paid to an individual or entity under this part shall not exceed:

A. For calendar year 1985:

(1) $75,000 per breeder;

(2) $75,000 per owner; or

(3) $75,000 in total combined awards if a breeder is also an owner.

B. For calendar year 1986:

(1) $150,000 per breeder;

(2) $150,000 per owner; or

(3) $150,000 in total combined awards if a breeder is also an owner.

Subp. 8. **Residual funds.** After complying with subparts 4 to 7:

A. any remaining funds in the stallion awards account shall be transferred to and distributed through the owners' account; and

B. any remaining funds in the owners' awards account and the breeders' awards account shall be distributed in proportion to the award money earned by each individual Minnesota-bred horse to the total award money earned by Minnesota-bred horses as a group.

After complying with subparts 4 to 8, any remaining funds in the breeders' and owners' accounts, and all unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding thoroughbred race meeting.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 25 1986
Joan Anderson Growe
Secretary of State
2:10 PM

APPROVED AS TO FORM AND LEGALITY
February 25 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassady
SPECIAL ASSISTANT ATTORNEY GENERAL

Racing Commission

Adopted Rules Relating to Horse Medication

Rules as Adopted

CHAPTER 7890
MINNESOTA RACING COMMISSION
HORSE MEDICATION

7890.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter shall have the meanings given them in this part.

Subp. 2. **Analgesic.** "Analgesic" is a substance used to relieve pain.

Subp. 3. **Anesthetic.** "Anesthetic" is a substance used to effect a loss of feeling or sensation in any part of the body.

Subp. 4. **Bleeder.** "Bleeder" means a horse which during a race or exercise is observed by the commission veterinarian or stewards to be shedding blood from one or both nostrils or which is suspected of having bled and is so confirmed by an endoscopic examination conducted by the commission veterinarian within one hour following the race or exercise. Bleeder also includes a horse which has been shipped into Minnesota and which meets the criteria in part 7890.0140, subpart 6.

Subp. 5. **Bleeder list.** "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

Subp. 6. **Bute.** "Bute" means phenylbutazone or oxyphenbutazone.

Subp. 7. **Chemist.** "Chemist" means any official racing chemist designated by the commission.

Subp. 8. Depressant. "Depressant" is a substance used to

Subp. 11. **Horse.** "Horse" includes all horses registered for racing under the jurisdiction of the commission and, for purposes of this chapter, includes a stallion, colt, gelding, ridgling, filly, or mare.

Subp. 12. **Lasix®.** "Lasix®" means furosemide (4-chloro-N-furfuryl-5-sulfamoylanthranilic acid).

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

A. Bute, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma.

B. Lasix®, provided, however, that if it is administered to a confirmed bleeder on a day it is entered to race, it must be given under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

C. Topical applications, such as antiseptics, ointments, salves, DMSO, leg rubs, and leg paints which may contain antibiotics (excluding procaine, penicillin, and chloranphenicol) but which may not contain benzocaine, steroids, or other medications.

D. Feed additives, such as vitamins and electrolytes,

detection of any medication or metabolites thereof in a test sample or a test level of Bute above the allowed level.

Subp. 16. **Stimulant.** "Stimulant" is a substance used to increase or excite the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other systemic function of the body.

Subp. 17. **Test level.** "Test level" means the concentration of Bute found in a test sample.

Subp. 18. **Test sample.** "Test sample" means any bodily substance including blood, urine, saliva, or other substance designated by the commission, taken from a horse under the supervision of the commission veterinarian for the purpose of analysis.

Subp. 19. **Tranquilizer.** "Tranquilizer" is a substance used to alter the psychic state.

Subp. 20. **Veterinarian.** "Veterinarian" means a doctor of veterinary medicine licensed by the commission to practice at a Minnesota racetrack.

Subp. 21. **Veterinarian's list.** "Veterinarian's list" means a tabulation of horses maintained by the commission veterinarian that are prohibited from entering a race for a minimum of five calendar days and not until such time as the commission veterinarian deems the horse in fit condition to race.

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race it is scheduled to run any medication (except as permitted by part 7890.0100, subpart 13, items A to D) by injection, oral or topical administration, rectal infusion or suppository, or by inhalation.

veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of an association must be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

Subp. 2. **Administration of Bute to be reported.** The following procedures shall be observed when Bute is administered.

A. The administration of Bute to a horse entered to race must be reported to the commission veterinarian on a prescribed form by not later than 7:00 a.m. the day of the race.

B. Upon discontinuing the administration of Bute to a horse entered to race, the attending trainer must notify the commission veterinarian by 7:00 a.m. the day of the race.

C. If Bute is not detected in a test sample taken from a horse registered to use such substance, disciplinary action shall be initiated against the attending trainer and, if applicable, the substitute trainer.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist that any medication or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, shall be considered prima facie evidence that such medication or substance was administered and carried in the body of the horse while participating in a race. Such finding shall also be considered prima facie evidence that the trainer and, if applicable, the substitute trainer was negligent in the handling or care of the horse.

Subp. 2. **Distributed purse money.** The fact that purse money has been distrubuted prior to the issuance of the

be posted in the office of the racing secretary.

Subp. 2. **Horses placed on bleeder list.** Bleeders shall be placed on the bleeder list and veterinarian's list and shall be ineligible to be entered in a race pursuant to subpart 5.

Subp. 3. **Endoscopic examination.** Within one hour of the finish of the race or exercise in which a horse has participated, the commission veterinarian may require an endoscopic examination in order to confirm the horse's inclusion on the bleeder list. The endoscopic examination shall be conducted by a veterinarian employed by the horse's owner or his or her agent, and shall be conducted in the presence of and in consultation with the commission veterinarian. The commission veterinarian shall decide, based upon his or her experience and professional training, whether the amount of hemmorhage is sufficient to cause such horse to be certified as a bleeder.

Subp. 4. **Confirmation of bleeder must be certified.** The confirmation of a bleeder must be certified in writing by the commisison veterinarian and such horse must be included on the bleeder list. Upon request, a copy of such certification shall be provided to the owner of the horse or his or her agent.

Subp. 5. **Restrictions on confirmed bleeders.** Confirmed bleeders shall be subject to the following restrictions:

A. For the first observed bleeding in Minnesota, the horse shall be placed on the bleeder list and the veterinarian's list and shall not be removed from the veterinarian's list for at least 14 days, and not until the commission veterinarian has approved its removal.

B. When a horse has been observed bleeding for the second time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least 28 days, and not until the commission veterinarian has

has approved its removal.

D. When a horse is observed bleeding a fourth time in Minnesota, the horse shall be barred from further pari-mutuel racing in Minnesota.

Subp. 6. **Bleeders imported from other jurisdictions.** A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided there is compliance with the following procedures:

A. the jurisdiction from which it was shipped considered the horse a bleeder, and documentation to that effect is immediately transmitted to the stewards and the commission veterinarian at the Minnesota racetrack to which it is shipped; and

B. the commission veterinarian certifies the horse as a bleeder.

Subp. 7. **Bleeders confined to security stall.** Once a horse is placed on the bleeder list, it must be in the detention barn not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.

Subp. 8. **Deadline for Lasix®.** Bleeders entered to race must be treated at least four hours prior to post time. Immediately prior to treatment, a blood sample shall be taken by the commission veterinarian for analysis.

Subp. 9. **Administration of Lasix®.** Lasix® shall be administered by a veterinarian employed by the owner of the horse or his or her agent under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five-percent solution) per administration.

the security area.

7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

All horses that have been treated with Bute or approved for race day use of Lasix® must be identified in the daily racing program on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

AG COPY

Racing Commission

Adopted Rules Relating to Horse Medication

Rules as Adopted

CHAPTER 7890
MINNESOTA RACING COMMISSION
HORSE MEDICATION

7890.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter shall have the meanings given them in this part.

Subp. 2. **Analgesic.** "Analgesic" is a substance used to relieve pain.

Subp. 3. **Anesthetic.** "Anesthetic" is a substance used to effect a loss of feeling or sensation in any part of the body.

Subp. 4. **Bleeder.** "Bleeder" means a horse which during a race or exercise is observed by the commission veterinarian or stewards to be shedding blood from one or both nostrils or which is suspected of having bled and is so confirmed by an endoscopic examination conducted by the commission veterinarian within one hour following the race or exercise. Bleeder also includes a horse which has been shipped into Minnesota and which meets the criteria in part 7890.0140, subpart 6.

Subp. 5. **Bleeder list.** "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

Subp. 6. **Bute.** "Bute" means phenylbutazone or oxyphenbutazone.

Subp. 7. **Chemist.** "Chemist" means any official racing chemist designated by the commission.

Subp. 8. Depressant. "Depressant" is a substance used to

Subp. 11. **Horse.** "Horse" includes all horses registered for racing under the jurisdiction of the commission and, for purposes of this chapter, includes a stallion, colt, gelding, ridgling, filly, or mare.

Subp. 12. **Lasix®.** "Lasix®" means furosemide (4-chloro-N-furfuryl-5-sulfamoylanthranilic acid).

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

A. Bute, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma.

B. Lasix®, provided, however, that if it is administered to a confirmed bleeder on a day it is entered to race, it must be given under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

C. Topical applications, such as antiseptics, ointments, salves, DMSO, leg rubs, and leg paints which may contain antibiotics (excluding procaine, penicillin, and chloranphenicol) but which may not contain benzocaine, steroids, or other medications.

D. Food additives, such as vitamins and electrolytes,

detection of any medication or metabolites thereof in a test sample or a test level of Bute above the allowed level.

Subp. 16. **Stimulant.** "Stimulant" is a substance used to increase or excite the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other systemic function of the body.

Subp. 17. **Test level.** "Test level" means the concentration of Bute found in a test sample.

Subp. 18. **Test sample.** "Test sample" means any bodily substance including blood, urine, saliva, or other substance designated by the commission, taken from a horse under the supervision of the commission veterinarian for the purpose of analysis.

Subp. 19. **Tranquilizer.** "Tranquilizer" is a substance used to alter the psychic state.

Subp. 20. **Veterinarian.** "Veterinarian" means a doctor of veterinary medicine licensed by the commission to practice at a Minnesota racetrack.

Subp. 21. **Veterinarian's list.** "Veterinarian's list" means a tabulation of horses maintained by the commission veterinarian that are prohibited from entering a race for a minimum of five calendar days and not until such time as the commission veterinarian deems the horse in fit condition to race.

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race it is scheduled to run any medication (except as permitted by part 7890.0100, subpart 13, items A to D) by injection, oral or topical administration, rectal infusion or suppository, or by inhalation.

veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of an association must be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

Subp. 2. **Administration of Bute to be reported.** The following procedures shall be observed when Bute is administered.

A. The administration of Bute to a horse entered to race must be reported to the commission veterinarian on a prescribed form by not later than 7:00 a.m. the day of the race.

B. Upon discontinuing the administration of Bute to a horse entered to race, the attending trainer must notify the commission veterinarian by 7:00 a.m. the day of the race.

C. If Bute is not detected in a test sample taken from a horse registered to use such substance, disciplinary action shall be initiated against the attending trainer and, if applicable, the substitute trainer.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist that any medication or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, shall be considered prima facie evidence that such medication or substance was administered and carried in the body of the horse while participating in a race. Such finding shall also be considered prima facie evidence that the trainer and, if applicable, the substitute trainer was negligent in the handling or care of the horse.

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be posted in the office of the racing secretary.

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Subp. 4. **Confirmation of bleeder must be certified.** The confirmation of a bleeder must be certified in writing by the commisison veterinarian and such horse must be included on the bleeder list. Upon request, a copy of such certification shall be provided to the owner of the horse or his or her agent.

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A. For the first observed bleeding in Minnesota, the horse shall be placed on the bleeder list and the veterinarian's list and shall not be removed from the veterinarian's list for at least 14 days, and not until the commission veterinarian has approved its removal.

B. When a horse has been observed bleeding for the second time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least 28 days, and not until the commission veterinarian has

has approved its removal.

D. When a horse is observed bleeding a fourth time in Minnesota, the horse shall be barred from further pari-mutuel racing in Minnesota.

Subp. 6. **Bleeders imported from other jurisdictions.** A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided there is compliance with the following procedures:

A. the jurisdiction from which it was shipped considered the horse a bleeder, and documentation to that effect is immediately transmitted to the stewards and the commission veterinarian at the Minnesota racetrack to which it is shipped; and

B. the commission veterinarian certifies the horse as a bleeder.

Subp. 7. **Bleeders confined to security stall.** Once a horse is placed on the bleeder list, it must be in the detention barn not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.

Subp. 8. **Deadline for Lasix®.** Bleeders entered to race must be treated at least four hours prior to post time. Immediately prior to treatment, a blood sample shall be taken by the commission veterinarian for analysis.

Subp. 9. **Administration of Lasix®.** Lasix® shall be administered by a veterinarian employed by the owner of the horse or his or her agent under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

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7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

All horses that have been treated with Bute or approved for race day use of Lasix® must be identified in the daily racing program on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

ORDER ADOPTING NON-CONTROVERSIAL RULES

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of
Rules of the Minnesota Racing Commission
Governing Horse Medication.

FINDINGS OF FACT
AND ORDER ADOPTING
RULES

Notice of the Minnesota Racing Commission's intent to adopt the above-entitled rules without a public hearing were published in 10 S.R. 762-764 on September 30, 1985, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subdivision 1 on October 4, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30 day comment period, and determining the need and reasonableness of the above-encaptioned rules, the Minnesota Racing Commission finds the following:

FINDINGS OF FACT

Chapter 7890 of the Minn. Rules is dedicated to satisfying the legislative mandate of Minn. Stat. §240.24 with regard to making and enforcing rules governing medication of race horses at licensed race tracks. The proposed changes do not alter the intent of the present rule but, instead, merely clarify vague language in the existing rule, correct minor inconsistencies among parts and subparts, and establish the practical application of the rule at the track level. By improving the applicability and clarity of the present rules, the commission eliminates loopholes which could threaten the overall integrity of the horse racing industry, in the vital area of horse medication.

1. Page 1, lines 12-19. 7890.0100, subpart 4.

Minn. Rule 7890.0100, subpart 4 defines a "bleeder". A bleeder is a horse which sustains exercise-induced pulmonary hemorrhage (EIPH). EIPH means bleeding originating in the lungs (the lower airway) brought on by the stress of exercise. The proposed change is necessary to clarify the definition of a true bleeder and eliminate those horses which exhibit hemorrhage from the upper airway caused by injury. For example, a horse whose nasal area is struck or lacerated by the starting gate, although bleeding from the nostril, has not sustained EIPH. The proposed change in the definition would permit the observation of a bleeder by the association veterinarian (track vet) at the finish line. This is necessary as the track vet is often the only racing official close enough to make such an observation as the horses cross the finish line or pull up to be unsaddled. The stewards and commission veterinarian have other immediate duties which preclude their presence at the finish line. The proposed change also requires an examination of a horse exhibiting nasal bleeding by the commission veterinarian immediately following a race. This examination is necessary to rule out other causes of hemorrhage as described above.

The proposed change allows for an additional one half hour following a race or exercise in which a horse may be diagnosed as a bleeder. The change is necessary for at least three reasons. First, many horses do not exhibit nasal hemorrhage until after they have cooled out and then lower their heads to eat hay. The effects of gravity then overcome the swallowing reflex of the animal. Cooling out a horse normally takes an hour and contacting the commission veterinarian could take another five to ten minutes, thereby preventing examination of the horse within one hour under normal circumstances. Second, an examination within one hour is not practical, as many horses are difficult and dangerous to examine with an endoscope until they have cooled out and calmed down. Third, the commission veterinarian is not always available immediately following a race or exercise. He or she may be dealing with an emergency situation at the detention barn, obtaining samples from a horse which has sustained a breakdown, or examining another bleeder. Therefore, the additional one half hour that has been recommended in which to examine a horse makes compliance with the rule more practical.

The proposed changes are reasonable because the definition of a bleeder uses accepted veterinary medical terminology. Furthermore, the association's official veterinarian, who is under the supervision of the commission veterinarian, would be allowed to make on-track observation of bleeding in conjunction with the commission veterinarian. This is the practice in many racing jurisdictions, including New Jersey, Florida, Pennsylvania, and Maryland. The proposed change is reasonable because it permits the inclusion of legitimate bleeders on the bleeders list which could not for practical reasons be examined within the present one-hour time period. The proposed change places no undue burden on the horsemen.

2. Page 1, line 29. Part 7890.0100, subpart 8.

The proposed change is a clarifying grammatical change. The addition of the word "systemic" as it relates to bodily funtions is necessary to maintain consistency among definitions.

3. Page 2, line 18. Part 7890.0100 subpart 13, item B.

Lasix® is excluded from the category of "Medication" provided its use conforms with certain criteria found in item B. The proposed change is necessary to eliminate a potential area of noncompliance. The route of administration of a drug directly affects the speed of its uptake, absorption into the bloodstream, and subsequent time of onset and duration of action. Furosemide delivered intravenously at 4 hours prior to post time is completely absorbed into the bloodstream within seconds and begins immediately to act upon the renal excretory mechanism of the horse. The diuretic effect peaks within 30 minutes and is almost completely gone within 2 hours. Therefore, by race time, no diluting or "masking" effects are present in the renal system of the horse. Such method of administration allows the full therapeutic effect of the drug while eliminating any interference with drug testing. However, if furosemide is administered intramuscularly, the drug is slowly released from the muscle into the bloodstream. This slow release results in a three-fold delay in absorption, duration of action, and urinary excretion (Goodman & Gilman, The Pharmacological Basis of Therapeutics; Tobin, Drugs and the Performance Horse). Such a delay could result in the diluting or "masking" effect of furosemide in post race urine collected for drug testing purposes. To maintain the integrity of drug testing, furosemide must be administered by the intravenous route only, the only method which has been proven to not interfere with detection of illegal drugs in treated horses. The proposed change would strictly limit the use of Lasix®

to intravenous administration, as specified by the American Association of Equine Practioners' Guidelines on Controlled Medication in Horse Racing.

4. Page 3, line 23. Part 7890.0110.

The addition of the words "in which" is a grammatical change.

5. Page 4, line 13. Part 7890.0120, subp. 2, item c.

The language assistant trainer has been added to correct an original inadvertant omission. Throughout the rules, the assistant trainer through his or her acceptance of such a license, is deemed to be equally liable with the trainer for any acts to which he or she has prior knowledge. The addition of the assistant trainer, if the circumstances make it applicable, maintains continuity in both the intent and practical application of the rule.

6. Page 4, line 22. Part 7890.0130, subpart 1.

The language assistant trainer has been added to be consistent with part 7890.0120, subp. 2, item c.

7. Page 4, lines 31 and 32. Part 7890.0140, subpart 1.

Subpart 1 has been deleted and merged into subp. 2 to eliminate unnecessary subparts and to make the meaning of subp. 2 more clear. The requirement has not been eliminated but, rather, has merely been moved to provide better continuity and clearer drafting.

8. Page 4, line 31. Part 7890.0140 (General).

Part 7890.0140 sets certain criteria related to bleeders and their use of Lasix®. The part attempts to eliminate abuse of horses, the abuse of the therapeutic medication, and the potential concealment of a horse's history of bleeding. The criteria requires confirmation and certification of bleeders by the commission veterinarian prior to allowing the use of Lasix® and sets forth the security requirements related to its use. This is a critically important component of chapter 7890. Accordingly, it is vital that the language of the entire part does not allow misinterpretation, deliberate or otherwise, nor should the wording of this rule create confusion among those affected by it.

Accordingly, the proposed changes in the various subparts are merely grammatical, technical, or clarifying changes. The need for clarification became obvious at an early point in the 1985 racing season, as demonstrated by numerous questions raised by horsemen, racing officials, and commission employees. Finally, the subparts have been renumbered to achieve a logical, practical and continuous flow of the steps and procedures that must be met when a horse is considered a bleeder. Simply illustrated, the new chronology states: 1) horses must be examined to confirm that they are bleeders; 2) the horse must then be certified a bleeder; 3) if a bleeder is shipped to Minnesota it must be documented as such; 4) the horses, after being examined and certified, must be placed on the bleeder list; 5) if certified in Minnesota as a bleeder, they must comply with certain subsequent restrictions; 6) the horse may then, upon request of the trainer, be allowed the use of Lasix®; 7) if using Lasix®, the horse must be confined in a security stall in the detention barn; 8) the Lasix® must be administered at least four hours prior to post time;

9) the Lasix® can only be administered by a licensed veterinarian under the visual supervision of the commission veterinarian at a dose level mandated by law; and 10) while the horse is in the detention barn, the trainer is responsible for its care and custody.

Clearly, neither the content nor the application of the rule has been effected. Instead, the reorganization of the subparts makes the rule more understandable and subsequently more effective.

9. Page 4, lines 33 and 34. Part 7890.0140, subpart (renumbered) 4.

Though the intent of the present rule is obvious, the wording creates ambiguities and radically opposing interpretations. For example, a horse bled in Illinois in March and served the required period of time on the Illinois veterinarian's list. In June it was shipped to Minnesota, along with documentation that it is considered a bleeder by the commission veterinarian of Illinois. Subpart 2 presently states that "bleeders shall be placed on the bleeder list and veterinarian's list." The current definition of a bleeder would include a horse shipped from another jurisdiction to Minnesota and would therefore require such a horse to be placed on the bleeder list and the veterinarian's list in Minnesota, despite its having served such time in March in Illinois. The purpose of placement on the veterinarian's list is to allow a horse time to recover from a recent medical problem. Obviously, the horse described above does not require placement on the veterinarian's list. The example illustrates the need for clarification of Minn. Rule 7890.0140, subpart (renumbered) 4.

10. Page 5, lines 1 through 5. Part 7890.0140, (renumbered) subpart 1.

The added language does not change the original requirements of the rule, but instead accomplishes two objectives. First, the change from one hour to one and one half hours makes the subpart consistent with part 7890.0100, subpart 4, item B. Second, it clarifies that bleeding is only alleged to have occurred until confirmed by the commission veterinarian, either by physical examination or the use of an endoscope. The language is merely to clarify the subpart.

11. Page 5, line 12. Part 7890.0140, subpart (renumbered) 2.

A change is needed in order to differentiate between a bleeder confirmed in Minnesota and a bleeder confirmed in another jurisdiction. The confirmation of a diagnosis of EIPH which occurred in another jurisdiction and was made by another veterinarian cannot be certified by the Minnesota commission veterinarian. The apparent accuracy of documentation submitted for such a horse as a confirmed bleeder is the only thing the commission veterinarian can certify. The proposed change is necessary and reasonable because the meaning and intent of the rule remains unchanged.

12. Page 5, lines 21 through 23. Part 7890.0140, subpart 5, items A. and B.

Subpart 5 places reasonable restrictions on horses confirmed as bleeders in Minnesota. The purpose of these restrictions is to prevent a horse from racing until such time as the horse has recuperated from the physical trauma caused by EIPH. The language in subpart 5 repeatedly created undue hardship on owners and trainers during the 1985 racing season. Entries for races were frequently scheduled by the racing department 72 hours prior to race date rather then the usual 48 hours. This resulted in some horses remaining ineligible to race for longer than the

required time period. Under the normal 48 hour entry schedule, a bleeder may be entered on the 15th day following the observed bleeding and race on the 17th day. However, the horses entered on a 72 hour schedule could miss the entry date and could possibly have to wait an additional 7 to 10 days to race. Therefore, changing the wording of subpart 5 to reflect the period of time wherein a horse may not race, as opposed to the period of time wherein a horse may not be entered, while still enforcing a minimum of 14 days off for the first incident and 28 days off for the second, would not change the intent of the rule. The proposed change is reasonable because it does not change the present rest periods of 14 or 28 days.

13. Page 6, lines 3 through 14. Part 7890.0140, subpart (renumbered) 3.

Subpart (renumbered) 3 deals with bleeders imported from other jurisdictions. The need for the change in this subpart is demonstrated below. On many occasions a horse which was confirmed a bleeder and raced on Lasix® in another jurisdiction would be shipped to Minnesota. At the time of entry into its first race in this state, most trainers would apply to use Lasix®. Often supporting documentation was not physically present at time of entry, but verification that the documentation did exist and was being transmitted could be obtained by telephone from the commission veterinarian to the original documenting jurisdiction. However, in some cases trainers would elect to withhold that information and race the horse one or more times without Lasix®. Subsequently, the trainer would approach the commission veterinarian with out of state documentation only if the horse had raced poorly or the trainer suspected that it had bled, and would request to race the horse using Lasix®. The present rule is open to too much interpretation surrounding the concept of "immediately transmitted" and therefore allows a previously documented bleeder to race on Lasix® at any time. Such a horse is then identified in the daily racing program as racing on Lasix® for the first time, to differentiate that race from its previous Minnesota start(s), while in reality, much of its past performance chart was achieved while racing on Lasix®. Additionally, if the horse did bleed internally while off Lasix®, no restrictions prevent it from racing without adequate time off to heal. The proposed changes are needed to ensure that such a horse is not abused by this sort of experimentation and to maintain the integrity of the disclosure of medication information. The proposed change is reasonable because it does not place an undue burden on horsemen but, instead, forces a trainer to be honest in regard to a horse's bleeding history.

14. Page 6, line 11. Part 7890.0140, (new) subpart 6.

Proposed new subpart 6 guarantees a confirmed bleeder, pursuant to part 7890.0140, (renumbered) subparts 1 and 3, and subpart 5, to race with the aid of the therapeutic drug Lasix®. Obvious intent is apparent in the rule, but the actual practice and guidelines for compliance are missing. The rewriting of this subpart is needed to clarify when a horse may be administered Lasix®, and to make clear that a confirmed bleeder is not required to race on Lasix®, as is suggested by present subparts 7 and 8. For a small percentage of horses, Lasix® is undesirable, either because of hypersensitivity ot over-dehydration in the animal. The proposed change is to prevent the manipulation of a horse's performance by the "on-off" use of this drug. The proposed new subpart 6 is reasonable because it outlines the current practice in Minnesota and all other jurisdictions which allow the use of this drug and places no undue burden on the individuals involved.

15. Page 6, line 12. Part 7890.0140, subpart 7.

Part 7890.0140, subpart 7 requires the confinement to a security area of all horses which will race on Lasix®. The proposed change in the subpart merely continues the distinction discussed in proposed new subpart 6 and is necessary to maintain continuity.

16. Page 6, lines 18, 20 and 21. Part 7890.0140, subpart 8.

This subpart has been re-written, but does not alter the four hour deadline for Lasix® treatment. The proposed change is necessary to maintain continuity with new subpart 6 and subpart 7. Deletion of the requirement for a pretreatment blood sample is proposed for at least two reasons. First, the drawing of a blood sample at that time can, and in 1985 occasionally did, result in the formation of a venous hematoma, especially in an excited, hot or unruly horse. This could affect both the performance of the horse by causing undue stress, and possibly the hematic distribution of the Lasix® which is injected immediately following. Second, the very unlikely positive finding in such a small blood sample cannot be acted upon under the present rules inasmuch as the sample is taken four hours prior to a race. Reasonable doubt could be established that a drug was not in a horse's system at race time. At present the rule states that a drug must be detected in a post race sample, which would be prima facie evidence that the drug was in the horse's system during the race, not four hours prior. The elimination of this requirement for a pre-treatment blood sample is reasonable because a number of unrelated studies (Maylin, Soma, Sams, Tobin) have disproved the once widely held belief that Lasix® given on race day can hide the presence of illegal drugs. In fact, Dr. Sams at the Ohio State University has shown than 250 mg of Lasix® given intravenously at four hours prior to race time has the ability to enhance detection of drugs in all prohibited categories by clarifying the urine (by reducing mucous and other normal components contained in horse urine).

17. Page 6, line 23. Part 7890.0140, subpart 9.

Subpart 9 delineates the conditions under which Lasix® may be administered and the maximum dosage allowed per administration. The proposed changes mirror the proposed clarifications made in 7890.0100, subpart 13. Additionally, the requirement for veterinarians to deposit with the commission veterinarian the Lasix®, needles and syringes to be used for administration builds another safeguard against prohibited substances being introduced into the horse. The added language does not increase the burden upon the practicing veterinarian inasmuch as this is common practice in other states that have a detention barn and was the case at Canterbury Downs in 1985.

NOW, THEREFORE, IT IS ORDERED that these rules, identified as Horse Medication Rules Chapter 7890 are adopted this 22nd day of January, 1986 pursuant to the authority vested in the Minnesota Racing Commission by Minnesota Statutes, chapter 240 (1984).

IN WITNESS HEREOF, I have subscribed my name this 22ND day of JANUARY, 1986.

Rosemary T. Fruehling

ROSEMARY T. FRUEHLING
MINNESOTA RACING COMMISSION

Minnesota Racing Commission

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Parimutuel Horse Racing in Minnesota

Notice is hereby given that the Minnesota Racing Commission is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing all aspects of parimutuel horse racing in Minnesota, including the development of criteria for setting the number of racing days, the issuance of Class A, B, C and D licenses and the promulgation of procedural rules to govern the commission. The commission is authorized to promulgate rules under Laws 1983, chapter 214.

The Minnesota Racing Commission requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit statements of information or comment in writing to: Minnesota Racing Commission, Suite 400, 312 Central Avenue, Minneapolis, Minnesota 55414.

All statements of information and comments will be accepted with respect to each set of rules until such set has progressed to the point at which public comment is terminated pursuant to the Minnesota Administrative Procedure Act. Any written material received by the Minnesota Racing Commission shall become part of the record in the event that the rules are promulgated.

Notice of Public Meetings to Hear Statements of Information and Comment Prior to Drafting of Rules

Notice is hereby given that the Minnesota Racing Commission will hold the following meetings at United Labor Centre, 312 Central Avenue, Minneapolis, Minnesota 55414:

Thursday, September 15, 1983 at 10 a.m., to hear Statements of Information and Comment from Potential Investors in Racetrack Construction.

Wednesday, September 21, 1983 at 4 p.m., to hear Statements of Information and Comment from Interested and Affected Persons and Groups other than Potential Investors in Racetrack Construction.

Ray Eliot, Chairman
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the proposed Adoption of Rules of the Minnesota Racing Commission Governing Horse Medication

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED THIS 16th day of September, 1985, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Racing Commission for that purpose and be published in the State Register.

STATE OF MINNESOTA

David J. Freeman

DAVE FREEMAN
Executive Director

mailed 10-4-85

PROPOSED RULES

MINNESOTA RACING COMMISSION

Proposed Rules Governing Horse Medication

ALTERNATIVE NOTICES: Notice of Intent to Adopt Rules without a Public Hearing, Notice of Intent to Adopt Rules with a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Racing Commission is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1984), as amended. However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1984), and in order to expedite the rulemaking process should that occur, the Racing Commission is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984), as amended. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on October 30, 1985, there will be 13 days before the scheduled hearing date. This 13-day period will give interested persons ample time to contact the Racing Commission to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Racing Commission proposes to adopt the above captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Racing Commission has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1984), as amended.

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on October 30, 1985. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any suggested changes to the rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Racing Commission and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules.

If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Racing Commission be informed of the specific proposed rule on which a hearing is being requested at the time that the hearing request is made. This will enable the Racing Commission to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by October 30, 1985. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1984), as amended, and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Dave Freeman
Executive Director
Minnesota Racing Commission
11100 West 78th Street, Suite 201
Eden Prairie, Minnesota, 55344
Telephone: (612) 341-7555

The statutory authority of the Racing Commission to promulgate the proposed rules is contained in Minn. Stat. § 240.24 (1984), as amended by Minn. Laws 1985, ch. 211, §§ 2 and 4.

If adopted, the proposed rules would allow for the use of certain medications, including: (1) topical external applications, (2) food additives, (3) furosemide (or other pulmonary hemostatic agents), and (4) nonsteroidal anti-inflammatory drugs.

The proposed rules will be published in the State Register issue of September 30, 1985 and a free copy of them may be obtained from the Racing Commission by writing or telephoning Dave Freeman at the address or telephone number listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and may be obtained from the Racing Commission by writing or telephoning Dave Freeman at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore no further information need be provided under Minn. Stat. § 14.11 (1984).

The proposed rules may affect small businesses. The actual affect, if any, is discussed in the Statement of Need and Reasonableness.

Upon adoption of the proposed rules without a public hearing, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written

comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, should submit a written request to Dave Freeman at the address listed above.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE CAPTIONED PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON NOVEMBER 13, 1985, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above captioned matter will be held pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984), as amended, in the Hennepin County Government Center, Commissioners' Board Room, 24th Floor, Administration Tower, Minneapolis, Minnesota 55487, on November 13, 1985, commencing at 9:00 a.m. and continuing until all interested persons have an opportunity to be heard.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law

Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. This written material must be received at the Office of Administrative Hearings before the close of the hearing record.

Unless a longer period not to exceed 20 calendar days is ordered by the Administrative Law Judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Racing Commission and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1984), as amended, and by Minn. Rules pts. 1400.0200 to 1400.1200 (1983), as amended in 9 S.R. 2276 (April 8, 1985), promulgated by the Office of Administrative Hearings. Questions about procedure may be directed to the Administrative Law Judge.

If adopted, the proposed rules would allow for the use of certain medications, including: (1) topical external applications, (2) food additives, (3) furosemide (or other pulmonary hemostatic agents), and (4) nonsteroidal anti-inflammatory drugs.

The proposed rules will be published in the State Register issue of September 30, 1985, and a free copy of them may be obtained from the Board by writing or telephoning Dave Freeman at the address or telephone number listed above in Part II of this notice.

The statutory authority of the Racing Commission to make the proposed rule changes is contained in Minn. Stat. § 240.24 (1984), as amended by Minn. Laws 1985, ch. 211, §§ 2 and 4.

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1984) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Racing Commission's offices and the Office of Administrative Hearings. This Statement of Need and Reasonableness contains the verbatim evidence and argument which the Racing Commission will present at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Racing Commission's offices or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Racing Commission may not take any final action on the proposed rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the proposed rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Racing Commission at any time prior to the filing of the rules as adopted with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1984).

The proposed rules may affect small businesses. The actual affect, if any, is discussed in the Statement of Need and Reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III, ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call the Racing Commission before October 30, 1985, and leave your name, address and telephone number. You will be notified after October 30, 1985, if the hearing has

been cancelled. You may also call the Racing Commission after October 30, 1985, for oral confirmation regarding the scheduled hearing.

September 16, 1985

David J. Freeman

Dave Freeman
Executive Director
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the
Proposed Adoption of
Rules of the Minnesota
Racing Commission Governing
Horse Medication

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

DAVID J. FREEMAN, under oath states that:

1. I am Executive Director of the Minnesota Racing Commission (MRC) and, in that capacity, serve as the chief administrative officer for the MRC.

2. On the 4th day of October, 1985, I served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at the city of Minneapolis, Minnesota, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the MRC for the purpose of receiving notice of the proposed adoption of rules by this agency.

David J. Freeman
DAVID J. FREEMAN
Executive Director

Subscribed and sworn to before me,
this 3 day of February

Esmeralda Guajardo
ESMERALDA GUAJARDO
Notary Public

ESMERALDA GUAJARDO
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES SEP. 11, 1991

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the
Proposed Adoption of
Rules of the Minnesota
Racing Commission Governing
Horse Medication

AFFIDAVIT OF ADDITIONAL NOTICE

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

David J. Freeman, under oath states that:

1. I am the Executive Director of the Minnesota Racing Commission (MRC) and, in that capacity, serve as the chief administrative officer of the MRC.

2. Additional notice of the proposed rules was given on October 4, 1985 to the following organizations who are not presently on the Racing Commission's list (of all persons who have registered with them for the purpose of receiving notice of rule hearings):

HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION
MINNESOTA HARNESS RACING, INC.
U.S. TROTTING ASSOCIATION
THOROUGHBRED RACING AND PROTECTIVE BUREAU
AMERICAN QUARTER HORSE ASSOCIATION
MINNESOTA RACETRACK, INC.
DR. JOSEPH C. O'DEA, D.V.M.
NATIONAL ASSOCIATION OF STATE RACING COMMISSIONERS
CANTERBURY DOWNS

STATE OF MINNESOTA

David J. Freeman

DAVID J. FREEMAN
Executive Director

Subscribed and sworn to before
me this 4 day of October, 1985.

Esmeralda Guajardo

ESMERALDA GUAJARDO
Notary Public

ESMERALDA GUAJARDO
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES SEP 11, 1991

John P. Costanza, Exec. Dir.
HORSEMEN'S BENEVOLENT AND
PROTECTION ASSOCIATION
6000 EXECUTIVE BLVD. , #317
Rockville, MD 20852

Jack Budahn, President
MINNESOTA HARNESS RACIG, INC.
P.O. Box 7
Norwood, Minnesota 55358

Francis X. Ready
Executive Vice President
U.S. TROTTING ASSOCIATION
750 Michigan Avenue
Columbus, Ohio 34215

Cliff Wickman, President
THOROUGHBRED RACING AND
PROTECTION BUREAU
P.O. Box 3557
New Hyde Park, NY 10042

Rick Johns, President
AMERICAN QUARTER HORSE ASSN.
2736 W. Tenth Street
Amarillo, Texas 79168

Dr. Joe O'Dea, D.V.M.
ROSCOMMON STUD
Geneso, NY 14454

Ms. Joan F. Pew, President
NATIONAL ASSN. OF STATE
RACING COMMISSINERS
Beaver Dam Rd. -R.R. #3
Coatsville, PA 19320

T. H. Stevens, Jr.
899 Mason-Headly Road
Lexington, KY 40504

Tom Blincoe
145 Liahona Lane
Kalispell, MT 59901

Forrest Kaelin
Route 1 Box 322
FinchVille, KY 40022

Kathy Hutchinson
26840 8th Avenue South
Kent, WA 98031

Lee Rossi
351 Foothill Avenue
Sierra Madre, CA 91024

Bill Foster
7030 West Rock Creek Road
Norman, OK. 73069

Richard Fincher
1740 Northeast Second Avenue
Miami, FL. 33132

Steve Erban
3748 Oakgreen Avenue North
Stillwater, Minnesota 55082

Gen Hargrove
611 East Grand Route 4
Sayre, OK. 73662

Blaine Story
Box 324
Perkins, OK 74059

Ron Banks
Route 2
box 73
Cannon Falls,Minnesota 55009

Dr. Warren Hartman
1620 Southbrook Drive
Wadena, Minnesota 56482

Howard Ward
202 Ridgeview
Lanesboro, Minnesota 55949

Dr. Leo Zehrer
Brooten, Minnesota 56316

Tim Pinske
Box 56
Plato, Minnesota 55370

August Masciotra
COLORADO RACING COMMISSIO
110 State Services Bldg.
1525 Sherman St.
Denver, CO 80203

William Bessett
ILLINOIS RACING BOARD
100 W. Randolph St.
Suite 11-100
Chicago, Illinois 60601

Thomas Webster
MAINE HARNESS RACING COMM
State House Stateion 28
Augusta, Maine 04333

Jack Ketterer
IOWA RACING COMMISSION
Wallace State Office Bldg
Des Moines, Oiwa 50319

Dennis Oeleschlhger
NEBRASKA RACING COMMISSIO
P.O. Box 95014
Lincoln, NE 68509

Robert Rosenberg
FLORIDA DEPT. OF WAGERING
Room 332,
1350 N.W. 12th Avenue
Miami, FL 33136

Harold Handel
NEW JERSEY RACING COMMISS
CN088 Justice Complex
Trenton, N.J. 08625

Mr. Asher Murray
Route 1
Watertown, Minnesota 5538

Supplemental notice to mailing

Mr. Robert Morehouse
4410 Hwy 25
Watertown, Minnesota 55388

Mr. Lowell Schrupp
Route 2, Box 265
Howard Lake, Minnesota 55349

Mr. Ernest Turner
6565 255th Street West
Farmington, Minnesota 55024

John Cloos, Exec. Secretary
Minn. Division HBPA
c/o CANTERBURY DOWNS
P.O. Box 508
SHakopee, Minnesota 55379

Kelly Balch
2301 Wildwood Trail
Minnetonka, Minnestoa 55343

Mike DuSchane
PATRIMOINE FARM
5355 Pineview Lane North
Plymouth, Minnesota 55442

Jim Green
4565 Wichita Trail
Hamel, Minnesota 55340

Rick Evans
1100 Amhoist Tower
345 St. Peter Street
St. Paul, Minnesota 55102-1639

In the Matter of the Proposed
Adoption of Rules of the **Minnesota Racing Commission** Governing Horse
Medication

CERTIFICATE REGARDING OFFICIAL MAILING LIST

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

DAVID J. FREEMAN, under oath states that:

1. I am Executive Director of the Minnesota Racing Commission (MRC) and, in that capacity, serve as chief administrative officer for the MRC.

2. I supervised the publication and distribution of the proposed rules promulgated by the MRC and publised in the State Register at 10 S.R. 762, et seq., on September 30, 1985.

3. The attached list of persons and organizations who have requested, pursuant to Minn. Stat. §§14.14, subd. 1a, (1984), that their names be placed on file with the MRC for the purpose of receiving notice of the proposed adoption of rules by the MRC, is accurate and complete as of 12:00 P.M. on September 27, 1985.

David J. Freeman
DAVID J. FREEMAN

Subscribed and sworn to before me
this 3 day of February, ~~1985~~ 1986

Esmeralda Guajardo
ESMERALDA GUAJARDO
Notary Public

ESMERALDA GUAJARDO
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES SEP. 11, 1991

D. Elizabeth Anderson
CANTERBURY DOWNS
P.O. BOX 508
Shakopee,Minnesota 55379

Stan Bowmer, General Manager
CANTERBURY DOWNS
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Shakopee, Minnesota 55379

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SCOTTLAND, INC.
5248 Valley Industrial Blvd.
Shakopee, Mjnnesota 55379

Wayne G. Popham
POPHAM HAIK LAW FIRM
4344 IDS Center
Minneapolis, Minnesota 55402

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B.C.A.
1246 University Avenue
St.Paul, Minnesota 55104

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JOCKEY'S GUILD, INC.
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Haddonfield, NJ 08003

Ronald G. Banks
JOCKEY'S GUILD, INC.
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Meidian, ID 83642

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1520 Charlton
St Paul, Minnesota 55118

Rep. Richard Kostohryz
349 State Office Building
St. Paul, Minnesota 55155

Sen. Clarence Purfeerst
Route 1
Fairbault, Minnesota 55021

Senator Collin Peterson
205 State Capitol
St. Paul, Minnesota 55155

Den. Doran Isackson
Route 1
Storden, Minnesota 55174

Jerry Janezich
ST. LOUIS COUNTY ROAD
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Pierre, SD 57501

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Roger Solheid
1305 Hartford Avenue
St. Paul, Minnesota 55116

Kevin Dinwiddie
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c/o Senate Post Office
State Capitol
Jefferson City, MO 65101

Dr. Ray Swanson, Chairman
PARI-MUTUEL HORSE RACING COMM.
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Lake Elmo, Minneosta 55042

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Goodrich, MI 48438

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1620 Southbrook Drive
Wadena, Minnesota 56482

Rex Bott
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Apartment 8
Roseville, Minneosta 55113

MIDWEST EQUINE EXPRESS
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Roseville, Minnesota 55113

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Karin Koop
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Kilkenny, Minneosta 56052

Mary Louise Parker
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Shakopee, Minnesota 55379

Paul Knapper, President
MN QUARTER HORSE RACING ASSN.
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W9704 - Flohr Foad
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Jerry Witt
Rute 6, Box 281
Little Falls, Minnesota 56345

Warren Zimmerman
MN. QUARTER HORSE RACING ASSN.
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Lindstrom, MN 55045

Clayton Grimes
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St. Paul, Minneosta 55114

Jennifer Netery
c/o Keeneland Association
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Lexington, KY 40592

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St. Paul, Minnesota 55102

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5193 Keats Avenue North
Lake Elmo, Minneosta 55042

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1033 Plumber Circle
Rochester, Minnesota 55902

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1600 Allied Bank Plaza
Houston, Texas 77002

John Cloos
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Shakopee, Minnesota 55379

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Auditor
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Cannon Falls, Minnesota 55009

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St. Louis ParK, Minnesota 55416

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St. Paul, Minnesota 55155

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St. Paul, Minnesota 55119

Bernard K. Hancock
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Robert E. Houser
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1752 Flamingo Drive
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Mitchel Perrizo, Jr.
ASHWOOD FARM
Route 1, BOx 110
Delavan, Minnesota 56023

The proposed rules may affect small businesses. The actual affect, if any, is discussed in the Statement of Need and Reasonableness.

IV.
Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III, ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call the Racing Commission before October 30, 1985, and leave your name, address and telephone number. You will be notified after October 30, 1985, if the hearing has been cancelled. You may also call the Racing Commission after October 30, 1985, for oral confirmation regarding the scheduled hearing.

September 16, 1985

Dave Freeman
Executive Director
Minnesota Racing Commission

Rules as Proposed (all new material)

CHAPTER 7890
MINNESOTA RACING COMMISSION
HORSE MEDICATION

7890.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter shall have the meanings given them in this part.

Subp. 2. **Analgesic.** "Analgesic" is a substance used to relieve pain.

Subp. 3. **Anesthetic.** "Anesthetic" is a substance used to effect a loss of feeling or sensation in any part of the body.

Subp. 4. **Bleeder.** "Bleeder" means a horse which during a race or exercise is observed by the commission veterinarian or stewards to be shedding blood from one or both nostrils or which is suspected of having bled and is so confirmed by an endoscopic examination conducted by the commission veterinarian within one hour following the race or exercise. Bleeder also includes a horse which has been shipped into Minnesota and which meets the criteria in part 7890.0140, subpart 6.

Subp. 5. **Bleeder list.** "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

Subp. 6. **Bute.** "Bute" means phenylbutazone or oxyphenbutazone.

Subp. 7. **Chemist.** "Chemist" means any official racing chemist designated by the commission.

Subp. 8. **Depressant.** "Depressant" is a substance used to diminish the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other functions of the body.

Subp. 9. **Detention barn.** "Detention barn" means a secured structure designated by the commission.

Subp. 10. **DMSO.** "DMSO" means dimethylsulfoxide.

Subp. 11. **Horse.** "Horse" includes all horses registered for racing under the jurisdiction of the commission and, for purposes of this chapter, includes a stallion, colt, gelding, ridgling, filly, or mare.

Subp. 12. **Lasix®.** "Lasix®" means furosemide (4-chloro-N-furfuryl-5-sulfamoylanthranilic acid).

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

A. Bute, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma.

B. Lasix®, provided, however, that if it is administered to a confirmed bleeder on a day it is entered to race, it must be given under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

C. Topical applications, such as antiseptics, ointments, salves, DMSO, leg rubs, and leg paints which may contain antibiotics (excluding procaine, penicillin, and chloranphenicol) but which may not contain benzocaine, steroids, or other medications.

D. Food additives, such as vitamins and electrolytes, provided such additives are administered orally and do not contain any medications.

Subp. 14. **Narcotic.** "Narcotic" is a substance used to induce a sleep or stupor and at the same time relieve pain.

Subp. 15. **Positive Test.** "Positive test" means the detection of any medication or metabolites thereof in a test sample or a test level of Bute above the allowed level.

Subp. 16. **Stimulant.** "Stimulant" is a substance used to increase or excite the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other systemic function of the body.

Subp. 17. **Test level.** "Test level" means the concentration of Bute found in a test sample.

Subp. 18. **Test sample.** "Test sample" means any bodily substance including blood, urine, saliva, or other substance designated by the commission, taken from a horse under the supervision of the commission veterinarian for the purpose of analysis.

Subp. 19. **Tranquilizer.** "Tranquilizer" is a substance used to alter the psychic state.

Subp. 20. **Veterinarian.** "Veterinarian" means a doctor of veterinary medicine licensed by the commission to practice at a Minnesota racetrack.

Subp. 21. **Veterinarian's list.** "Veterinarian's list" means a tabulation of horses maintained by the commission veterinarian that are prohibited from entering a race for a minimum of five calendar days and not until such time as the commission veterinarian deems the horse in fit condition to race.

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race it is scheduled to run any medication (except as permitted by part 7890.0100, subpart 13, items A to D) by injection, oral or topical administration, rectal infusion or suppository, or by inhalation.

7890.0120 REPORTING PROCEDURES.

Subpart 1. **Veterinarians must keep records.** Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances (as provided in part 7890.0100, subpart 13, items A to D) which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of an association must be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

Subp. 2. **Administration of Bute to be reported.** The following procedures shall be observed when Bute is administered.

A. The administration of Bute to a horse entered to race must be reported to the commission veterinarian on a prescribed form by not later than 7:00 a.m. the day of the race.

B. Upon discontinuing the administration of Bute to a horse entered to race, the attending trainer must notify the commission veterinarian by 7:00 a.m. the day of the race.

C. If Bute is not detected in a test sample taken from a horse registered to use such substance, disciplinary action shall be initiated against the attending trainer and, if applicable, the substitute trainer.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist that any medication or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, shall be considered prima facie evidence that such medication or substance was administered and carried in the body of the horse while participating in a race. Such finding shall also be considered prima facie evidence that the trainer and, if applicable, the substitute trainer was negligent in the handling or care of the horse.

Subp. 2. **Distributed purse money.** The fact that purse money has been distributed prior to the issuance of the chemist's report shall not be deemed a finding that no medication or Bute exceeding allowable level was administered to the horse earning such purse money in violation of this chapter.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

7890.0140 BLEEDERS.

Subpart 1. **Maintenance.** An up-to-date bleeder list shall be posted in the office of the racing secretary.

Subp. 2. **Horses placed on bleeder list.** Bleeders shall be placed on the bleeder list and veterinarian's list and shall be ineligible to be entered in a race pursuant to subpart 5.

Subp. 3. **Endoscopic examination.** Within one hour of the finish of the race or exercise in which a horse has participated, the commission veterinarian may require an endoscopic examination in order to confirm the horse's inclusion on the bleeder list. The endoscopic examination shall be conducted by a veterinarian employed by the horse's owner or his or her agent, and shall be conducted in the presence of and in consultation with the commission veterinarian. The commission veterinarian shall decide, based upon his or her experience and professional training, whether the amount of hemmorhage is sufficient to cause such horse to be certified as a bleeder.

Subp. 4. **Confirmation of bleeder must be certified.** The confirmation of a bleeder must be certified in writing by the commission veterinarian and such horse must be included on the bleeder list. Upon request, a copy of such certification shall be provided to the owner of the horse or his or her agent.

Subp. 5. **Restrictions on confirmed bleeders.** Confirmed bleeders shall be subject to the following restrictions:

A. For the first observed bleeding in Minnesota, the horse shall be placed on the bleeder list and the veterinarian's list and shall not be removed from the veterinarian's list for at least 14 days, and not until the commission veterinarian has approved its removal.

B. When a horse has been observed bleeding for the second time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least 28 days, and not until the commission veterinarian has approved its removal.

C. When a horse has been observed bleeding for the third time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least six months, and not until the commission veterinarian has approved its removal.

D. When a horse is observed bleeding a fourth time in Minnesota, the horse shall be barred from further pari-mutuel racing in Minnesota.

Subp. 6. **Bleeders imported from other jurisdictions.** A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided there is compliance with the following procedures:

A. the jurisdiction from which it was shipped considered the horse a bleeder, and documentation to that effect is immediately transmitted to the stewards and the commission veterinarian at the Minnesota racetrack to which it is shipped; and

B. the commission veterinarian certifies the horse as a bleeder.

Subp. 7. **Bleeders confined to security stall.** Once a horse is placed on the bleeder list, it must be in the detention barn not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.

Subp. 8. **Deadline for Lasix®.** Bleeders entered to race must be treated at least four hours prior to post time. Immediately prior to treatment, a blood sample shall be taken by the commission veterinarian for analysis.

Subp. 9. **Administration of Lasix®.** Lasix® shall be administered by a veterinarian employed by the owner of the horse or his or her agent under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

Subp. 10. **Responsibility of trainer.** While in the detention barn, the horse shall be in the care, custody, and under the control of the trainer or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care, and handling of the horse while it remains in the security area.

7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

All horses that have been treated with Bute or approved for race day use of Lasix® must be identified in the daily racing program on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

MINNESOTA RACING COMMISSION

CERTIFICATE OF COMMISSION'S AUTHORIZING RESOLUTION

I, Rosemary T. Fruehling, do hereby certify that I am a member and the Vice Chair of the Minnesota Racing Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of the Resolution adopted at a meeting of the Minnesota Racing Commission duly and properly called and held on the 22nd day of January, 1986; that a quorum was present at said meeting; that a majority of those present voted for the Resolution; and that said Resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> **"RESOLVED,** that the Minnesota Racing Commission (MRC), pursuant to the authority vested in it by Minn. Stat. ch. 240 (1984), as amended, hereby approves and adopts the proposed rules relating to Horse Medication which were published in 10 S.R. 762-764 on September 30, 1985, with certain amendments made thereto as indicated on the attached copy of the proposed rules.
>
> **BE IT FURTHER RESOLVED,** that prior to publishing in the State Register the amended rules as adopted, the MRC Executive Director is authorized to make any form changes in the proposed rules that the Revisor of Statutes requires in order to obtain the Revisor's Certificate as required in Minn. Stat. §14.08 (1984) and to make any changes or modifications to the proposed rules recommended by the Attorney General pursuant to his review as long as the changes or modifications do not result in a substantial change to the proposed rules.
>
> **BE IT FURTHER RESOLVED,** that the Vice Chair is authorized to sign an Order of the Minnesota Racing Commission adopting the proposed rules described above and to perform any acts incidental thereto."

IN WITNESS HEREOF, I have hereunto subscribed my name this 22nd day of January, 1986.

Rosemary T Fruehling
ROSEMARY T. FRUEHLING, VICE CHAIR
MINNESOTA RACING COMMISSION

Rosemary T Fruehling
MINNESOTA RACING COMMISSION

Carol Connolly

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Rules
Governing Horse Medication.

I, David J. Freeman, Executive Director of the Minnesota Racing Commission (MRC), under oath declare the following:

That on October 4, 1985, copies of the proposed Horse Medication rules found in 10 S.R. 762-764 (September 30, 1985), were sent to all persons and associations who have requested that their names be placed on file with the MRC for the purpose of receving notice of the proposed adoption of rules by this agency.

That after affording the opportunity for comment on the proposed rules commencing October 7, 1985, and ending at midnight on November 5, 1985, the MRC received no comments, either written or oral concerning the above captioned rules.

David J. Freeman
DAVID J. FREEMAN, Executive Director
MINNESOTA RACING COMMISSION

Subscribed and sworn to before me
this 3 day of February, 1986.

Marilyn J. Nelson
MARILYN J. NELSON
NOTARY PUBLIC

MARILYN J. PELLER
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES APR. 4, 1991

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Rules Governing Horse Medication

FINDINGS OF FACT AND CONCLUSIONS

Chapter 7890 of the Minn. Rules is dedicated to satisfying the legislative mandate of Minn. Stat. §240.24 with regard to making and enforcing rules governing medication of race horses at licensed race tracks. The proposed changes do not alter the intent of the present rule but, instead, merely clarify vague language in the existing rule, correct minor inconsistencies among parts and subparts, and establish the practical application of the rule at the track level. By improving the applicability and clarity of the present rules, the commission eliminates loopholes which could threaten the overall integrity of the horse racing industry, in the vital area of horse medication.

1. Page 1, lines 12-19. 7890.0100, subpart 4.

Minn. Rule 7890.0100, subpart 4 defines a "bleeder". A bleeder is a horse which sustains exercise-induced pulmonary hemorrhage (EIPH). EIPH means bleeding originating in the lungs (the lower airway) brought on by the stress of exercise. The proposed change is necessary to clarify the definition of a true bleeder and eliminate those horses which exhibit hemorrhage from the upper airway caused by injury. For example, a horse whose nasal area is struck or lacerated by the starting gate, although bleeding from the nostril, has not sustained EIPH. The proposed change in the definition would permit the observation of a bleeder by the association veterinarian (track vet) at the finish line. This is necessary as the track vet is often the only racing official close enough to make such an observation as the horses cross the finish line or pull up to be unsaddled. The stewards and commission veterinarian have other immediate duties which preclude their presence at the finish line. The proposed change also requires an examination of a horse exhibiting nasal bleeding by the commission veterinarian immediately following a race. This examination is necessary to rule out other causes of hemorrhage as described above.

The proposed change allows for an additional one half hour following a race or exercise in which a horse may be diagnosed as a bleeder. The change is necessary for at least three reasons. First, many horses do not exhibit nasal hemorrhage until after they have cooled out and then lower their heads to eat hay. The effects of gravity then overcome the swallowing reflex of the animal. Cooling out a horse normally takes an hour and contacting the commission veterinarian could take another five to ten minutes, thereby preventing examination of the horse within one hour under normal circumstances. Second, an examination within one hour is not practical, as many horses are difficult and dangerous to examine with an endoscope until they have cooled out and calmed down. Third, the commission veterinarian is not always available immediately following a race or exercise. He or she may be dealing with an emergency situation at the detention barn, obtaining samples from a horse which has sustained a breakdown, or examining another bleeder. Therefore, the additional one half hour that has been recommended in which to examine a horse makes compliance with the rule more practical.

The proposed changes are reasonable because the definition of a bleeder uses accepted veterinary medical terminology. Furthermore, the association's official veterinarian, who is under the supervision of the commission veterinarian, would

be allowed to make on-track observation of bleeding in conjunction with the commission veterinarian. This is the practice in many racing jurisdictions, including New Jersey, Florida, Pennsylvania, and Maryland. The proposed change is reasonable because it permits the inclusion of legitimate bleeders on the bleeders list which could not for practical reasons be examined within the present one-hour time period. The proposed change places no undue burden on the horsemen.

2. Page 1, line 29. Part 7890.0100, subpart 8.

The proposed change is a clarifying grammatical change. The addition of the word "systemic" as it relates to bodily funtions is necessary to maintain consistency among definitions.

3. Page 2, line 18. Part 7890.0100 subpart 13, item B.

Lasix® is excluded from the category of "Medication" provided its use conforms with certain criteria found in item B. The proposed change is necessary to eliminate a potential area of noncompliance. The route of administration of a drug directly affects the speed of its uptake, absorption into the bloodstream, and subsequent time of onset and duration of action. Furosemide delivered intravenously at 4 hours prior to post time is completely absorbed into the bloodstream within seconds and begins immediately to act upon the renal excretory mechanism of the horse. The diuretic effect peaks within 30 minutes and is almost completely gone within 2 hours. Therefore, by race time, no diluting or "masking" effects are present in the renal system of the horse. Such method of administration allows the full therapeutic effect of the drug while eliminating any interference with drug testing. However, if furosemide is administered intramuscularly, the drug is slowly released from the muscle into the bloodstream. This slow release results in a three-fold delay in absorption, duration of action, and urinary excretion (Goodman & Gilman, The Pharmacological Basis of Therapeutics; Tobin, Drugs and the Performance Horse). Such a delay could result in the diluting or "masking" effect of furosemide in post race urine collected for drug testing purposes. To maintain the integrity of drug testing, furosemide must be administered by the intravenous route only, the only method which has been proven to not interfere with detection of illegal drugs in treated horses. The proposed change would strictly limit the use of Lasix® to intravenous administration, as specified by the American Association of Equine Practioners' Guidelines on Controlled Medication in Horse Racing.

4. Page 3, line 23. Part 7890.0110.

The addition of the words "in which" is a grammatical change.

5. Page 4, line 13. Part 7890.0120, subp. 2, item c.

The language assistant trainer has been added to correct an original inadvertant omission. Throughout the rules, the assistant trainer through his or her acceptance of such a license, is deemed to be equally liable with the trainer for any acts to which he or she has prior knowledge. The addition of the assistant trainer, if the circumstances make it applicable, maintains continuity in both the intent and practical application of the rule.

6. Page 4, line 22. Part 7890.0130, subpart 1.

The language assistant trainer has been added to be consistent with part 7890.0120,

subp. 2, item c.

7. Page 4, lines 31 and 32. Part 7890.0140, subpart 1.

Subpart 1 has been deleted and merged into subp. 2 to eliminate unnecessary subparts and to make the meaning of subp. 2 more clear. The requirement has not been eliminated but, rather, has merely been moved to provide better continuity and clearer drafting.

8. Page 4, line 31. Part 7890.0140 (General).

Part 7890.0140 sets certain criteria related to bleeders and their use of Lasix®. The part attempts to eliminate abuse of horses, the abuse of the therapeutic medication, and the potential concealment of a horse's history of bleeding. The criteria requires confirmation and certification of bleeders by the commission veterinarian prior to allowing the use of Lasix® and sets forth the security requirements related to its use. This is a critically important component of chapter 7890. Accordingly, it is vital that the language of the entire part does not allow misinterpretation, deliberate or otherwise, nor should the wording of this rule create confusion among those affected by it.

Accordingly, the proposed changes in the various subparts are merely grammatical, technical, or clarifying changes. The need for clarification became obvious at an early point in the 1985 racing season, as demonstrated by numerous questions raised by horsemen, racing officials, and commission employees. Finally, the subparts have been renumbered to achieve a logical, practical and continuous flow of the steps and procedures that must be met when a horse is considered a bleeder. Simply illustrated, the new chronology states: 1) horses must be examined to confirm that they are bleeders; 2) the horse must then be certified a bleeder; 3) if a bleeder is shipped to Minnesota it must be documented as such; 4) the horses, after being examined and certified, must be placed on the bleeder list; 5) if certified in Minnesota as a bleeder, they must comply with certain subsequent restrictions; 6) the horse may then, upon request of the trainer, be allowed the use of Lasix®; 7) if using Lasix®, the horse must be confined in a security stall in the detention barn; 8) the Lasix® must be administered at least four hours prior to post time; 9) the Lasix® can only be administered by a licensed veterinarian under the visual supervision of the commission veterinarian at a dose level mandated by law; and 10) while the horse is in the detention barn, the trainer is responsible for its care and custody.

Clearly, neither the content nor the application of the rule has been effected. Instead, the reorganization of the subparts makes the rule more understandable and subsequently more effective.

9. Page 4, lines 33 and 34. Part 7890.0140, subpart (renumbered) 4.

Though the intent of the present rule is obvious, the wording creates ambiguities and radically opposing interpretations. For example, a horse bled in Illinois in March and served the required period of time on the Illinois veterinarian's list. In June it was shipped to Minnesota, along with documentation that it is considered a bleeder by the commission veterinarian of Illinois. Subpart 2 presently states that "bleeders shall be placed on the bleeder list and veterinarian's list." The current definition of a bleeder would include a horse shipped from another jurisdiction to Minnesota and would therefore require such a horse to be placed

on the bleeder list and the veterinarian's list in Minnesota, despite its having served such time in March in Illinois. The purpose of placement on the veterinarian's list is to allow a horse time to recover from a recent medical problem. Obviously, the horse described above does not require placement on the veterinarian's list. The example illustrates the need for clarification of Minn. Rule 7890.0140, subpart (renumbered) 4.

10. Page 5, lines 1 through 5. Part 7890.0140, (renumbered) subpart 1.

The added language does not change the original requirements of the rule, but instead accomplishes two objectives. First, the change from one hour to one and one half hours makes the subpart consistent with part 7890.0100, subpart 4, item B. Second, it clarifies that bleeding is only alleged to have occurred until confirmed by the commission veterinarian, either by physical examination or the use of an endoscope. The language is merely to clarify the subpart.

11. Page 5, line 12. Part 7890.0140, subpart (renumbered) 2.

A change is needed in order to differentiate between a bleeder confirmed in Minnesota and a bleeder confirmed in another jurisdiction. The confirmation of a diagnosis of EIPH which occurred in another jurisdiction and was made by another veterinarian cannot be certified by the Minnesota commission veterinarian. The apparent accuracy of documentation submitted for such a horse as a confirmed bleeder is the only thing the commission veterinarian can certify. The proposed change is necessary and reasonable because the meaning and intent of the rule remains unchanged.

12. Page 5, lines 21 through 23. Part 7890.0140, subpart 5, items A. and B.

Subpart 5 places reasonable restrictions on horses confirmed as bleeders in Minnesota. The purpose of these restrictions is to prevent a horse from racing until such time as the horse has recuperated from the physical trauma caused by EIPH. The language in subpart 5 repeatedly created undue hardship on owners and trainers during the 1985 racing season. Entries for races were frequently scheduled by the racing department 72 hours prior to race date rather then the usual 48 hours. This resulted in some horses remaining ineligible to race for longer than the required time period. Under the normal 48 hour entry schedule, a bleeder may be entered on the 15th day following the observed bleeding and race on the 17th day. However, the horses entered on a 72 hour schedule could miss the entry date and could possibly have to wait an additional 7 to 10 days to race. Therefore, changing the wording of subpart 5 to reflect the period of time wherein a horse may not race, as opposed to the period of time wherein a horse may not be entered, while still enforcing a minimum of 14 days off for the first incident and 28 days off for the second, would not change the intent of the rule. The proposed change is reasonable because it does not change the present rest periods of 14 or 28 days.

13. Page 6, lines 3 through 14. Part 7890.0140, subpart (renumbered) 3.

Subpart (renumbered) 3 deals with bleeders imported from other jurisdictions. The need for the change in this subpart is demonstrated below. On many occasions a horse which was confirmed a bleeder and raced on Lasix® in another jurisdiction would be shipped to Minnesota. At the time of entry into its first race in this state, most trainers would apply to use Lasix®. Often supporting documentation was not physically present at time of entry, but verification that the documentation did exist and was being transmitted could be obtained by telephone from the

commission veterinarian to the original documenting jurisdiction. However, in some cases trainers would elect to withhold that information and race the horse one or more times without Lasix®. Subsequently, the trainer would approach the commission veterinarian with out of state documentation only if the horse had raced poorly or the trainer suspected that it had bled, and would request to race the horse using Lasix®. The present rule is open to too much interpretation surrounding the concept of "immediately transmitted" and therefore allows a previously documented bleeder to race on Lasix® at any time. Such a horse is then identified in the daily racing program as racing on Lasix® for the first time, to differentiate that race from its previous Minnesota start(s), while in reality, much of its past performance chart was achieved while racing on Lasix®. Additionally, if the horse did bleed internally while off Lasix®, no restrictions prevent it from racing without adequate time off to heal. The proposed changes are needed to ensure that such a horse is not abused by this sort of experimentation and to maintain the integrity of the disclosure of medication information. The proposed change is reasonable because it does not place an undue burden on horsemen but, instead, forces a trainer to be honest in regard to a horse's bleeding history.

14. Page 6, line 11. Part 7890.0140, (new) subpart 6.

Proposed new subpart 6 guarantees a confirmed bleeder, pursuant to part 7890.0140, (renumbered) subparts 1 and 3, and subpart 5, to race with the aid of the therapeutic drug Lasix®. Obvious intent is apparent in the rule, but the actual practice and guidelines for compliance are missing. The rewriting of this subpart is needed to clarify when a horse may be administered Lasix®, and to make clear that a confirmed bleeder is not required to race on Lasix®, as is suggested by present subparts 7 and 8. For a small percentage of horses, Lasix® is undesirable, either because of hypersensitivity ot over-dehydration in the animal. The proposed change is to prevent the manipulation of a horse's performance by the "on-off" use of this drug. The proposed new subpart 6 is reasonable because it outlines the current practice in Minnesota and all other jurisdictions which allow the use of this drug and places no undue burden on the individuals involved.

15. Page 6, line 12. Part 7890.0140, subpart 7.

Part 7890.0140, subpart 7 requires the confinement to a security area of all horses which will race on Lasix®. The proposed change in the subpart merely continues the distinction discussed in proposed new subpart 6 and is necessary to maintain continuity.

16. Page 6, lines 18, 20 and 21. Part 7890.0140, subpart 8.

This subpart has been re-written, but does not alter the four hour deadline for Lasix® treatment. The proposed change is necessary to maintain continuity with new subpart 6 and subpart 7. Deletion of the requirement for a pretreatment blood sample is proposed for at least two reasons. First, the drawing of a blood sample at that time can, and in 1985 occasionally did, result in the formation of a venous hematoma, especially in an excited, hot or unruly horse. This could affect both the performance of the horse by causing undue stress, and possibly the hematic distribution of the Lasix® which is injected immediately following. Second, the very unlikely positive finding in such a small blood sample cannot be acted upon under the present rules inasmuch as the sample is taken four hours prior to a race. Reasonable doubt could be established that a drug was not in a horse's system at race time. At present the rule states that a drug must be detected in a post race

sample, which would be prima facie evidence that the drug was in the horse's system during the race, not four hours prior. The elimination of this requirement for a pre-treatment blood sample is reasonable because a number of unrelated studies (Maylin, Soma, Sams, Tobin) have disproved the once widely held belief that Lasix® given on race day can hide the presence of illegal drugs. In fact, Dr. Sams at the Ohio State University has shown than 250 mg of Lasix® given intravenously at four hours prior to race time has the ability to enhance detection of drugs in all prohibited categories by clarifying the urine (by reducing mucous and other normal components contained in horse urine).

17. Page 6, line 23. Part 7890.0140, subpart 9.

Subpart 9 delineates the conditions under which Lasix® may be administered and the maximum dosage allowed per administration. The proposed changes mirror the proposed clarifications made in 7890.0100, subpart 13. Additionally, the requirement for veterinarians to deposit with the commission veterinarian the Lasix®, needles and syringes to be used for administration builds another safeguard against prohibited substances being introduced into the horse. The added language does not increase the burden upon the practicing veterinarian inasmuch as this is common practice in other states that have a detention barn and was the case at Canterbury Downs in 1985.

COMPLETED THIS 20TH DAY OF January, 1986

David J. Freeman

DAVID J. FREEMAN, EXECUTIVE DIRECTOR
MINNESOTA RACING COMMISSION

MINNESOTA RACING COMMISSION

CERTIFICATE OF COMMISSION'S AUTHORIZING RESOLUTION

I, Ray Eliot, do hereby certify that I am a member and the Chair of the Minnesota Racing Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a Resolution adopted at a meeting of the Minnesota Racing Commission duly and properly called and held on the 16th day of September, 1985; that a quorum was present at said meeting; that a majority of those present voted for the Resolution; and that said Resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> **RESOLVED,** that DAVE FREEMAN, Executive Director of the Minnesota Racing Commission, be and hereby is granted the authority and directed to sign an Order of the Commission directing that Notice be given of the Commission's intent to adopt without a public hearing rules governing Horse Medication.
>
> The Executive Director is further authorized to sign and issue said Notice, and to perform any and all acts incidental thereto.
>
> In the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules, as well as perform any and all acts incidental thereto, including but not limited to, signing an Order of Hearing and Notice of Hearing as well as act as the Commission's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16TH day of September, 1985.

Ray Eliot

RAY ELIOT, Chair
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Rules
Governing Horse Medication.

STATEMENT OF NEED
AND REASONABLENESS

GENERAL

The Minnesota Legislature, during the 1985 session, amended preexisting laws with respect to racehorse medication. The new law stated, in pertinent part, that "the commission must adopt rules to allow the use of (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or assistant veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis." The legislature further directed the commission to "adopt emergency rules to implement the provisions of this subdivision." Finally, the Legislature put certain provisions into the law that "Notwithstanding chapter 14, the emergency rules adopted under section 2 shall expire on November 15, 1985, and the commission must publish proposed permanent rules under Minnesota Statutes, sections 14.14 to 14.28, by October 1, 1985."

The commission did publish emergency rules that became effective the day following final enactment, and has regulated the area of horse medication under the emergency rules for the inaugural season of pari-mutuel racing in Minnesota. The commission has found the rules to be effective in enforcing its regulatory function and believes that the rules have worked to the benefit of all concerned. The rules have, in almost every instance, been complied with by horsemen, veterinarians, and always by commission staff. The burdens of the emergency rules have not been overly due, and have served to protect the health, safety and welfare of the public, the participants, and of the animals themselves. It is the intention of the commission, therefore, to propose permanent rules that are identical to those of the emergency rules.

The rulemaking process involved in establishing the content of the emergency rules spanned several months and many public meetings. During the process, the commission directly solicited rules and recommendations from other racing jurisdictions. Horse racing statutes, medication and testing rules, standards, policies and forms have been secured from governmental regulators throughout the United States and Canada. The commission also received comments from veterinarians, chemists, humane society representatives, horse trainers, jockey representatives, track operators, and regulators on an ongoing basis and at a seminar of related subjects hosted by the commission in September, 1984.

Many other regulators, private individuals and organizations, veterinary chemists and other interested parties have made signifcant contributions to the substance and form of the rules now proposed.

The most important contribution to the rules now proposed is the experience of utilizing the rules in the day to day regulation of horse racing in Minnesota in 1985. There were minor problems in the initial stages of the race meeting at Canterbury Downs, but the problems were not related to the rules, but rather in the practical application of the rules to the logistical setting of the existing race facilities. Once the participants became accustomed to the routine created by of the rules, compliance became a normal chain of events in a racing day. It is the success of the racing experience to date, and the success of the rules as they were applied in a practical setting that most supports the rules that are being proposed.

1. Medication

Chapter 7890 of the proposed rule is dedicated to satisfying the legislative mandate of Minn. Stat. §240.24 (1984), as amended by LAWS 1985, ch. 211 §4, for the promulgation and enforcement of rules governing medication of race horses at licensed race tracks within the state. Part 7890.0100 defines terms used within the chapter. Most important in the proposed definitions is subpart 6, which is the definition of medication. The definition describes what actions are necessary to consider a substance medication. The substance must have the ability to prevent, cure or alleviate the effects of any disease, condition, ailment or infirmity. A critical component of the definition is the statement that medication may alter the behavior, attitude, temperament, or performance of a horse, including athletic performance. This language is vital to protect the integrity of the horse racing contest, and to ensure that the public is not subjected to wagering on a horse that has been tampered with through medications that could ultimately affect the outcome of a race. The term medication includes

all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. It was necessary to identify the categories of medications, in the event a disciplinary ruling would have to be issued disciplining a trainer or veterinarian for using any of the prohibited medications.

Perhaps the most important element in the proposed definition is the language found in items A through D. The language in these items delineate the exceptions made by the Legislature to allow the use of certain substances under controlled conditions.

Item A excludes Bute (phenylbutazone), a nonsteroidal anti-inflammatory drug (NSAID), from being termed a medication, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. This exception was made in the rules to allow trainers and veterinarians to administer a therapeutic amount of the substance to horses. The three microgram level essentially prohibits the administration of Bute within 24 hours of a race, when given in small dosages. In states that profess to have a "no medication" rule, trace levels of Bute are permitted, and in some cases to nearly the three microgram level proposed in the rule. It has been determined that the small amount may be a residue from use during training, and not as a result of administration for racing purposes. The exclusion of amounts of Bute less than three micrograms per milliliter is reasonable because it makes the participants aware of the amount that is permissable, and indicates to them a reasonable cutoff time and amount of the medication to be administered. It should be noted, that there are many equine NSAIDs available for use. The racing commission has

chosen to limit this classification of medication to Bute as, at this time, Bute is the only NSAID that has documented research for quantifying amounts of the substance in blood plasma. To ensure proper identification, quantity, and effect of NSAIDs, the commission has acted responsibly in restricting its use to Bute. Additionally, it has been documented through extensive research that levels up to five micrograms of bute per milliliter of blood plasma will not result in the interference in the detection of any other drug in a test sample. This exclusion, which allows the use of Bute in a controlled enviroment, is necessary for at least two reasons. First, horses are athletes that require rigorous training and ultimately expend tremendous efforts in a race, and are at times in need of medication such as Bute. Trainers use Bute in their training regimen to assist a horse in alleviating normal aches and pains and to allow a horse to relax better during rest hours. There is no prohibition against such administration and the three microgram level protects horsemen from receiving positive laboratory reports for a substance that may have been retained in the horse's system. Second, Bute has been proven to be an effective therapeutic medication in relieving the symptoms of traumatic arthritis, inflammation and other related minor problems, and reduces fever. It is both humane and sensible to allow a horse the use of the available treatment so long as there is not more than three micrograms of the substance in the horse at the time it participates in a race.

Item B excludes from the definition of medication Lasix®, provided however, that if it is administered to a confirmed bleeder on a day that it is entered to race, it must be given under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration. Lasix®

is the trade name for furosemide, a powerful diuretic used by both horses and humans. The purpose of administering Lasix® is to reduce the likelihood of exercise induced pulmonary hemmorhaging (bleeding) by horses. Athletes, including marathon runners, football players, and race horses often bleed from the lungs. By administering Lasix® to a horse prior to running, the amount of fluid in the lungs is reduced thereby allowing freer breathing and less stress on the fragile capillaries. When this occurs, a horse is able to perform to its capabilities. The action also reduces the risk of the horse either choking on the accumulation of blood in the nasal passage or losing large amounts of blood due to profuse bleeding caused by the hemmorhaging. When a horse either chokes or bleeds profusely, the risk of it becoming a danger to other participants in the race becomes very real. By using Lasix® prior to a race, the risks are minimized and additionally, the public is able to wager on a horse that should be able to perform at its optimum level.

The exclusions to the definition of medication found in items C and D are necessary to put into perspective what a medication is, what it does, and the effect that it may render in a horse. Items C and D exclude from medications topical applications of antiseptics, ointments, salves, DMSO, leg rubs and leg paints and orally ingested food additives such as vitamins and electrolytes. It is necessary to a make such exceptions to allow for the normal day to day care, health, and welfare of the horse. The horse, as has been stated, is an athlete and daily training in such a physically demanding sport causes wear and tear.

All of the excepted substances found in items A through D are necessary to keep a race horse in top competitive shape, subsequently assisting the

horse to compete at its maximum potential with a minimum of discomfort and stress. The proposed definition of medication is necessary to help horse owners, trainers, veterinarians, and other participants become aware of which medications are permissable to be used and what effect the use of such substances will have on horses. The information is necessary for the participants to make sound judgments in their treatment and care of horses. Finally, the proposed definition is necessary to achieve continuity and conformance with the proposed medication rules as a whole.

The proposed definition of medication was based upon definitions used in California and Colorado, but was supplemented with language submitted by veterinarians and veterinary chemists from New York, Ohio, Colorado, Nebraska, and the University of Minnesota College of Veterinary Medicine. The excluded substances were initially structured after the definition found in the Arkansas rules of racing, a state that permits no medication, and LAWS of the Minnesota Legislature.

The proposed definition is reasonable for at least three reasons. First, the participants are informed as to what constitutes a medication, thereby informing them of what substances may be in their possession or prescribed to them. This assists the participants to avoid the use of prohibited medications within 48 hours of post time of a race in which a horse is scheduled to run. Second, the exceptions made in items A through D, including Bute and Lasix® under tightly controlled conditions, certain leg rubs, antibiotics, and food additives are reasonable because their use is not intended to alter a horse's behavior or performance, but rather is intended to provide proper humane care for the horse and to allow the horse to compete at its best. Third, the proposed

definition of medication, including exceptions, is reasonable because horse owners and trainers, veterinarians and veterinary chemists, regulators and other participants in horse racing are accustomed to the terms in the definition due to their exposure to similar terms in other jurisdictions. It is common practice in all racing jurisdictions to allow the use of vitamins, leg rubs and antiseptics at any time to properly care for the horse. It is also common in the majority of jurisdictions to allow for the use of NSAIDs and furosemide under controlled conditions. The proposed definition has been drafted in collaberation with other racing jurisdictions, regulators, chemists, veterinarians, and existing rules. No undue burden is imposed. The definition is, therefore, reasonable.

Minn. Stat. §240.24 mandates that no medication shall be administered to a horse within 48 hours of post time of a race in which the horse is scheduled to run. Part 7890.0110 of the proposed rule satisfies the intent of the legislation by clarifying the types of administration that are prohibited, who is prohibited from performing such administration, and the time period to which such prohibition is confined.

The proposed rule is necessary for many reasons. The sport of horse racing offers large amounts of prize money and provides the ability for persons to wager on the outcome of such races. Temptation to abuse the sport for personal gain is ever present. One area that is most suspect and potentially vulnerable is that of illegal drugging of horses. Many professionally accepted therapeutic medications are available to horse owners and trainers. The administration of such medications in and of itself is not a danger to the credibility and integrity of racing. However, if such medications are used to stimulate,

depress, desensitize, or alter the psychic state of a horse, such medications must not be allowed to be administered to a horse within close proximity of race time. Proposed part 7890.0110 is necessary to enforce the prohibition of such medication being administered to a horse. The rule is explicit in its intent and is necessary to safeguard the integrity of racing. The proposed part 7890.0110 is reasonable because it effectually serves to enforce the legislative intent to protect the integrity of each race run at a licensed racetrack. The burdens are not undue, as the ability to care for a horse has not been diminished, but has reduced the potential for abuse of the medication rule.

Part 7890.0120 of the proposed rule details the reporting procedures required of veterinarians practicing at licensed racetracks. It requires that veterinarians submit daily reports of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses stabled at the racetrack. The part also outlines the reporting procedures that are required when administering Bute to a horse that is entered into a race. The proposed part also requires that the veterinarians keep daily logbooks detailing other professional services performed at the racetrack, and that such logbooks must be made immediately available to the commission veterinarian upon request. The proposed rule is necessary to maintain strict controls over all veterinary and medicinal activities being performed on the premises, and the time and manner of such practices. The proposed rule is also necessary to act as a deterrent for veterinarians to administer any medication in contravention of applicable state laws and commission rules. The requirements also establish a basis for veterinarians to act ethically and responsibly in their day to day activities.

The proposed part 7890.0120 is reasonabale. All racing jurisdictions have rules relating to practices of veterinarians at licensed racetracks and reporting procedures involved therewith. The records that are required to be kept by the proposed rule are not unusual nor are they severe. The rule places no undue burden upon the veterinarians, and it is reasonable to regulate compliance.

Proposed rule part 7890.0130 establishes that the findings of the official chemist of any medication or Bute exceeding the allowable test level shall be prima facie evidence that such medication or substance was carried in the body of the horse while participating in a race. The finding also is considered prima facie evidence that the trainer, and if applicable, the substitute trainer was negligent in the handling or care of the horse. Finally, the proposed part states that the fact that purse money has been distributed prior to the issuance of the report shall not be evidence that no violation has occured. The proposed rule part is necessary to establish that the finding of the chemist is the basis and the evidence for establishing that a horse has been improperly medicated. The proposed rule also establishes the burden of guilt upon the trainer or his or her substitute for the illegal medication. Additional tests are often required to be performed on test samples,which requires additional time. Purse money may have been paid by the racing association prior to the receipt of the official laboratory result. The rule is necessary to establish that the payment of the purse in no way establishes that a violation has not occurred. This is necessary protect the commission's case against a trainer for acting improperly in his medication procedures.

The proposed rule part is reasonable. The rule establishes what evidence

is considered to identify a rule violation. It also allows the laboratory the additional time needed to do supplemental testing without an implied assumption that a trainer is innocent on the basis of having received purse monies. It is common in all racing jurisdictions to use the laboratory reports as the evidence to prosecute medication or drug violators. Horsepersons are accustomed to the rules and therefore no undue burden is imposed.

Part 7890.0140, subparts 1 through 6 of the proposed rule places certain requirements upon veterinarians and trainers of horses that display symptoms of exercise induced pulmonary hemorrhaging or "bleeding". The proposed rule sets out what criteria must be met to consider a horse a bleeder, methods of detection, and restrictions against such bleeders participating in races. The proposed rule is necessary to establish procedures for the identification of bleeders for three distinct reasons. First, continued symptoms of bleeding by a horse in a race can pose a potential threat to such horse and other participants in a race. Second, to be eligible use bleeder medication (Lasix®), a horse must first be identified as a bleeder. The proposed rule stipulates what criteria must be met and makes clear that the decision to allow a horse to use such medication rests with the commission veterinarian. Third, the proposed rule provides language that forces a trainer to give a horse the necessary treatment and rest that will help the reduce the likelihood of future bleeding.

Subparts 7 through 10 of the proposed part 7890.0140 implements the procedures that must be followed for the confinement, deadline, and administration of Lasix® to a confirmed bleeder entered to race. Further it makes clear that the trainer of the horse is responsible for it while it remains in the security area. The proposed rule is necessary to regulate all aspects of the administration

of bleeder medication. It is clearly stated that horses must be in a detention barn, under the supervision of the commission veterinarian not less than four hours prior to receiving Lasix®. This is to ensure that no other medications are administered to the horse within that time period. Because Lasix® is a diuretic, it would have the ability to dilute and flush other substances from the horse's system within the four hour period. The recommended dosage of the manufacturer of Lasix® is double the amount allowed by the proposed rule. However, by confining the treatment time to four hours prior to post time, the dosage allowed by the proposed rule still permits the therapeutic effect while safeguarding against the potential for diluting urine or blood samples. Additonallly, the proposed rule requires that blood samples must be taken from horses prior to the administration of Lasix® as backup should a sample appear to have more than the allowed level of Lasix® or another pulmonary hemostatic agent. The proposed rule, in summary, requires detention of horses in a controlled enviroment prior to racing, causes blood samples to be taken prior to the administration of Lasix®, supervision of administration by the commission veterinarian, regulates the dosage of the substance, and causes the trainer to be responsible for the horse while it is in the detention barn. The proposed rule is necessary for the protection of the public and to assist the participants in following proven medical procedures.

Part 7890.0150 of the proposed rule requires the operators of the racetrack to identify in the daily racing program which horses have been treated with Bute and/or Lasix®. The commission strongly feels that the public has the inherent right to be informed about every aspect of horse racing including which horses have been treated with approved medications. The proposed rule is reasonable because it affords the public information that may have an effect

upon the way in which it would wager. Some jurisdictions do not have such requirements, and the public and the media have been critical of such practices. The proposed rule does not cause a burden, but rather lessens the burden on the public in assisting them with information about the horses that are competing.

The proposed rule, chapter 7890, is reasonable for a number of reasons. First, medication, and the substances excluded from the definition of medication, must be strictly controlled. The content of the proposed rules have proven to be very effective when were applied as emergency rules during the 1985 racing season in Minnesota. The very structure of the proposed rules have permitted horsepersons and veterinarians to use effective, therapeutic and humane substances while maintaining the honesty and integrity of the sport. The proposed rules have provided strict regulatory control of the prescription, administration, and identification of medications. The proposed rule has proven that medications can be controlled and rules can be enforced concerning their use. The public has been kept informed as to the identities of horses using permitted medications and what those medications are. Veterinarians and horsemen have been allowed to use humane and therapeutic medications without abusing the privelege. No undue burden has been imposed upon the participants. To the contrary, the participants have been allowed to utilize known therapeutic methods, but under controlled circumstances. Injuries to horses has been minimal while racing under the emergency rules. The number of serious breakdowns has been far less than normally occurs at race meetings in other jurisdictions. The proposed rule is reasonable in its regulatory and humane effectiveness. In light of the benefit accrued by the proposed rule, the necessity and reasonableness is extremely justifiable.

SMALL BUSINESS CONSIDERATIONS

The Commission considered the impact on small business. The rules are less restrictive than rules that would provide for no medications. The proposed rules allows small business, i.e. veterinarians, horse owners, and horse trainers to use medications that would permit their horses to compete at their peak levels of performance, thereby enhancing the potential to earn purse monies and accordingly to prosper. Therefore, the proposed rule proves to be more beneficial to small business than a rule that provides for no medication.

EFFECT ON AGRICULTURAL LANDS

The proposed rule has no effect on agricultural lands.

David J. Freeman

DAVID J. FREEMAN, EXECUTIVE DIRECTOR

Dated: September 13, 1985

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of Rules of the Minnesota Racing Commission Governing Horse Medication.

DECLARATION OF COUNSEL

I, Mary B. Magnuson, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. For Attorney General billing purposes, the four-digit client code is 0733.

MARY B. MAGNUSON
Special Assistant
Attorney General

Dated: February 10, 1986.

MINNESOTA RACING COMMISSION

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David J. Freeman
Executive Director

February 5, 1986

RECEIVED
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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

The Honorable Hubert H. Humphrey III
Attorney General
STATE OF MINNESOTA
102 State Capitol
St. Paul, Minnesota 55155

Re: Minnesota Racing Commission
Rules As Proposed For Adoption

Dear Attorney General Humphrey:

Enclosed for review by the Attorney General's Office pursuant to Minn. Stat. §14.26 (1984) are copies of the following documents relating to rules as proposed for adoption by the Minnesota Racing Commission (MRC):

(1) Notice of Intent to Solicit Outside Opinion (Note: the MRC did not receive any comments pursuant to this Notice).
(2) Certificate of MRC's Authorizing Resolution.
(3) Order for Notice of Intent to Adopt Rules Without Hearing (duplicate copies).
(4) Order for Notice of Intent to Adopt Rules With A Public Hearing (duplicate copies).
(5) Notice of Intent to Adopt Rules Without Hearing (duplicate copies).
(6) Notice of Intent to Adopt Rules With A Public Hearing (duplicate copies).
(7) Certificate Regarding Official Mailing List.
(8) Affidavit of Mailing.
(9) Affidavit of Additional Notice.
(10) Rules as Proposed.
(11) Rules as Adopted (Original and 3 copies).
(12) Findings of Fact and Conclusions (duplicate copies).
(13) Statement of Need and Reasonableness (duplicate copies).
(14) Written Comments Received on the Proposed Rules or Request for Public Hearing Received (Note: the MRC did not receive any requests for a public hearing).
(15) Certificate of Compliance With Rulemaking Process.
(16) Certificate of MRC's Authorizing Resolution.
(17) Order Adopting Rules (duplicate copies).

Please be advised that the MRC did not receive any requests for notice of submission to the Attorney General.

Thank you for your consideration in this matter.

Sincerely,

David J. Freeman

David J. Freeman
Executive Director

DJF/sb
enclosures