

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1310 Docket No. 05.0009.0733

DATE RECEIVED 9/5
REVIEW DATE 9/15
DUE DATE 9/19

APPROVED 9-15-86 mjc
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ✓
EMERGENCY RULE

REVISOR APPROVED 9/8
REVISOR DISAPPROVED
FILED W/SEC. STATE 9/15
RETURNED TO AGENCY 9/15

✓ Rule as adopted (4 copies)

N/A Notice to Solicit Outside Information/Opinion
____ Date published in State Register
____ Comments

N/A Petition for Adoption of a Rule

✓ Board's Authorizing Resolution

✓ Proposed rule
____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
240.23 Statutory Authority
yes Small business statement
None Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
July 31, 1986 Date ~~30~~ 25 days before adoption

✓ Publication in State Register
Aug 4, 1986 Date ~~30~~ 25 days before adoption

✓ Resolution Adopting

✓✓ Findings of Fact, Conclusions & Order Adopting
Sept 4, 1986 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney
Mary B Magnuson Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

SF-00006-03

File

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO: RAY ELIOT, Chair
Minnesota Racing Commission

DATE: 9/15/86

ATTN: MARY B. MAGNUSON
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: Minnesota Racing Commission Harness Rules

The above-referenced rule has been approved as to its legality by the Attorney General on September 15, 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/rmk
Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR#1310

Minnesota Racing Commission

Adopted Permanent Rules Relating to Harness Racing

Rules as Adopted

7884.0120 ELIGIBILITY AND ENTERING.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Maximum number in field.** The maximum size of fields for all races shall be determined as follows:

A. For overnight events, the maximum number of horses shall be ten on a one-mile track.

B. For stakes races, the maximum number of horses shall be 14 on a one-mile track. If the number of horses declared to start exceeds 14 on a one-mile track, unless a lesser number of horses is specified in the conditions of the race, the race shall be run in two divisions or elimination heats.

Subp. 7. **Conditions precedent to entering.** No horse shall be permitted to enter to race unless:

A. a valid eligibility certificate has been granted or validated for that horse by the USTA, and the eligibility certificate has been filed with the racing secretary;

B. the current ownership of the horse has been registered with the USTA, and the registration papers have been filed with the racing secretary. For purposes of this subpart, a photocopy of the current registration papers will be accepted to the same extent as the original unless:

(1) a genuine question is raised as to the authenticity of the original registration papers; or

(2) the horse is entered in a claiming race;

C. if the horse is leased,

(1) a copy of the lease is on file with the association and the USTA; and

(2) the horse races in the name of the lessee;

D. the horse has qualified as provided in part

7884.0190;

E. the horse has been lip tattooed;

F. the horse is at least two years old but not older than 14 years old; and

G. if it is a spayed mare, that fact is noted on the program, registration certificate, eligibility certificate, and the list of such horses is posted in the office of the racing secretary.

Subp. 8. to 15. [Unchanged.]

7884.0130 PREFERENCE SYSTEM.

Subpart 1. **Association to establish preference system.** Each association shall establish a preference system giving preference dates to horses in all overnight events in accordance with the date of the horse's last previous start in a purse race during the current year as its preference date with the following exceptions:

A. The preference date on a horse that has drawn to race and has been scratched is the date of the race from which scratched.

B. When a horse is racing for the first time in the current year, the date of the first declaration into a purse race shall be considered its preference race.

C. Wherever horses have equal preference in a race, the actual preference of the horses in relation to one another shall be determined from the most recent previous starts which do not result in equal preference.

D. When an overnight race has been reopened because it did not fill, all eligible horses declared into the race prior to the reopening shall receive preference over other horses subsequently declared, irrespective of the actual preference dates.

Subp. 2. and 3. [See Repealer.]

7884.0160 ALSO ELIGIBLES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Also eligibles released.** Also eligibles not

moved into a race by scratch time shall be released.

Subp. 4. and 5. [Unchanged.]

7884.0200 STAKES RACES.

Subpart 1. to 11. [Unchanged.]

Subp. 12. **Stakes races conducted in eliminations.** For stakes races conducted in eliminations:

A. to C. [Unchanged.]

D. If there are two elimination heats, the first five finishers in each heat shall qualify for the final heat.

E. If there are three or more elimination heats, three horses from each elimination heat shall qualify for the final heat, in addition to the fastest time of all the fourth place finishers.

F. [Unchanged.]

Subp. 13. [Unchanged.]

REPEALER. Minnesota Rules, part 7884.0130, subparts 2 and 3 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 15 1986
Joan Anderson Growe
Secretary of State
9:28 AM

APPROVED AS TO FORM AND LEGALITY
September 15 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

MINNESOTA RACING COMMISSION

CERTIFICATE OF COMMISSION'S
AUTHORIZING RESOLUTION

I, Catherine Anderson, do hereby certify that I am a member 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 24th day of July, 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that Ray Eliot, Chair of the Minnesota Racing Commission, is hereby granted the authority and directed to sign and to give the Notice of the Commission's Proposed Adoption of a rule without a public hearing governing harness racing to all persons who have registered their names with the Commission for that purpose and publish the Notice and Rule in the State Register, and to perform any and all acts incidental thereto.

In the event a public hearing becomes necessary, the chair 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 for 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 24th day of July, 1986.

CATHERINE ANDERSON
Minnesota Racing Commission

MINNESOTA RACING COMMISSION

RESOLUTION NO. _____

RESOLUTION AUTHORIZING ADOPTION OF RULES WITHOUT A PUBLIC HEARING

RESOLVED, that Ray Eliot, Chair of the Minnesota Racing Commission, is hereby granted the authority and directed to sign and to give the Notice of the Commission's Proposed Adoption of a rule without a public hearing governing harness racing to all persons who have registered their names with the Commission for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

In the event a public hearing becomes necessary, the Chair 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 for Hearing and Notice of Hearing as well as act as the Commission's representative at all hearings.

ADOPTED THIS 24th DAY OF JULY, 1986.

MOVED BY: C. Elmer Anderson

SECONDED BY: C. L. Anderson

AYES	NAYS	ABSTENTIONS
C.E. Anderson		
C.L. Anderson		
C. Connolly		
R.E. Eliot		
M.W. Poehler		

Catherine D. Anderson

CATHERINE ANDERSON

Carol Connolly

Minnesota Racing Commission

Proposed Permanent Rules Relating to Harness Racing

Rules as Proposed

7884.0120 ELIGIBILITY AND ENTERING.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Maximum number in field.** The maximum size of fields for all races shall be determined ~~by allowing eight feet per horse in the front tier and not more than two trailing horses~~ as follows:

A. For overnight events, the maximum number of horses shall be ten on a one-mile track.

B. For stakes races, the maximum number of horses shall be 14 on a one-mile track. If the number of horses declared to start exceeds 14 on a one-mile track, unless a lesser number of horses is specified in the conditions of the race, the race shall be run in two divisions or elimination heats.

Subp. 7. **Conditions precedent to entering.** No horse shall be permitted to enter to race unless:

A. a valid eligibility certificate has been granted or validated for that horse by the USTA, and the eligibility certificate has been filed with the racing secretary;

B. the current ownership of the horse has been registered with the USTA, and the registration papers have been filed with the racing secretary. For purposes of this subpart, a photocopy of the current registration papers will be accepted to the same extent as the original unless:

(1) a genuine question is raised as to the authenticity of the original registration papers; or

(2) the horse is entered in a claiming race;

C. ~~the registration papers and a valid eligibility certificate have been filed with the racing secretary;~~

~~D.~~ if the horse is leased,

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

(1) a copy of the lease is on file with the association and the USTA; and

(2) the horse races in the name of the lessee;

~~E.~~ D. the horse has qualified as provided in part 7884.0190;

~~F.~~ E. the horse has been lip tattooed;

~~G.~~ F. the horse is at least two years old but not older than 14 years old; and

~~H.~~ G. if it is a spayed mare, that fact is noted on the program, registration certificate, eligibility certificate, and the list of such horses is posted in the office of the racing secretary.

Subp. 8. to 15. [Unchanged.]

7884.0130 PREFERENCE SYSTEM.

Subpart 1. **Association to establish preference system.** Each association shall ~~keep a list of all horses excluded from races because of too many entries and such horses are to have preference in any race in which they may afterwards be entered~~. establish a preference system giving preference dates to horses in all overnight events in accordance with the date of the horse's last previous start in a purse race during the current year as its preference date with the following exceptions:

A. The preference date on a horse that has drawn to race and has been scratched is the date of the race from which scratched.

B. When a horse is racing for the first time in the current year, the date of the first declaration into a purse race shall be considered its preference race.

C. Wherever horses have equal preference in a race, the actual preference of the horses in relation to one another shall be determined from the most recent previous starts which do not result in equal preference.

D. When an overnight race has been reopened because it did not fill, all eligible horses declared into the race prior to the reopening shall receive preference over other

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

horses subsequently declared, irrespective of the actual preference dates.

Subp. 2. and 3. [See Repealer.]

7884.0160 ALSO ELIGIBLES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Also eligibles released.** Also eligibles not moved into a race by ~~10:00 a.m. of the day of the race~~ scratch time shall be released.

Subp. 4. and 5. [Unchanged.]

7884.0200 STAKES RACES.

Subpart 1. to 11. [Unchanged.]

Subp. 12. **Stakes races conducted in eliminations.** For stakes races conducted in eliminations:

A. to C. [Unchanged.]

D. If there are two elimination heats, the first ~~four~~ five finishers in each heat shall qualify for the final heat.

E. If there are three or more elimination heats, ~~no more than~~ three horses from each elimination heat shall qualify for the final heat, in addition to the fastest time of all the fourth place finishers.

F. [Unchanged.]

~~G. The stewards shall draw by lot the post positions for the final heat to determine which of the elimination heat winners shall have the pole position, and shall in that manner determine all of the other positions for the final heat.~~

Subp. 13. [Unchanged.]

REPEALER. Minnesota Rules, part 7884.0130, subparts 2 and 3 are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Harness Racing

AGENCY: Minnesota Racing Commission

MINNESOTA RULES: Chapter 7884

The attached rules are approved for publication
in the State Register

Paul M. Marinac
Assistant Deputy Revisor

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the
Proposed Adoption of the
Minnesota Racing Commission
Rule Governing
Harness Racing

NOTICE OF PROPOSED
ADOPTION OF A RULE
WITHOUT A PUBLIC
HEARING

NOTICE is hereby given that the Minnesota Racing Commission proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 240.23.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

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

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for an reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota Racing Commission upon request.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, or have an impact on agricultural land. The affect, if any, that the proposed rule may have on small businesses is discussed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to the Minnesota Racing Commission at the address listed above.

Dated: July 24, 1986.

Ray Eliot

RAY ELIOT, CHAIR
MINNESOTA RACING COMMISSION

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

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

STATEMENT OF NEED
AND REASONABLENESS

I. General

September 19, 1986 marks the beginning of the inaugural season of Harness Racing in Minnesota. In an effort to improve the quality of Harness Racing in this state, the Minnesota Racing Commission (Commission) has proposed minor amendments to the Harness Racing Rule, Minn. Rule 7884.0100-.0260. The proposed amendments are consistent with the Rules and Regulations of the United States Trotting Association and are necessary to make Minnesota competitive in the Harness Racing industry. The Commission believes the proposed amendments are reasonable because they are customary in harness racing states. Moreover, the burdens imposed on the participants are not undue, and compliance with similar rules has been obtained in other jurisdictions.

II. STATUTORY AUTHORITY

The Commission is empowered by Minn. Stat. § 240.03 to:

(1) Regulate horse racing in Minnesota to ensure that it is conducted in the public interest;

(2) Enforce all laws and rules governing horse racing;

(3) Supervise the conduct of pari-mutual betting on horse races; and

(4) Take all necessary steps to ensure the integrity of racing in Minnesota.

The Commission is also specifically authorized by Minn. Stat. § 240.23 to promulgate rules governing "the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results" and "any other aspect of horse racing or pari-mutual betting which in its opinion affects the integrity of racing or the public health, welfare or safety."

These broad statutory provisions clearly authorize the Commission to promulgate a rule governing Harness Racing at licensed racetracks in Minnesota.

III. Rule-By-Rule Analysis

7884.0120 ELIGIBILITY AND ENTERING

This part sets forth the eligibility and entrance requirements precedent to harness racing in Minnesota. The Commission proposes minor amendments to subparts 6 and 7. The rest of the part remains unchanged.

7884.0120, subp.6

This subpart governs the maximum size of the field for standardbred races. The Commission proposes a maximum field of 14 horses on a one-mile track rather than 12 as originally adopted. This change is necessary because the original rule was adopted with a smaller track in mind than that found in Minnesota. Minnesota's track is one-mile long and 80 feet wide, large enough to accomodate

14 entries. The proposed amendment is necessary to attract major standardbred races in Minnesota. The premier harness races, the Breeders Crown Series, are run with a total field of 14 horses. The amendment is reasonable because it is consistent with the rules of a United States Trotting Association Rules and therefore, consistent with the rules of a majority of harness racing tracks in the country.

7884.0120, subp. 7

This subpart sets forth the conditions precedent to entering a standardbred race. Section A has been amended by adding the phrase "and the eligibility certificate has been filed with the racing secretary," a requirement previously included in Section C. The change is needed and reasonable because it provides clarity to the rule.

Section B has been amended to require that the horse's registration papers be filed with the racing secretary, a requirement also previously set forth in Section C. This requirement is necessary to prevent the possibility of hidden ownership through falsified eligibility certificates.

Section B was further amended to allow the horse's owner to submit a photocopy of the registration papers in lieu of the original if: (1) no genuine question is raised as to the authenticity of the original; and (2) the horse is not entered in a claiming race. The amendment is necessary because in standardbred racing, unlike thoroughbred racing, the registration papers do not customarily travel with the horse. Rather, each standardbred owner

is required to obtain an eligibility certificate from the United States Trotting Association and to file that certificate with the racing secretary prior to racing. The eligibility certificate is generally accepted by harness tracks as adequate proof of the ownership of the horse. Therefore, the amendment allows the participant to forego filing the original and instead file a photocopy with the racing secretary. This provision is reasonable because it eases the burden imposed on the participant yet provides adequate proof of ownership to the Commission and the racing secretary.

In the amendment, the photocopy is afforded the same weight as the original unless there exists a genuine question as to the authenticity of the original. The rule adopts the language of Minnesota Rule of Evidence 1003, a standard used consistently in the courts of this state.

In addition, if the horse will be entered in a claiming race, the original registration papers must be filed. This is necessary and reasonable to ensure that the transfer of ownership is accurately recorded on the registration papers in the event the horse is claimed prior to the race.

Finally, the Commission proposes to delete Section C because both requirements were integrated into Sections A and B. Failure to delete Section C will result in a repetitive and internally inconsistent rule. Sections D-G were adjusted to accomodate the proposed changes.

7884.0130 PREFERENCE SYSTEM

This part has been substantially amended by repealing the preference system set forth in subparts 2 and 3 and substituting the preference system set forth in the United States Trotting Association Rules. The amendment is necessary because it eliminates the cumbersome task of keeping preference lists in the racing office and affords preference to those horses that run the most. The amendment is reasonable because it conforms to the preference system established by the United States Trotting Association and thus, is comparable to the preference systems used at most harness tracks in the country.

7884.0160 ALSO ELIGIBLES

The Commission has proposed an amendment to subpart 3 of this part which would change the release time for also eligible horses from 10:00 a.m. of the day of the race to scratch time. Scratch time is generally in the morning of the day before the race. This amendment is necessary and reasonable because the statistics and past performance records of standardbred horses are contained in the program book. There are no daily racing publications containing such information for standardbred meets. The program book is printed in the afternoon on the day immediately preceeding the race to ensure that it is available for examination by patrons sufficiently in advance of race day. Therefore, since the entries are final as of scratch time so that the program books can be prepared, it is reasonable to release the also eligible horses at that time.

7884.0200 STAKES RACES

This part sets forth the requirements necessary to run stakes races in Minnesota. The Commission has proposed amendments to subpart 12, sections D and E, to increase the size of the elimination heat fields. The amendments are necessary to conform the subpart to the proposed amendment to part 7884.0120, subp. 6 which would increase the maximum size of the field in stakes races to 14 horses. Thus, the proposed amendments merely increase the size of the elimination heat fields to 10 horses. The proposed amendments are reasonable because they increase the number of horses eligible to qualify for the final heat and thereby provide for a more competitive field.

The Commission has also proposed the deletion of section G to eliminate an inconsistentcy with Section A of the same subpart. Both sections set forth the method by which post positions are drawn, but the deletion of section G ensures that all post positions will be drawn by lot by the stewards. The amendment is reasonable because it provides clarity and consistency to the rule.

IV. OTHER STATUTORY REQUIREMENTS

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

The proposed amendments to the harness racing rule indirectly impact small businesses. However, the rule does not affect small businesses disproportionately nor does the rule prevent small

businesses from participating in the standardbred meet. The Commission considered the impact of the amendments on small business and determined that because of the nature of the industry, the Commission cannot be less rigorous in its regulation of one type of business than another.

Minn. Stat. § 14.11, subd. 2 is inapplicable because the proposed amendments will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6 and 144A.29, subd. 4 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments do not set any fee. Likewise, a fiscal note is not required pursuant to section 3.982 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

Based on the foregoing, the Minnesota Racing Commission's proposed amendments are both necessary and reasonable.

Dated:

RAY ELIOT
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

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

AFFIDAVIT OF ADDITIONAL NOTICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Ray Eliot, under oath states that:

Notice of the proposed rules was given on August 1, 1986 to the following organizations who are not presently on the Racing Commission's mailing list for the purpose of receiving notice of the proposed adoption of rules.

HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION
MINNESOTA HARNESS RACING, INC.
U.S. TROTTING ASSOCIATION
THOROUGHBRED RACING AND PROTECTIVE BUREAU
MINNESOTA RACETRACK, INC.
NATIONAL ASSOCIATION OF STATE RACING COMMISSIONERS
CANTERBURY DOWNS

STATE OF MINNESOTA

Ray Eliot
RAY ELIOT
Chair

Subscribed and sworn to before me this 21st day of July, 1986.

SHARON A. BEIGHLEY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct. 23, 1989

Sharon A. Beighley
NOTARY PUBLIC

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

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

AFFIDAVIT OF MAILING THE NOTICE OF PROPOSED ADOPTION OF RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Ray Eliot, being first duly sworn deposes and says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a. and 14.22 or 14.30, that their names be placed on the Minnesota Racing Commission's rulemaking list is accurate, complete, and current as of this 31ST day of July, 1986.

That on the 31ST day of July, 1986, at the City of Eden Prairie, County of Hennepin, State of Minnesota, I mailed the attached Notice of Proposed Adoption of A Rule Without a Public Hearing by depositing in the United States mail, a copy thereof with postage prepaid, to all persons and associations on the aforementioned mailing list.

Ray Eliot

RAY ELIOT, Chair
Minnesota Racing Commission

Subscribed and sworn to before

me this 31ST day of July, 1986.

Sharon A. Beighley

NOTARY PUBLIC

SHARON A. BEIGHLEY
NOTARY PUBLIC -- MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct. 23, 1988

Advanced Gaming Tech., Inc.
1560 Fishinger Road
Columbus, OH 43221

John Backlund
Minn. Harness Racing, Inc.
3405 Sugar Bush Trail, N.
Brainerd, MN 56401

Richard Bacon
B.C.A.
1246 University Avenue
St. Paul, MN 55155

Ron Banks
Jockey's Guild, Inc.
2290 S. Channel Road
Meridian, ID 83642

Warren Bartz
Office of the Legislative Auditor
1st Floor - Vet Svcs. Building
St. Paul, MN 55155

Richard G. Bethke
P.O. Box 84
Hopkins, MN 55343

Jerome V. Blatz
7900 Xerxes Avenue South
Bloomington, MN 55431

Charles Bottemiller
851 23rd Avenue Norht
South St. Paul, MN 55075

Stan Bowker
Canterbury Downs
P.O. Box 508
Shakopee, MN 55379

Douglas W. Carlson
430 Division
Sandstone, MN 55072

Diane Christianson
Dakota Co. Vocational Center
1300 145th Street E.
Rosemount, MN 55068

Jon Cloos
HBPA Minnesota
Canterbury Downs P.O. Box 508
Shakopee, MN 55379

Steve Davidowitz
Mpls. Star & Tribune
425 Portland Avenue
Minneapolis, MN 55488

Neil Dieterich
2171 Knapp Street
St. Paul, MN 55108

Jane & Robert Flanders
Windridge Farm
1430 County Rd 92 North
Maple Plain, MN 55359

Mary M. Forsythe
5308 Brookview Avenue
Edina, MN 55424

Dr. Douglas A. Freeman
U. of M. 285 Animal Sci. Building
1988 5th Avenue
St. Paul, MN 55108

Roger Genetzky
2954 Monroe Drive
Ames, IA 55010

Alvin & Marlys Goebel
Almar Farm
7010 Keats Avenue S.
Cottage Grove, MN 55016

Leon W. Greene
4920 54th Avenue North
Crystal, MN 55429

Roger Hilan
Route 1
Box 187
Goodhue, MN

Wayne G. Hipsley
Intl. Arabian Horse Assn.
P.O. Biox 33696
Denver, CO 80233

Charles Huff
319 N. 4th Street
Staples, MN 56479

Vickie Inget
Minn. Horse Council
P.O. Box 75481
St. Paul, MN 55175

Nick Jemas
Jockey's Guild, Inc.
P.O. Box 30
Haddonfield, NJ 08033

E. Johnston
301 Laidlaw Boulevard
Winnipeg, Manitoba
Canada R3P OK6, MN

Paul Knapper, President
Mn. Quarter Horse Racin
P.O. Box 516
Watertown, MN 55388

Richard Kostohryz
2478 E. Indian Way
No. St. Paul, MN 55109

Stephen Kramer
1033 Plummer Circle
Rochester, MN 55902

Keith Langseth
R.R. 2
Glyndon, MN 56547

George F. Lansing
Mn. Harness Racing, Inc.
76 Riverside Terrace
Cannon Falls, MN 55009

Lorene Lindstrom
Northern Racer
P.O. Box 130
Rockford, MN 55373

R.M. Little
B & B Stables
11130 Julianne Avenue
Stillwater, MN 55082

David Loch
Heartland Racing Assn.
208 NE 1st Street
Little Falls, MN 56345

Bruce D. Malkerson
Scottland, Inc.
5244 Valley Ind. Blvd. S.
Shakopee, MN 55379

Walter J. Mackey, D.V.M.
1991 Sharondale Avenue
St. Paul, MN 55359

Diana Melvin
So. Quarter Horse Race Assn.
HCR 531 Box 136
Pierre, SD 57501

Karen Metzen
111 Imperial Drive
#307
W. St. Paul, MN 55118

Susan Molstad
W9704 Flohr Road
Ladysmith. WI 54848

Minn. Vet. Medical Assn.
2353 Rice Street N.
Suite 220

Mr. & Mrs. J.R. Nankivil
1338 Wincrest
Winona, MN 55987

Patsy Palmer
5550 Juneau Lane
Plymouth, MN 55446

Penny Parrish
KMSP Television
6975 York Avenue South
Edina, MN 55435

Stephen R. Pflaum
c/o Leonard, Street & Deinard
100 South 5th Street Suite 1600
Minneapolis, MN 55402

Wayne G. Popham
Popham, Haik Law Firm
4344 IDS Center
Minneapolis, MN 55402

Clarence M. Purfeerst
Route 1
Faribault, MN 55021

Robert G. Pyle, D.V.M.
160 Agriculture Building
90 West Plato Blvd.
St. Paul, MN 56149

Elton Redalen
P.O. Box 110
Fountain, MN 55935

R.R. Rodenborn, Jr.
4722 Perry Avenue N.
Crystal, MN 55429

Race Track Industry Program
University of Arizona
Agri. Sci. Building #38
Tucson, AZ 85721

Sam Ruhle
Office of Admin. Hearings
310 4th Avenue South
Minneapolis, MN 55415

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P.O. Box 56
Maple Plain, MN 55359

Joseph Sizer
State Planning Agency
101 Capitol Square Building
St. Paul, MN 55101

Dennis P. Slayton
P.O. Box 128
Merrifield, MN 56465

Francis A. Spurrell, D.V.M.
P.O. Box 8137
St. Paul, MN 55108

Stable Sheet Publications
P. O. Box 157
Osceola, WI 54020

Lennart Sundin
11095 Flintkote Avenue
San Diego, CA 92107

Dr. Ray Swanson, D.V.M.
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Lake Elmo, MN 55042

Earl H. Thompson
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849 Lewis
Hutchinson, MN 55350

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1660 S. highway 100
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Merlyn O. Valan
R.R. 2
Box 136
Moorhead. MN 56560

Howard W. Voight
Shakopee Valley News
P.O. Box 8
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Box 136
Moorhead, MN 56560

Howard W. Voight
Shakopee Valley News
P.O. Box 8
Shakopee, MN 55379

Mark F. Ward
Windy Ridge Ranch
2700 Morning Avenue South

Gerald L. Willet
207 Mill Road
Park Rapids, MN 56470

B. a certificate of the general casualty insurer and a certificate of the pollution liability insurer that the insurance is in full force and effect. Prior to expiration of any insurance policy, the applicant shall furnish the commissioner with evidence that the policy has been renewed, replaced, or is no longer required.

Health Department
Environmental Health Division

Notice of Withdrawal of Rules as Proposed

Notice is given that the rules regarding delivery of medications in lodging establishments are hereby withdrawn. The rules as proposed were published in the *State Register*, March 3, 1986, at 10 S.R. 1776.

Minnesota Racing Commission

Proposed Permanent Rules Relating to Harness Racing

Notice of Proposed Adoption of a Rule without a Public Hearing

NOTICE is hereby given that the Minnesota Racing Commission proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 240.23.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

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

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota Racing Commission upon request.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, or have an impact on agricultural land. The affect, if any, that the proposed rule may have on small businesses is discussed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to the Minnesota Racing Commission at the address listed above.

Dated: 24 July 1986

Ray Eliot, Chair
Minnesota Racing Commission

Rules as Proposed

7884.0120 ELIGIBILITY AND ENTERING.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Maximum number in field.** The maximum size of fields for all races shall be determined ~~by allowing eight feet per horse in the front tier and not more than two trailing horses~~ as follows:

A. For overnight events, the maximum number of horses shall be ten on a one-mile track.

B. For stakes races, the maximum number of horses shall be 14 on a one-mile track. If the number of horses declared to start exceeds 14 on a one-mile track, unless a lesser number of horses is specified in the conditions of the race, the race shall be run in two divisions or elimination heats.

Subp. 7. **Conditions precedent to entering.** No horse shall be permitted to enter to race unless:

A. a valid eligibility certificate has been granted or validated for that horse by the USTA, and the eligibility certificate has been filed with the racing secretary;

B. the current ownership of the horse has been registered with the USTA, and the registration papers have been filed with the racing secretary. For purposes of this subpart, a photocopy of the current registration papers will be accepted to the same extent as the original unless:

(1) a genuine question is raised as to the authenticity of the original registration papers; or

(2) the horse is entered in a claiming race;

C. ~~the registration papers and a valid eligibility certificate have been filed with the racing secretary;~~

~~D.~~ if the horse is leased,

(1) a copy of the lease is on file with the association and the USTA; and

(2) the horse races in the name of the lessee;

~~E.~~ D. the horse has qualified as provided in part 7884.0190;

~~F.~~ E. the horse has been lip tattooed;

~~G.~~ F. the horse is at least two years old but not older than 14 years old; and

~~H.~~ G. if it is a spayed mare, that fact is noted on the program, registration certificate, eligibility certificate, and the list of such horses is posted in the office of the racing secretary.

Subp. 8. to 15. [Unchanged.]

7884.0130 PREFERENCE SYSTEM.

Subpart 1. **Association to establish preference system.** Each association shall ~~keep a list of all horses excluded from races because of too many entries and such horses are to have preference in any race in which they may afterwards be entered~~. establish a preference system giving preference dates to horses in all overnight events in accordance with the date of the horse's last previous start in a purse race during the current year as its preference date with the following exceptions:

A. The preference date on a horse that has drawn to race and has been scratched is the date of the race from which scratched.

B. When a horse is racing for the first time in the current year, the date of the first declaration into a purse race shall be considered its preference race.

C. Wherever horses have equal preference in a race, the actual preference of the horses in relation to one another shall be determined from the most recent previous starts which do not result in equal preference.

D. When an overnight race has been reopened because it did not fill, all eligible horses declared into the race prior to the reopening shall receive preference over other horses subsequently declared, irrespective of the actual preference dates.

Subp. 2. and 3. [See Repealer.]

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.

7884.0160 ALSO ELIGIBLES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Also eligibles released.** Also eligibles not moved into a race by ~~10:00 a.m. of the day of the race~~ scratch time shall be released.

Subp. 4. and 5. [Unchanged.]

7884.0200 STAKES RACES.

Subpart 1. to 11. [Unchanged.]

Subp. 12. **Stakes races conducted in eliminations.** For stakes races conducted in eliminations:

A. to C. [Unchanged.]

D. If there are two elimination heats, the first ~~four~~ five finishers in each heat shall qualify for the final heat.

E. If there are three or more elimination heats, ~~no more than~~ three horses from each elimination heat shall qualify for the final heat, in addition to the fastest time of all the fourth place finishers.

F. [Unchanged.]

~~G. The stewards shall draw by lot the post positions for the final heat to determine which of the elimination heat winners shall have the pole position, and shall in that manner determine all of the other positions for the final heat.~~

Subp. 13. [Unchanged.]

REPEALER. Minnesota Rules, part 7884.0130, subparts 2 and 3 are repealed.

Department of Transportation

Proposed Permanent Rules Relating to Variances for Tank Motor Vehicles

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State Department of Transportation proposes to adopt the above-entitled rules without a public hearing. The Commissioner has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The adoption of these rules is authorized by Minnesota Statutes, section 221.033, subdivision 3.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Elizabeth M. Parker
Minnesota Department of Transportation
815 Transportation Building
St. Paul, Minnesota 55155
612-297-2913

The proposed rule may be modified if the modifications are supported by the data and views submitted and do not result in a substantial change in the proposed rule as published with this notice.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule

CERTIFICATE OF THE
MINNESOTA RACING COMMISSION
RESOLUTION ADOPTING THE RULE

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 a resolution adopted at a meeting of the Minnesota Racing Commission, duly and properly called and held on the 4th day of September 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule relating to Harness Racing is approved and adopted, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes 240.23.
>
> Ray Eliot, the Chair of the Minnesota Racing Commission, is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain approval of the rule by the Attorney General when such modification does not raise significant new legal issues and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of September, 1986.

Rosemary T. Fruehling
ROSEMARY T. FRUEHLING

Muriel H. Poehler
Board Member

MINNESOTA RACING COMMISSION

RESOLUTION NO. _____

RESOLUTION ADOPTING RULE

RESOLVED, that the rule relating to Harness Racing is approved and adopted, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes 240.23.

Ray Eliot, the Chair of the Minnesota Racing Commission, is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain approval of the rule by the Attorney General when such modification does not raise significant new legal issues and to perform the necessary acts to provide that the rule shall have the force and effect of law.

ADOPTED THIS 4TH DAY OF SEPTEMBER, 1986.

MOVED BY: CATHERINE L. ANDERSON

SECONDED BY: C. ELMER ANDERSON

AYES	NAYS	ABSTENTIONS
ELIOT		
C.E. ANDERSON		
C.L. ANDERSON		
CONNOLLY		
COSS		
GUSTAFSON		
POEHLER		

Rosemary T. Fruehling
ROSEMARY T. FRUEHLING

Laura M Cross

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Racing Commission Governing Harness Racing.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Minnesota Racing Commission's proposed adoption of the above-entitled rule was published in the State Register on August 4, 1986 and was sent by United States Mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a. and 14.22 on July 31, 1986. The Statement of Need and Reasonableness was prepared before the date of the Notice of Proposed Adoption of a Rule Without A Public Hearing and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after Notice of Proposed Rulemaking. No requests for a public hearing on the rule or comments on the rule were received by the Minnesota Racing Commission.

Based on the evidence in the record before the Minnesota Racing Commission, I find that the above-captioned rule is needed and reasonable.

NOW THEREFORE, IT IS ORDERED that the rule identified as governing Harness Racing is adopted this 4th day of September, 1986, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes, section 240.23.

Ray Eliot

RAY ELIOT
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

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

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: Sept 5, 1986.

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Racing Commission Governing Harness Racing.

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-entitled rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, September 5, 1986, for review as to legality and form to the extent form relates to legality. the proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in

Minnesota Rules, part 2010.1000. Your comments must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Ray Eliot
Minnesota Racing Commission
11000 West 78th Street
Suite 201
Eden Prairie, Minnesota 55344
Telephone: (612) 341-7555

Ray Eliot

RAY ELIOT
Minnesota Racing Commission

Dated: Sept. 5, 1986.

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Racing Commission Governing Harness Racing.

AFFIDAVIT OF MAILING THE THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF Hennepin

Sharon A. Brigley, being first duly sworn, deposes and says:

That on the 5th day of September, 1986, in the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Sharon A. Brigley

Subscribed and sworn to before me this 5th day of September, 1986.

Martha Cusimano
NOTARY PUBLIC

MARTHA CUSIMANO
NOTARY PUBLIC-MINNESOTA
ST. LOUIS COUNTY
My Commission Expires March 28, 1990

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL
Public Safety Division

TO: MARTY CASSERLY
Special Assistant
Attorney General

DATE: 9/5/86

FROM: MARY B. MAGNUSON
Special Assistant
Attorney General

PHONE: 6-7574

SUBJECT: Minnesota Racing Commission Harness Rules

Attached please find the Minnesota Racing Commission Rule governing Harness Racing. The rule is submitted for your review on behalf of the Minnesota Racing Commission and pursuant to Minn. Stat. § 14.26 and the Rules of the Office of the Attorney General.

As I mentioned on the phone, any extra consideration you can give to this rule would be greatly appreciated.

MBM:pai
Att.

RECEIVED
SEP 05 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES