

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1468
DATE RECEIVED 4/08/88
REVIEW DATE 4/17/88
DUE DATE 4/22/88

APPROVED 4.20.88 mjc
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0733
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)
___ Notice to Solicit Outside Information/Opinion
___ Date published in State Register
___ Comments
✓ Petition for Adoption of a Rule
✓ Board's Authorizing Resolution
✓ Proposed rule
___ Revisor's Certificate
✓ Notice of Intent to Adopt Rule
240.23 & 240.24 Statutory Authority
yes/determine Small Business Statement
NO Expenditure of public money statement
yes Signature
✓ Statement of Need and Reasonableness
✓ Small Business Statement
N/A Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
2.23.88 Date (30)/25 days before adoption
✓ Publication in State Register
2.22.88 Date 30/25 days before adoption
✓ Resolution Adopting - 4-6-88
✓ Findings of Fact, Conclusions & Order Adopting
4.6.88 Date
none Written requests, submissions or comments
✓ Declaration of attorney
mary morgenson Name of SAAG representing agency
N/A Notice of Submission to Attorney General
___ Affidavit of Mailing Notice to Attorney General

mjc

ATTORNEY GENERAL

April 20, 1988

MARY MAGNUSON
Special Assistant
Attorney General - Public Safety

MARTHA J. CASSERLY
Special Assistant
Attorney General

296-6839

In the Matter of the Adopted Permanent Rules Relating to Horse Racing.

The above-referenced rule has been approved as to its legality by the Attorney General on April 20, 1988.

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

Also enclosed are any petitions, requests, submissions 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 establish 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:bbl

Enclosure

cc: Maryanne Hruby
Duane Harves

Minnesota Racing Commission

Adopted Permanent Rules Relating to Horse Racing

Rules as Adopted

7873.0190 PICK SIX.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Calculation of pool.** The pick six pari-mutuel pool shall be calculated according to one of the two following methods as approved by the commission:

A. (1) Seventy-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Twenty-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, 75 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as distributable amounts and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day. <u>The remaining 25 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.</u>

B. (1) Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket

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holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner of each of the six races comprising the pick six, 50 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as a distributable amount and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day. The remaining 50 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.

The method of distribution shall be selected by the racing association and implemented after approval by the commission; provided that the method of distribution benefits the wagering public and does not adversely affect the integrity of racing.

C. Should no distribution be made pursuant to item A or B on the last day of the association's meeting, then the entire distributable pool and all money accumulated in the pool shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day. If, for any reason, the final day of racing is canceled or the pick six pool has not been distributed, the pool shall be escrowed by the association, and the pool, as well as all accrued interest, shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be

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distributed.

Subp. 7. to 10. [Unchanged.]

7875.0200 EQUIPMENT.

Subpart 1. to 7. [Unchanged.]

Subp. 8. **Preservation.** All photo-finish film or videotape records shall be preserved for at least 30 days after the close of a meeting or until legal proceedings involving a recorded race are concluded, whichever is later.

Subp. 9. [Unchanged.]

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY.

Subpart 1. [Unchanged.]

Subp. 2. **Burden of proof.** If an applicant for a Class C license has had a license denied or had his or her license suspended or revoked or been excluded by another racing jurisdiction, or has engaged in conduct that the commission determines would adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, the commission shall consider such fact as prima facie evidence that the applicant is unfit to be granted a Class C license, and the burden of proof shall rest upon the applicant to establish his or her fitness. In reviewing such applications, the commission shall consider the factors provided in part 7877.0100, subpart 2.

Subp. 3. [Unchanged.]

7883.0140 CLAIMING RACES.

Subpart 1. **Who may claim.** In claiming races any horse is subject to claim for its entered price by any person who is eligible to claim or by his or her authorized agent. The following persons shall be eligible to claim:

A. A licensed owner who has a horse registered to race at the current meeting.

B. A licensed owner who lost his or her last horse through fire, misfortune, or claim, may claim a horse, provided:

(1) the horse is claimed during the same race meeting that the horse was lost; or

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(2) the horse is claimed at another racetrack licensed by the Minnesota Racing Commission during a race meet operating concurrently with the race meet during which the horse was lost.

A person claiming under this item is required to establish eligibility to claim with the stewards and to receive his or her confirmation in writing prior to making a claim.

C. and D. [Unchanged.]

Subp. 2. to 30. [Unchanged.]

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race in which 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 and no horse participating in a race shall carry in its body any substance foreign to the natural horse, except as permitted by part 7890.0100, subpart 13, items A to D.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist of any medication, substance foreign to the natural horse, or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, in the test sample of a horse shall be considered prima facie evidence that the medication, substance, or Bute was administered to the horse and carried in the body of the horse while participating in a race.

Subp. 2. [Unchanged.]

7892.0100 DETENTION BARN.

Subpart 1. **Barn.** Each association shall provide a detention barn suitable for taking test samples. The barn shall include:

A. an office area which can be locked, and which has a floor area of not less than 100 square feet;

B. three wash racks not less than ten feet by 12 feet;

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C. not fewer than six stalls ten feet by ten feet each, with dutch doors and observation holes;

D. a refrigerator of not less than ten cubic feet;

E. a freezer not less than 16 cubic feet;

F. hot and cold running water;

G. a walking ring; and

H. other equipment considered necessary by the commission for the bathing and watering of horses.

Subp. 2. **Security.** Each association shall furnish not less than one security officer to guard the detention barn during racing hours and until the last specimen is secured for the day.

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

B. "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 January 31 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. Thirty-one percent shall be set aside and paid to breeders of Minnesota-bred horses as breeders' awards.

B. Sixty-two percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or Minnesota-foaled horses. The purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission.

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

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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 third or better in any pari-mutuel race.

B. "Stallion awards" shall be paid to the owners of the Minnesota-sire of a Minnesota-bred horse that finishes third or better in any pari-mutuel 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. Purse supplements earned shall not be included in determining breeders' or stallion awards. 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 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 for the purpose of keeping purse supplements consistent with the amount of money being earned in the breeders' fund. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the total amount of purse supplements to be distributed;

B. the need to distribute purse supplements 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

C. that the set amount of the 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

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the purse and shall be credited to owners' accounts at the time the purses are earned. All money allocated for breeders' awards and stallion awards shall be distributed within 30 days of the end of the thoroughbred race meeting.

Subp. 7. [See Repealer.]

Subp. 8. **Residual funds.** All unearned purse supplements shall be retained and carried forward to be included as net distributable funds in the succeeding thoroughbred race meeting.

7895.0125 THOROUGHBRED REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by January 31 of the current breeding year. The stallion's original jockey club certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from January 31 to July 31.

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7895.0250 STANDARDBRED BREEDERS' FUND.

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

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A. to C. [Unchanged.]

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, from January 31 to July 31 in Minnesota.

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

A. 25 percent shall be set aside and paid to breeders as breeders' awards; and

B. 75 percent shall be paid to supplement purses in races which are restricted to horses that are Minnesota-bred or Minnesota-foaled.

Subp. 3. [Unchanged.]

Subp. 4. **Methods of payment.** The amount of money distributed for breeders' awards or purse supplements pursuant to subpart 3, shall be paid out in the same percentage as the purse money in the race. Purse supplements earned shall not be included in determining breeders' or stallion awards.

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 breeders' award disbursements. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the number of potential breeders' award recipients;

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

C. the need to distribute breeders' awards and purse supplements in a fair and equitable manner with a view toward encouraging the continued support of the horse industry in

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Minnesota, thereby providing incentive to breeders and owners of standardbred horses within the state; and

D. that the set amount of the breeders' 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 the purses are earned. All money allocated for breeders' awards and stallion awards shall be distributed within 30 days of the end of the standardbred race meeting.

Subp. 7. [See Repealer.]

Subp. 8. **Residual funds.** After complying with subparts 4 to 6, any remaining funds in the breeders' awards account, and all unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding standardbred race meeting.

7895.0275 STANDARDBRED REGISTRATION.

Subpart 1. **Stallion registration.** To be eligible to participate in the standardbred breeders' fund program, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by January 31 of the current breeding year. The stallion's original United States Trotting Association (USTA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application or renewal. The lease agreement must contain a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from January 31 to July 31.

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing

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any mare and the stallion has not serviced any mare after December 31 of the preceding year.

Subp. 2. [Unchanged.]

Subp. 3. to 5. [See Repealer.]

7895.0300 QUARTER HORSE BREEDERS' FUND.

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

A. "Breeder" means the owner or lessee of the dam at the time of conception in Minnesota.

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

C. "Minnesota-bred" means:

(1) a horse sired by a registered stallion who stood his entire breeding season in Minnesota; and

(2) a horse born 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, from January 31 through July 31, in Minnesota.

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

A. 35 percent shall be set aside and paid as breeders' awards to breeders of Minnesota-bred or Minnesota-foaled horses; and

B. 35 percent shall be set aside and paid as owners' awards to owners of Minnesota-bred or Minnesota-foaled horses; and

C. 20 percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or Minnesota-foaled horses. The purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission; and

D. 10 percent shall be set aside and paid as stallion

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awards to the owners of the Minnesota-sire at the time of breeding.

Subp. 3. [Unchanged.]

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. Purse supplements earned shall not be included in determining breeder's or stallion awards.

Subp. 5. [Unchanged.]

Subp. 6. **Time of payment.** Purse supplements are part of the purse and shall be credited to owners' accounts at the time the 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 quarterhorse race meeting.

7895.0350 QUARTER HORSE REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the initial registration renewed with the racing commission or official registering agency by January 31 of the current breeding year. The stallion's original American Quarter Horse Association (AQHA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from January 31 through July 31.

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has

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been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7897.0100 PROHIBITED ACTS.

Subpart 1. **Scope.** The following activities are considered prohibited acts.

Subp. 2. to 5. [Unchanged.]

Subp. 6. **Altercations.** No person shall provoke or engage in a physical altercation while on the grounds of an association.

Subp. 7. to 9. [Unchanged.]

Subp. 10. **Financial responsibility.** No licensee shall willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, nor shall he or she falsely deny any such amount due or the validity of the claim therefor with the purpose of hindering or defrauding the person to whom the indebtedness is due. All financial responsibility complaints against a licensee shall be made in writing, signed by the complainant, and accompanied by (a) a judgment from a court of competent jurisdiction; or (b) a check, issued by the licensee or by a business entity owned or controlled by the licensee, which indicates on its face that the bank upon which the check is drawn has refused payment due to insufficient funds, alteration, forgery, or because the check was written on a closed or nonexistant account.

Subp. 11. to 18. [Unchanged.]

~~Subp. 19. **Abusive language.** No person shall use profane, abusive, or indecent language to a racing official.~~

REPEALER. Minnesota Rules, parts 7895.0100, subpart 7; 7895.0110, subpart 7; 7895.0125, subparts 4, 5, and 6; 7895.0250, subpart 7; 7895.0275, subparts 3, 4, and 5; and 7895.0350, subparts 4, 5, and 6; are repealed.

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by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED 3:37 PM

APR 20 1988

Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
April 20 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Carsley
SPECIAL ASSISTANT ATTORNEY GENERAL

MINNESOTA RACING COMMISSION

CERTIFICATE OF COMMISSION'S
AUTHORIZING RESOLUTION

I, Rosemary Fruehling, do hereby certify that I am 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 16th day of December, 1987, 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 Don Price, Executive Director 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 amendments to the existing rule 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 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 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 16th day of December, 1987.

Rosemary Fruehling

ROSEMARY FRUEHLING
Minnesota Racing Commission

RECEIVED
MAR 22 1988
ATTORNEY GENERAL'S OFFICE
FORD BLDG, SECOND FLOOR
ST. PAUL, MN 55155

Minnesota Racing Commission

Proposed Permanent Rules Relating to Horse Racing

Rules as Proposed

7873.0190 PICK SIX.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Calculation of pool.** The pick six pari-mutuel pool shall be calculated ~~as follows~~ according to one of the two following methods as approved by the commission:

A. ~~One hundred~~ (1) Seventy-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Twenty-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

B. (2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, 75 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as distributable amounts and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day.

B. (1) Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Fifty percent of the net

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amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner of each of the six races comprising the pick six, 50 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as a distributable amount and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day. The remaining ~~25~~ 50 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.

The method of distribution shall be selected by the racing association and implemented after approval by the commission.

C. Should no distribution be made pursuant to item A or B on the last day of the association's meeting, then the entire distributable pool and all money accumulated in the pool shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day. If, for any reason, the final day of racing is canceled or the pick six pool has not been distributed, the pool shall be escrowed by the association, and the pool, as well as all accrued interest, shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed.

Subp. 7. to 10. [Unchanged.]

7875.0200 EQUIPMENT.

Subpart 1. to 7. [Unchanged.]

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Subp. 8. **Preservation.** All photo-finish film or videotape records shall be preserved for at least ~~90~~ 30 days after ~~a~~ the close of a meeting or until legal proceedings involving a recorded race are concluded, whichever is later.

Subp. 9. [Unchanged.]

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY.

Subpart 1. [Unchanged.]

Subp. 2. **Burden of proof.** If an applicant for a Class C license has had a license denied or had his or her license suspended or revoked or been excluded by another racing jurisdiction, or has engaged in conduct that the commission determines would adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, the commission shall consider such fact as prima facie evidence that the applicant is unfit to be granted a Class C license, and the burden of proof shall rest upon the applicant to establish his or her fitness. In reviewing such applications, the commission shall consider the factors provided in part 7877.0100, subpart 2.

Subp. 3. [Unchanged.]

7883.0140 CLAIMING RACES.

Subpart 1. **Who may claim.** In claiming races any horse is subject to claim for its entered price by any person who is eligible to claim or by his or her authorized agent. The following persons shall be eligible to claim:

A. A licensed owner who has a horse registered to race at the current meeting.

B. A licensed owner who lost his or her last horse through fire, misfortune, or claim, may ~~nevertheless~~ claim ~~(if he or she is otherwise eligible) for 30 racing days after he or she has lost his or her last horse. The 30 racing days may extend from one racing season to the next~~ a horse, provided:

(1) the horse is claimed during the same race meeting that the horse was lost; or

(2) the horse is claimed at another racetrack licensed by the Minnesota Racing Commission during a race meet

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operating concurrently with the race meet during which the horse was lost.

A person claiming under this item is required to establish eligibility to claim with the stewards and to receive his or her confirmation in writing prior to making a claim.

C. and D. [Unchanged.]

Subp. 2. to 30. [Unchanged.]

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race in which 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 and no horse participating in a race shall carry in its body any substance foreign to the natural horse, except as permitted by part 7890.0100, subpart 13, items A to D.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist ~~that~~ of any medication, substance foreign to the natural horse, or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, in the test sample of a horse shall be considered prima facie evidence that ~~such~~ the medication ~~or~~, substance, or Bute was administered to the horse 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 assistant trainer or substitute trainer was negligent in the handling or care of the horse.~~

Subp. 2. [Unchanged.]

7892.0100 DETENTION BARN.

Subpart 1. **Barn.** Each association shall provide a detention barn suitable for taking test samples. The barn shall include:

A. an office area which can be locked, and which has

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a floor area of not less than 100 square feet;

B. a three wash ~~rack~~ racks not less than ~~12~~ ten feet by 12 feet;

C. not fewer than ~~four~~ six stalls ten feet by ten feet each, with dutch doors and observation holes;

D. a refrigerator of not less than ten cubic feet;

E. a freezer not less than 16 cubic feet;

F. hot and cold running water; ~~and~~

~~F.~~ G. a walking ring; and

H. other equipment considered necessary by the commission for the bathing and watering of horses.

Subp. 2. **Security.** Each association shall furnish ~~a~~ not less than one security officer to guard the detention barn during racing hours and until the last specimen is ~~taken~~ secured for the day.

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~~

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~~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" or "Minnesota-bred" means a horse foaled in Minnesota.

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

~~D.~~ B. "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~~ January 31 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~~ Thirty-one 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~~ Sixty-two percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or ~~Minnesota-owned~~ Minnesota-foaled 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.~~ C. Seven percent shall be set aside and paid as stallion awards to the owners of the Minnesota-sire at the time of breeding.

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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~~ third or better in any pari-mutuel race.

~~B. "Owners' awards" shall be paid to the owners of Minnesota-bred horses that finish fifth or better in any race.~~

~~C.~~ B. "Stallion awards" shall be paid to the owners of the Minnesota-sire of a Minnesota-bred horse that finishes ~~fifth~~ third or better in any pari-mutuel 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. Purse supplements earned shall not be included in determining breeders' or stallion awards. 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.~~ B. 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

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support of the horse industry in Minnesota, thereby providing incentive to breeders and owners of thoroughbred horses within the state; and

~~B.~~ C. 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~~ the 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 thoroughbred race meeting.

Subp. 7. [See Repealer.]

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.

7895.0125 THOROUGHBRED REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by ~~February 1~~ January 31 of the current

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breeding year. The stallion's original jockey club certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from ~~February 15~~ January 31 to July 31.

~~C. Stallion reports (record of mares bred) must be received by the racing commission or official registering agency by September 30 of the immediately preceding breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

~~D. Failure to submit stallion reports (record of mares bred) by the September 30 cutoff date will disqualify any subsequent claims for stallion award payments.~~

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7895.0250 STANDARDBRED BREEDERS' FUND.

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

A. to C. [Unchanged.]

D. ~~"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:~~

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~~(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.~~

~~E.~~ "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, from January ~~1 to September 1~~ 31 to July 31 in Minnesota.

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

A. 25 percent shall be set aside and paid to breeders as breeders' awards; and

B. 75 percent shall be paid to supplement purses in races which are restricted to horses that are Minnesota-bred, or Minnesota-foaled, ~~or Minnesota owned. In all such races, Minnesota bred and Minnesota foaled shall have first preference, and Minnesota owned horses shall have second preference.~~

Subp. 3. [Unchanged.]

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Subp. 4. **Methods of payment.** The amount of money distributed for breeders' awards or purse supplements pursuant to subpart 3, shall be paid out in the same percentage as the purse money in the race. Purse supplements earned shall not be included in determining breeders' or stallion awards.

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 breeders' award disbursements. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the number of potential breeders' award recipients;

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

C. the need to distribute breeders' awards and purse supplements ~~among-the-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 standardbred horses within the state; and

D. that the set amount of the breeders' 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~~ the purses are earned. All money allocated for breeders' awards and stallion awards shall be distributed within 30 days of the end of the standardbred race meeting.

Subp. 7. [See Repealer.]

Subp. 8. **Residual funds.** After complying with subparts 4 to ~~7~~ 6, any remaining funds in the breeders' awards account, and

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all unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding standardbred race meeting.

7895.0275 STANDARDBRED REGISTRATION.

Subpart 1. **Stallion registration.** To be eligible to participate in the standardbred breeders' fund program, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by January ~~1~~ 31 of the current breeding year. The stallion's original United States Trotting Association (USTA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application or renewal. The lease agreement must contain a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from January ~~1 to September 1~~ 31 to July 31.

~~C. Stallion reports (record of mares bred) must be received by the racing commission or official registering agency by September 30 (excluding Saturday and Sunday) of the current breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

Subp. 2. [Unchanged.]

Subp. 3. to 5. [See Repealer.]

7895.0300 QUARTER HORSE BREEDERS' FUND.

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

A. "Breeder" means the owner or lessee of the dam at

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the time of conception in Minnesota.

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

C. "Minnesota-bred" means:

(1) a horse sired by a registered stallion who stood his entire breeding season in Minnesota; and

(2) a horse born in Minnesota.

~~D. "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;~~

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~~E.~~ "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, from ~~February 15~~ January 31 through July 31, in Minnesota.

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

A. 35 percent shall be set aside and paid as breeders' awards to~~:~~

~~(1) until December 31, 1988,~~ breeders of Minnesota-bred or Minnesota-foaled horses; and

~~(2) January 1, 1989, and thereafter breeders of a Minnesota-bred horse or a horse born in Minnesota prior to 1987;~~

B. 35 percent shall be set aside and paid as owners' awards to~~:~~

~~(1) until December 31, 1988,~~ owners of Minnesota-bred or Minnesota-foaled horses; and

~~(2) January 1, 1989, and thereafter owners of a Minnesota-bred horse or a horse born in Minnesota prior to 1987;~~

C. 20 percent shall be paid to supplement purses in races which are restricted to Minnesota-bred~~,~~ or Minnesota-foaled~~, or Minnesota-owned~~ horses. ~~In all such races Minnesota-bred or Minnesota-foaled horses shall be preferred,~~ and The purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission~~.~~; and

D. 10 percent shall be set aside and paid as stallion awards to the owners of the Minnesota-sire at the time of breeding.

Subp. 3. [Unchanged.]

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. Purse

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supplements earned shall not be included in determining breeder's or stallion awards.

Subp. 5. [Unchanged.]

Subp. 6. **Time of payment.** Purse supplements are part of the purse and shall be credited to owners' accounts at the time ~~such~~ the purses are earned. All money allocated for breeders' awards, owners' awards, and stallion awards shall be distributed ~~by December 31 of the year in which they are earned~~ within 30 days of the end of the quarterhorse race meeting.

7895.0350 QUARTER HORSE REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the initial registration renewed with the racing commission or official registering agency by ~~February 1~~ January 31 of the current breeding year. The stallion's original American Quarter Horse Association (AQHA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from ~~February 15~~ January 31 through July 31.

~~C. Stallion reports (roster of mares bred) must be received by the racing commission or official registering agency by September 30 (excluding Saturday and Sunday) of the immediately preceding breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

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~~B.--Failure-to-submit-stallion-reports-(roster-of mares-bred)-by-the-September-30-cutoff-date-will-disqualify-any subsequent-claims-for-the-stallion-award-payments.~~

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7897.0100 PROHIBITED ACTS.

Subpart 1. **Scope.** The following activities are considered prohibited acts ~~if-they-are-committed,-or-attempted-to-be committed,-while-on-the-grounds-of-an-association.~~

Subp. 2. to 5. [Unchanged.]

Subp. 6. **Altercations.** No person shall provoke or engage in a physical altercation while on the grounds of an association.

Subp. 7. to 9. [Unchanged.]

Subp. 10. **Financial responsibility.** No licensee shall willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, nor shall he or she falsely deny any such amount due or the validity of the claim therefor with the purpose of hindering or defrauding the person to whom ~~such~~ the indebtedness is due. All financial responsibility complaints against a licensee shall be made in writing, signed by the complainant, and accompanied by (a) a judgment from a court of competent jurisdiction; or (b) a check, issued by the licensee or by a business entity owned or controlled by the licensee, which indicates on its face that the bank upon which the check is drawn has refused payment due to insufficient funds, alteration, forgery, or because the check was written on a closed or nonexistant account.

Subp. 11. to 18. [Unchanged.]

Subp. 19. **Abusive language.** No person shall use profane, abusive, or indecent language to a racing official.

REPEALER. Minnesota Rules, parts 7895.0100, subpart 7; 7895.0110, subpart 7; 7895.0125, subparts 4, 5, and 6; 7895.0250, subpart 7; 7895.0275, subparts 3, 4, and 5; and

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7895.0350, subparts 4, 5, and 6; are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Horse Racing

AGENCY: Minnesota Racing Commission

MINNESOTA RULES: Chapters 7873, 7875, 7877, 7883, 7890, 7892, 7895, and 7897

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 Amending
Existing Rules.

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, sections 240.23 and 240.24 (1986).

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:

Donald Price
Minnesota Racing Commission
11000 West 78th Street, Suite 201
Eden Prairie, MN 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. 11

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. 12

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. 13 14

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. 9

Dated: February 4, 1988

Donald R. Price

DONALD PRICE
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 Amending Existing
Rules.

STATEMENT OF NEED
AND REASONABLENESS

I. GENERAL

In an effort to improve the quality of horse racing in this state, the Minnesota Racing Commission ("Commission") has proposed minor amendments to the Rules of Racing. The proposed amendments are consistent with rules in other racing jurisdictions and are necessary to make Minnesota competitive in the horse racing industry. The Commission believes the proposed amendments are reasonable because they are customary in other racing jurisdictions. 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 Minnesota Statute, section 240.03 to: (1) regulate horse racing in Minnesota to insure that it is conducted in the public interest; (2) enforce all laws and rules governing horse racing; (3) supervise the conduct of parimutual betting on horse races; and (4) take all necessary steps to insure the integrity of racing in Minnesota.

The Commission is also specifically authorized by Minn. Stat. § 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 parimutual betting which in its opinion effects the integrity of racing or the public health, welfare or safety." Moreover, the legislature has specifically directed the Commission to promulgate rules governing medication and medical testing for horses running at licensed racetracks. Minn. Stat. § 240.24 (1986 and Supp. 1987).

These broad statutory provisions clearly authorize the Commission to amend the rules governing horse racing at licensed racetracks in Minnesota.

III. RULE-BY-RULE ANALYSIS

7873.0190 PICK SIX

This part sets forth the requirements for conducting a type of parimutual wagering called a "Pick Six." The Commission proposes to amend subpart 6 by changing the method of distribution of the Pick Six wagering pool. The rest of the part remains unchanged.

7873.0190, Subpart 6

This subpart sets forth the method by which the Pick six wagering pool must be calculated and distributed. The rule currently provides that 100% of the net amount in the Pick Six

wagering pool shall be distributed to the holder(s) of a winning ticket. Under the current rule, if all six winning horses are not correctly chosen by anyone, 75% of the wagering pool is carried over to the next day's Pick Six wagering pool, and 25% of the wagering pool is distributed to the those persons selecting the greatest number of the horses in the Pick Six.

The Commission proposes to amend this subpart to allow a licensed racetrack to choose one of two different methods for calculating and distributing the Pick Six wagering pool. Under the proposed rule, the chosen method of distribution must be approved by the Racing Commission prior to implementation. The first method, contained in Subpart 6A, provides that 75% of the parimutual wagering pool shall be distributed among the holders of parimutual tickets which correctly designate the official winner in each of the six races comprising the Pick Six. Twenty-Five percent of the pool shall be distributed among the holders of tickets which correctly designate the second greatest number of winners in the six races comprising the Pick Six. In the event there are no holders of a parimutual ticket which correctly designates the official winner in each of the six races comprising the Pick Six, 75% of the parimutual wagering pool shall be carried over and included in the Pick Six parimutual pool for the next succeeding racing date. However, 25% of the parimutual wagering pool must be distributed among holders of tickets which correctly designate the greatest number of official winners of the Pick Six races.

An alternative method of distribution is contained in Subpart 6B which provides that a licensed racetrack may distribute 50% of the parimutual wagering pool among the holders of parimutual tickets which correctly designate the official winner of each of the six races comprising the Pick Six. The proposed amendment also provides for the distribution of 50% of the parimutual pool to those individuals who designate the second greatest number of official winners of the six races comprising the Pick Six. In the event there are no holders of parimutual tickets which designate the official winner of each of the six races comprising the Pick Six, 50% of the Pick Six wagering pool will be distributed among holders of parimutual tickets which correctly designate the greatest number of official winners of the six races comprising the Pick Six, and 50% of the wagering pool shall be carried over to the next succeeding race day.

The proposed rule allows a racetrack operating Pick Six parimutual wagering to choose a method of distribution of the Pick Six wagering pool. This is necessary to allow the racetrack to choose the method of distribution which is most favored by the wagering public. The racetrack cannot determine which method of distribution the public favors until implementing a particular method. Therefore, the rule allows the racetrack to apply to the Commission during the course of a race meeting to change the method of distribution without the necessity of waiting for the Commission to formally promulgate a rule specifying the method of distribution of the Pick Six pool. The proposed amendment is

reasonable because it specifically sets forth the only two permissible methods of distributing the Pick Six wagering pool. The Commission retains complete authority to approve the method of distribution that will be employed by the racetrack. The rule benefits the wagering public because both alternatives distribute more of the Pick Six wagering pool to a greater number of wagerers, and both alternatives prevent one individual from winning the entire Pick Six wagering pool.

7875.0200 EQUIPMENT

This part sets forth certain pieces of equipment that must be provided by each racing association conducting parimutual wagering in Minnesota. The Commission proposes to amend subpart 8. The remaining subparts are unchanged.

7895.0200, Subpart 8

This subpart provides that all photo finish film or videotape records must be preserved by a racing association for a minimum of 90 days after the close of a race meeting, or until legal proceedings involving a recorded race are concluded, whichever is later. The Commission proposes to amend this subpart by reducing the number of days a film or videotape must be preserved to 30 days. This is necessary to allow the racing association to re-use the film and/or videotape records after the expiration of the 30 day period. The proposed amendment allows the racing association to use fewer tapes during the course of a race meeting, and reduces the number of tapes which must be stored during the course of a race meeting. The rule is

reasonable because 30 days is a sufficient period of time to determine whether or not a photo finish film or videotape must be retained for purposes of legal proceedings. The rules of the Racing Commission require any race protest to be filed within 3 days of the race. Moreover, if legal proceedings have been initiated, the rule allows the Commission to require the racing association to preserve any photo finish film or videotape until the conclusion of the legal proceedings.

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY

This part sets forth the criteria necessary for obtaining a Class C Occupational License in Minnesota. The Commission proposes to amend subpart 2. The remaining subparts are unchanged.

7877.0125, Subpart 2

This subpart currently provides that if an individual's license has been suspended or revoked, or if the individual has been excluded by another racing jurisdiction, the Minnesota Racing Commission may consider that person to be unfit for a class C occupational license in Minnesota. The Commission proposes to amend this subpart to expand the circumstances under which the Commission may refuse to grant a class C license. The proposed amendment is necessary to exclude individuals who have demonstrated behavior which would directly effect the public health, welfare, and safety, or the integrity of racing in Minnesota. This is important because not all racing jurisdictions are as concerned and dedicated to protecting the

integrity of racing as is the Minnesota Racing Commission. Therefore, individuals who engage in egregious behavior in other racing jurisdictions may not be subject to license suspension or revocation. The rule, as currently written, would preclude the Racing Commission from denying class C licenses to those individuals. The proposed rule is reasonable because it parrots the language of Minnesota Statute 240.08 (1986), which provides that the Racing Commission may issue a class C occupational license if the Commission determines that the licensing "will not adversely effect the public health, welfare and safety or the integrity of racing in Minnesota." The proposed rule is also reasonable because it places the burden on the license applicant to prove that the conduct at issue does not adversely effect the public health, welfare and safety or the integrity of racing in Minnesota. Therefore, the rule does not automatically preclude an individual who has engaged in egregious conduct from obtaining a class C license in Minnesota, the rule merely shifts the burden to the applicant to show that he or she is qualified to obtain a license in this state.

7883.0140 CLAIMING RACES

This part sets forth the eligibility and procedural requirements for claiming a horse in a claiming race conducted by a licensed racetrack. The Commission proposes to amend subpart 1 of this part by modifying the eligibility requirements for claiming a horse. The remainder of the part is unchanged.

7883.0140, Subpart 1

The rule as currently written, allows a licensed owner who loses his or her last horse through fire, misfortune, or claim, to claim a horse within thirty racing days after he or she loses the horse. The rule prohibits a licensed owner from claiming a horse outside of that 30 day period, thereby requiring the owner to purchase a horse through some other means. The Commission proposes to amend this subpart by allowing a licensed owner who loses his or her last horse through fire, misfortune, or claim to claim a horse at any time during the race meeting at which the last horse was lost, or to claim a horse at another racetrack licensed by the Minnesota Racing Commission that is operating a race meeting concurrently with the race meeting at which the last horse was lost. The proposed amendment is necessary to allow licensed owners a greater period of time to claim horses and to prevent licensed owners from deceptively acquiring a horse for a short period of time simply to establish eligibility to claim in a claiming race. For example, under the current rule, a horseman could claim a horse outside of the 30 day period simply by acquiring for a day a racehorse from another owner. Under this procedure, once a horse was claimed, the licensed owner simply transferred the acquired horse back to the previous owner, and the licensed owner proceeded to race the claimed horse at the racetrack. The new rule is necessary to avoid such transfers, and to give licensed owners a greater opportunity to claim horses in Minnesota rather than claiming them elsewhere or purchasing

them through other means outside the State of Minnesota. The proposed amendment is reasonable because it encourages the purchase of Minnesota horses, eliminates a hardship that was imposed upon the horsemen, and eliminates the ability of licensed owners to engage in deceptive practices simply to be eligible to claim a horse in this state.

7890.0110 MEDICATIONS PROHIBITED

This part provides that no medication may be administered to a horse within 48 hours of a race in which it is scheduled to run, and that no horse participating in a race shall carry in its body any substance foreign to the natural horse. The Commission proposes a minor modification to this part to eliminate an unintended ambiguity that exists in the rule as it is currently written. The amendment provides that except as permitted by part 7890.0100, subpart 13, items A-D, no horse shall participate in a race carrying in its body any substance foreign to the natural horse. The amendment is necessary to clarify that the substances permitted to be in a horse by Minn. R. 7890.0100, subpart 13, items A-D, are not prohibited by this rule. Although the substances permitted during a race by items A-D are substances "foreign to the natural horse," the substances are permitted to be in the body of a horse during the race. The rule is reasonable because it merely clarifies an otherwise ambiguous rule.

7890.0130 FINDINGS OF CHEMIST

The Commission proposes several minor modifications to subpart 1 of this part to make the rule less ambiguous, and much easier to enforce. The proposed amendments are necessary to conform the rule to the language of Minn. Rule 7890.0110, and to eliminate confusing language. The proposed amendment is reasonable because it does not change the intent of the rule, but merely clarifies the current ambiguous language.

7892.0100 DETENTION BARN

Subpart 1 of this subpart sets forth the equipment that must be provided by a licensed racetrack in the detention barn. The Commission proposes to amend this subpart to require all licensed racetracks to equip the detention barn in a manner that has, after three years of racing experience, been determined as minimally acceptable by the Commission. The rule is necessary because the Commission's experience at Canterbury Downs has revealed a need for equipment that exceeds the requirements of the current rule. Canterbury Downs, the only licensed racetrack currently operating in the state, has provided all of the equipment mandated by the proposed rule. However, the rule is necessary to insure that any licensed racetrack operating in the near future will provide all the equipment that the Commission has deemed to be necessary in the detention barn. The rule is reasonable because it merely reflects the current physical situation at Canterbury Downs. Therefore, no additional demands are being placed on the currently operating licensee by the

proposed amendment. Moreover, newly licensed facility will have an adequate opportunity to review the detention barn requirements prior to the time a detention barn is equipped.

The Commission proposes to amend subpart 2 of this part by requiring each racing association to furnish not less than one security officer to guard the detention barn during racing hours or until the last specimen is secured for the day. This amendment is necessary to allow the Commission to demand additional security on important race days, such as the St. Paul Derby. The experience of the last three years, has revealed that one security officer on an important race day is not sufficient to adequately protect the detention barn from unauthorized entry. The rule is reasonable because it gives the Commission the authority to require additional security guards, but does not require the racing association to provide additional security when the Commission deems that such security is not necessary. The Commission also proposes a minor grammatical modification to the rule by changing the word "taken" to the word "secured." This is necessary to insure that the security personnel assigned to the detention barn do not leave the area until the specimen is taken from the horse, covered, sealed, and locked in the refrigerator or storage container. The rule is reasonable because it merely gives effect to current procedure and clearly informs the security personnel that they are not permitted to leave the detention barn until the last urine specimen has been secured for the day.

7895.0110 THOROUGHBRED BREEDERS FUND

This part sets forth the procedures that must be employed in distributing the Minnesota Breeders Fund. The Commission proposes several changes to this part, primarily to conform the rule to the provisions of Minnesota Statute section 240.18 (1986). That statute provides that the Minnesota Racing Commission may expend the proceeds of the Minnesota Breeders Fund to "supplement purses for races held exclusively for Minnesota bred, Minnesota foaled, or Minnesota owned horses until January 1, 1988, and for Minnesota bred and Minnesota foaled horses after that date." The proposed rule amendments remove the references to "Minnesota owned" horses and provide that purse supplements shall be paid for races held exclusively for Minnesota bred or Minnesota foaled horses only.

7895.0100, Subpart 1

The Commission proposes to amend this subpart by eliminating all references to "Minnesota owned" horses. The amendment is necessary to conform the rule to the directive of Minnesota Statute, section 240.18, subd. 2a (1986). The rule is reasonable because pursuant to the statute, the Racing Commission is precluded from supplementing purses for races including "Minnesota owned" horses.

The Commission proposes to amend what is currently labeled as item B by inserting the phrase "or Minnesota bred" into the definition of a Minnesota foaled horse. This amendment is

necessary and reasonable because it merely consolidates what was previously two identical but separate definitions.

Item D of the current rule has been amended to become item B. The proposed item B changes the date by which a stallion must be in Minnesota in order to be eligible for stallion awards. The proposed rule changes the date from February 15 to January 31. The proposed amendment is necessary and reasonable because it conforms the thoroughbred breeders fund rule to the date a stallion must be in Minnesota for purposes of breeders fund participation for the standardbred and quarterhorse breeds.

7895.0100, Subpart 2

This subpart sets forth the method by which the breeders fund for the thoroughbred breed category shall be divided. The Commission proposes to eliminate all awards paid to owners of Minnesota bred horses and to increase the amount of money paid to supplement purses for races which are restricted to Minnesota bred or Minnesota foaled horses. This amendment is necessary to eliminate what has proved to be a confusing distribution scheme. The owners of Minnesota bred horses are the same people who race those horses in races restricted to Minnesota bred or Minnesota foaled horses. Thus, the owners of Minnesota bred horses often receive both owners awards and purse supplements for racing the same horse in a restricted race. The proposed amendment increases the amount of money available to supplement purses in races which are restricted to Minnesota bred or Minnesota foaled horses. The amendment is reasonable because the owners of

Minnesota bred horses are allowed to compete for larger purses, thereby providing greater incentive to own and race a quality Minnesota bred horse in Minnesota.

The Commission also proposes to include Minnesota foaled horses in the restricted race category. This is necessary to conform the rule to the definition of Minnesota bred and Minnesota foaled horses.

7895.0110, Subpart 3

The Commission proposes to amend this subpart by limiting the payment of breeders or stallion awards to the breeder of a Minnesota bred horse that finishes third or better in any parimutual race. (The breeder of a Minnesota bred horse is usually different than the "owner" of a Minnesota bred horse) The proposed amendment was recommended by the Thoroughbred Breeders Fund Advisory Committee, a committee made up of breeders of thoroughbred race horses in Minnesota. The rule is necessary to provide incentive to breeders to breed horses that are capable of winning in a parimutual race. There is little incentive to breed excellent race horses if breeders and stallion awards are paid to persons who breed horses that finish near the end of the field.

The Commission also proposes to amend this subpart by providing that breeders awards and stallion awards shall only be paid in a parimutual race. This amendment is necessary to clarify that breeders and stallions awards will not be paid in any race on which parimutual betting is not conducted. In the

past, Canterbury Downs has held "exhibition races" on which no parimutual betting was conducted. The rule clarifies that any horse participating in a non-parimutual race shall not be eligible for a breeders or stallion award.

7895.0110, Subpart 4

The Commission proposes to amend this subpart to provide that purse supplements for races restricted to Minnesota bred and Minnesota foaled horses shall not be included in determining the amount of breeders or stallion awards. The rule is necessary to prevent the double payment of breeders fund money for a particular race. The amount of breeders or stallion awards is based on the distribution of purse money in the race. The proposed rule would require the Racing Commission to subtract any breeders fund purse supplements from the amount of the purse prior to determining the amount of breeders or stallion awards that must be paid. The proposed rule allows the owner of the horses who place first, second, or third to receive the full amount of the breeders fund purse supplement, but bases the amount of breeders or stallion awards on that portion of the purse that was not comprised of breeders fund money. The rule is reasonable because it conforms the rule to the practice of the Racing Commission in determining breeders fund awards, and insures that the breeders fund monies are distributed more evenly.

7895.0110, Subpart 5

The Commission proposes to amend this subpart by eliminating the requirement that the Commission set percentages to be applied to each category of the breeders fund for the purposes of determining the amount of breeders and stallion awards that may be earned. The proposed amendment eliminates the Racing Commission's authority to limit the amount of breeders and stallion awards that may be earned during a particular race meeting. The effect of the amendment is to allow the Commission to pay the breeders of Minnesota bred horses the full 31% of the breeders fund money and pay stallion owners the full 7% of the breeders fund money. The amendment is reasonable because it gives full intent to the breeders fund program, which is to provide incentive to breed Minnesota horses.

The proposed amendment leaves the Racing Commission with the discretion to set the amount of purse supplements that may be earned in races restricted to Minnesota bred or Minnesota foaled horses. This is necessary to allow the Commission to divide 62% of the breeders fund money in a fair and equitable manner among the participants in the several races that are restricted to Minnesota bred and Minnesota foaled horses.

7895.0110, Subpart 6

The Commission proposes to amend this subpart to eliminate all references to "owners awards," since such awards are precluded by statute after January 1, 1988, and to specify that the breeders and stallion awards must be distributed within 30

days of the end of the thoroughbred race meeting. The amendment is necessary to insure that the thoroughbred breeders fund monies are distributed quickly and efficiently following the close of the thoroughbred race meeting. It is conceivable that a single racetrack could hold three separate "race meetings" during the course of a "race meeting"; a thoroughbred race meeting, a standardbred race meeting and a quarterhorse race meeting. The proposed amendment is reasonable because it clearly requires the Racing Commission to distribute the thoroughbred breeders fund monies within 30 days of the close of the thoroughbred race meeting, rather than within 30 days of the end of the entire race meeting, which may include additional breeds of horses.

7895.0110, Subpart 7

The Commission proposes to delete this subpart in its entirely. The deletion is necessary to allow the breeders fund participants to earn the full amount of the breeders fund, thereby providing money and incentive to increase Minnesota's breeding stock. The rule is reasonable because it creates an added benefit to Minnesota breeders by making more money available for breeding programs.

7895.0110, Subpart 8

The Commission proposes to amend this subpart by eliminating all references to the breeders fund "owners award" account. The proposed amendment is necessary to conform this rule to part 7895.0110, subpart 1, (discussed previously) which eliminates the awards paid to owners of Minnesota bred horses.

Because subpart 1 eliminates all owners awards accounts, the redistribution of residual funds through the "owners awards" account becomes meaningless. The rule is reasonable because it eliminates an inconsistency in the rule by conforming subpart 8 to the proposed language of subpart 1.

7895.0125 THOROUGHBRED REGISTRATION

This part sets forth the registration requirements that must be complied with in order to be eligible to obtain breeders or stallion awards from the Minnesota Breeders Fund. The Commission proposes to amend subpart 2 of this part. The rest of the part remains unchange.

7895.0125, Subpart 2

The Commission proposes to amend item A of this subpart by changing the registration date from February 1 to January 31 of the current breeding year. This amendment is necessary to conform the registration date to all other dates that are contained in the various provisions of the breeders fund rules. The proposed amendment is reasonable because it requires breeders and stallion owners to use one date for all necessary registrations. The rule will cause less confusion in the breeding industry, and will provide for a more efficient administration of the breeders fund.

The Commission proposes to amend item B of this subpart by changing the date on which a stallion must arrive in Minnesota from February 15 to January 31 of the current breeding season. The amendment is necessary to conform the date on which the

stallion must be in Minnesota to the date on which the stallion registration application must be received by the Racing Commission.

The Commission also proposes to amend item B of this subpart by providing that a stallion acquired after January 31 may be eligible for stallion awards if the stallion has been properly registered prior to servicing any mare in the state of Minnesota. The provision is necessary to allow the purchase of a stallion after January 31 and to allow the stallion owner to be eligible for stallion awards. The amendment is reasonable because many prestigious horse sales do not take place until after the January 31 deadline. The rule will allow the stallion owner to purchase a quality stallion and bring that stallion to Minnesota for breeding purposes. This will provide incentive to stallion owners to purchase quality horses, and will encourage excellence in the breeding stock in Minnesota.

7895.0110, subparts 4-6

The Commission proposes to delete subparts 4-6 in their entirety. These subparts are unnecessary and conflict with other provisions of the rules. The deletion is necessary to establish a single procedure for disqualification of an ineligible horse, thereby causing less confusion among horsemen and racing officials. The deletion is reasonable because it makes the procedure more understandable and does not diminish the rights of the horsemen.

7895.0250 STANDARDBRED BREEDERS FUND

This part sets forth the procedure to be employed by the Racing Commission in distributing the standardbred breeders fund. The rule is nearly identical to the thoroughbred breeders fund rule. Moreover, the proposed amendments to this part are nearly identical to the amendments proposed to the thoroughbred breeders fund rule. Therefore, much of the discussion contained in the previous section on the thoroughbred breeders fund rule can be equally applied to the amendments to the standardbred breeders fund rule.

7895.0250, Subpart 1

The Commission proposes to amend this subpart by deleting the definition of "Minnesota owned horse." The amendment is necessary because Minnesota owned horses are no longer eligible for purse supplements from the breeders fund. See, Minn. Stat. § 240.18 (1986). Thus, the proposed amendment conforms the rule to the statute, and is therefore necessary and reasonable.

The Commission proposes to amend item E of this subpart by changing the date by which a stallion must arrive in Minnesota from January 1 to January 31, and by changing the date on which the stallion may leave Minnesota from September 1 to July 31. This amendment is necessary to conform the standardbred rule to the thoroughbred and quarterhorse breeders fund rule. The amendment is reasonable because it creates a consistent set of dates for horsemen, thereby creating less confusion.

7895.0250, Subpart 2

The Commission proposes to amend this subpart by deleting the reference to "Minnesota owned" horses and by deleting the requirement that Minnesota bred and Minnesota foaled horses have first preference in all restricted races. This amendment is necessary to conform the rule to Minn. Stat. § 240.18 (1986), which eliminated the requirement that a racetrack allow Minnesota owned horses to participate in restricted races.

7895.0250, Subpart 4

The Commission proposes to amend this subpart by providing that purse supplements earned shall not be included in determining the amount of breeders or stallion awards. As discussed herein regarding the thoroughbred breeders fund rule, this amendment is necessary to avoid the double payment of breeders fund monies, and to distribute breeders fund money more widely and equitably.

7895.0250, Subpart 5

The Commission proposes to amend this subpart by deleting the phrase "among the Minnesota breeders and owners" from item C of this subpart. The deletion is necessary to eliminate the references in the rule to "Minnesota owned" horses, and make the rule more grammatically accurate.

7895.0250, Subpart 6

The Commission proposes to amend this subpart to make the rule more clear and to conform the rule to the standard practice of breeders fund administration. The amendment is necessary because the current rule did not provide that the breeders and

stallion awards must be distributed within 30 days of the end of the standardbred race meeting. As discussed in the section covering the thoroughbred breeders fund, it is not uncommon for a single racetrack to hold separate race meetings for separate breeds of horses. The amendment would require the Racing Commission to distribute the breeders fund money for the standardbred category within 30 days of the end of the standardbred race meeting. This insures a fair and efficient distribution of standardbred money within a reasonable period of time following the standardbred meet.

7895.0250, subpart 7

The Commission proposed to delete this subpart to eliminate the maximum award a horseman can earn from the standardbred breeders fund. This deletion is necessary to encourage breeding and is reasonable because the rule specifically applies only to the year 1986.

7895.0250, subpart 8

The Commission proposes to amend this subpart by conforming the rule to the proposed repeal of subpart 7. For purposes of clarity, the proposed amendment is both necessary and reasonable.

7895.0275 STANDARDBRED REGISTRATION

This part sets forth the registration requirements for eligibility in the standardbred breeders fund program. As discussed in the previous section, the proposed amendments to this part are identical to the amendments proposed to the thoroughbred breeders fund registration rule. Thus, the comments

to the proposed changes to the thoroughbred breeders fund registration rule are equally applicable to the proposed changes to this part.

7895.0275, Subpart 1

The Commission proposes to amend item A of subpart 1 by changing the date on which the stallion must be in Minnesota and registered with the Minnesota Racing Commission. The date is changed from January 1 to January 31 of the current breeding year. The proposed amendment conforms the date contained in this subpart to all other dates contained in the thoroughbred, standardbred and quarterhorse breeders fund rules. The rule eliminates confusion for those participating in the breeders fund program and provides one date for which all registrations must be complete and on which all horses must be in Minnesota to be eligible to participate in the program. The rule is therefore necessary and reasonable.

The Commission proposes to amend item B of subpart 1 by changing the dates in which the stallions must remain in Minnesota for breeding purposes from January 1 to January 31, and from September 1 to July 31. As discussed previously, this amendment is necessary to conform the rule to all other sections of the thoroughbred, standardbred, and quarterhorse breeders fund rules.

The Commission also proposes to amend this item by providing that a newly acquired stallion may be eligible for awards if the stallion arrives in Minnesota after January 31, and if the

stallion is registered with the Commission prior to servicing any mare in the state of Minnesota. As discussed in the thoroughbred breeders fund rule, the proposed amendment is necessary to allow stallion owners to purchase horses from several prestigous sales that are held after January 31. The rule is necessary and reasonable because it encourages the purchase of excellent horses, thereby increasing the quality of Minnesota's breeding stock.

7895.0275, subparts 3 to 5

The Commission proposes to delete these subparts in their entirety. See, comments to Minn. Rule 7895.0110, subparts 4 to 6. The deletion makes the standardbred rule consistent with the thoroughbred and quarterhorse rules governing the same subject.

7895.0300 QUARTERHORSE BREEDERS FUND

This part sets forth the requirements for the distribution of the quarterhorse breeders fund. The rule and the proposed amendments are essentially identical to those amendments proposed to the standardbred and thoroughbred breeders fund rules. Therefore, the comments to the thoroughbred and standardbred breeders fund rules are equally applicable to the proposed amendments to the quarterhorse breeders fund rule.

7895.0300, Subpart 1

The Commission proposes to amend this subpart by deleting the definition of "Minnesota owned." As discussed previously, the proposed deletion of "Minnesota owned" is necessary to conform the rule to the directive of Minnesota Statute, section

240.18 (1986). As a result, the rule is both necessary and reasonable.

The Commission also proposes to amend this subpart by changing the date by which a quarterhorse stallion must be in Minnesota for breeding purposes from February 15 to January 31 of the current breeding season. The proposed amendment changes the date in the quarterhorse rule to that contained in the standardbred and thoroughbred breeders fund rules. Therefore, for all breeds of horses, a stallion must be in Minnesota from January 31 through July 31 of the current breeding season in order to be eligible for stallion breeders fund awards.

7895.0275, Subpart 2

The Commission proposes to amend items A, B, and C, by deleting several confusing dates contained therein. The rule as currently written makes absolutely no sense. The proposed amendment is necessary to clarify the rule and to clearly specify the percentages of the quarterhorse breeders fund that will be paid to the various categories contained in the rule.

In addition, the Commission proposes to amend the rule to delete the reference to "Minnesota owned" horses. This amendment is necessary to conform the rule to the directive of Minnesota Statute section 240.18 (1986). Moreover, because the reference to "Minnesota owned" horses has been deleted, the Commission also proposes to delete that portion of the rule which requires that in all restricted races Minnesota bred or Minnesota foaled horses shall be preferred. This deletion is necessary because Minnesota

bred and Minnesota foaled horses are the only horses which may participate in restricted races after January 1, 1988. Therefore, the rule as proposed by the Commission is both necessary and reasonable.

7895.0275, Subpart 4

The Commission proposes to amend this subpart by providing a section which requires that purse supplements earned shall not be included in determining breeders or stallion awards. As discussed previously herein, this amendment is necessary to preclude double payment from the breeders fund, and to distribute the breeders fund to more participants. Therefore, the rule is both necessary and reasonable.

7895.0275, Subpart 6

The Commission proposes to amend this subpart by requiring that all breeders, owners, and stallion awards shall be distributed within 30 days of the end of the quarterhorse race meeting, rather than by December 31 in the year in which they are earned. The amendment is both necessary and reasonable because it conforms the time of payment of quarterhorse awards to that contained in both the standardbred and the thoroughbred breeders fund rules. Thus, in each category of the breeders fund, all payments must be distributed within 30 days of the end of the race meeting for the particular breed involved.

7895.0350 QUARTERHORSE REGISTRATION

This part sets forth the requirements for registering a quarterhorse for participation in the quarterhorse breeders fund

program. The Commission proposes to amend subpart 2 of this part.

7895.0350, Subpart 2

The Commission proposes to amend this subpart by adding the word "be" to item A to make the section more grammatically correct. The Commission also proposes to amend item A of subpart 2 by changing the date on which a stallion must be in Minnesota and registered with the Racing Commission from February 1 to January 31 of the current breeding year. This proposed amendment is both necessary and reasonable because it simply conforms the quarterhorse breeders fund rule to the standardbred and thoroughbred breeders fund rules. As a result, January 31 has become the date on which stallions must be in Minnesota and registered with the Racing Commission for all breeds of horses.

The Commission proposes to amend item B of this subpart by changing the date which a stallion must be in Minnesota from February 15 through January 31. This proposed amendment is both necessary and reasonable because it makes item B consistent with the requirements of item A.

The Commission also proposes to delete item C of subpart 2. The proposed deletion is both necessary and reasonable because the requirement that stallion reports must be filed with the Racing Commission causes unnecessary paperwork and provides no benefit or incentive to those participating in the breeders fund program.

Finally, the Commission proposes to amend subpart C by allowing a newly acquired stallion to be eligible for stallion awards if the stallion is brought to Minnesota after January 31 and if the stallion has been properly registered with the Commission prior to servicing any mare in the state. As discussed previously herein, this rule is both necessary and reasonable because it allows breeders to purchase stallions from prestigous sales that are held after January 31, thereby creating incentive to increase the quality of Minnesota's breeding stock.

The Commission proposes to amend item D by deleting it in its entirety. This deletion is both necessary and reasonable because the Commission is no longer going to require that stallion reports be filed. Therefore, it is not necessary to create any penalty for failure to file a stallion report in a timely manner.

7895.0350, subparts 4 to 6

See, comments to parts 7895.0275, subparts 3 to 5 and 7895.0110, subparts 4 to 6.

7897.0100 PROHIBITED ACTS

This part sets forth those acts which are prohibited and which may subject a licensee to disciplinary action by the Commission. The Commission proposes to amend subparts 1, 6, 10, and 19. The rest of the part remains unchanged.

7897.0100, Subpart 1

The Commission proposes to amend this subpart by increasing the scope of the Commission's authority to impose disciplinary

sanctions against licensees who commit prohibited acts while off the grounds of the racing association. The current rule allows the Commission to take action only if the prohibited acts are committed or attempted to be committed while on the grounds of an association. Certain prohibited acts, primarily those relating to financial responsibility, must fall within the jurisdiction of the Racing Commission even if the acts are committed off the grounds of the association. In fact, with respect to financial responsibility, the vast portion of the financial responsibility claims filed with the Commission involve actions of licensees that occur off the grounds of the association, but in the immediate are around Shakopee. The proposed rule will allow the Commission to take action against licensees who willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, regardless of whether or not the refusal to pay occurred on the grounds of the association. The rule is reasonable because it does not unduly extend the authority of the Racing Commission, but extends that authority only in circumstances that are fair and reasonable.

7897.0100, Subpart 6

The Commission proposes to amend this subpart by adding the phrase "while on the grounds of an association." This amendment is necessary and reasonable because fairness dictates that the Commission's authority over such activities extends only to the grounds of an association. The rule will not allow the

Commission to take action against a licensee who engages in a physical altercation while off the grounds of the association.

7897.0100, Subpart 10

The Commission proposes to amend this rule by providing that a creditor may prove a lack of financial responsibility by presenting a check to the stewards, which indicates on its face that the check was drawn on a closed or nonexistent account or on one without sufficient funds or was issued by alteration, or forgery. This rule is necessary to eliminate the requirement that the creditor must obtain a judgment to prove financial irresponsibility when the creditor has adequate proof of the irresponsibility. The amendment allows the stewards to take disciplinary action against a licensee in a more timely manner rather than after a considerable amount of time due to the need to obtain a judgment. Horsemen are generally transient, and in order to protect the surrounding business community, it is necessary to allow the stewards to take action on such claims before the individual leaves the area. The amendment is reasonable because it does not subject horsemen to arbitrary or capricious action, and other racing jurisdictions have similar rules which have been used to great success.

7897.0100, Subpart 19

The Commission proposes to add this subpart to discourage the use of abusive language against racing officials. Racing officials are often the target of angry horsemen. This amendment is necessary to discourage abusive language, which creates delays

and hinders the efficient racing of horses. The rule is reasonable because it is not unduly vague and it encourages the respectful treatment that is due racing officials by horsemen.

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 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 horse racing. 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 3.892 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

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

DONALD PRICE
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of Rules of the Minnesota Racing Commission Amending Existing Rules

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, Donald R. Price, 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 23rd day of February, 1988.

That on the 23rd day of February, 1988, 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.

Donald R. Price

Donald R. Price
Executive Director
Minnesota Racing Commission

Subscribed and sworn to before

me this 23rd day of February, 1988.

Martha Cusimano

NOTARY PUBLIC

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

6310.3600 REGISTRATION FEES.

Subpart 1. **Amount.** The amount of fees shall be as follows:

A. registration renewal, ~~$20~~ $25 per registration period effective May 1, 1988, and $26 effective August 1, 1988;

B. late application, ~~$15~~ $20 effective May 1, 1988;

C. replacement license, ~~$10~~ $20 effective May 1, 1988;

D. replacement registration certificate, ~~$10~~ $20 effective May 1, 1988;

E. verification of licensure status, ~~$15~~ $20 effective May 1, 1988;

F. verification of examination scores, ~~$15~~ $20 effective May 1, 1988;

G. a copy of licensure application materials, ~~$10~~ $20 effective May 1, 1988; and

H. service charge for a dishonored check, $15.

Subp. 2. ~~**Effective date**~~ **Nonrefundable.** ~~The fees in subpart 1 are effective January 1, 1987, unless specified otherwise.~~ All fees are nonrefundable.

Minnesota Racing Commission

Proposed Permanent Rules Relating to Horse 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*, sections 240.23 and 240.24 (1986).

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:

Donald Price
Minnesota Racing Commission
11000 West 78th Street, Suite 201
Eden Prairie, MN 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.

Donald Price
Executive Director
Minnesota Racing Commission

Rules as Proposed

7873.0190 PICK SIX.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Calculation of pool.** The pick six pari-mutuel pool shall be calculated ~~as follows~~ according to one of the two following methods as approved by the commission:

A. ~~One hundred~~ (1) Seventy-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Twenty-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

~~B.~~ (2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, 75 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as distributable amounts and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day.

B. (1) Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner of each of the six races comprising the pick six, 50 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as a distributable amount and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day. The remaining ~~25~~ 50 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.

The method of distribution shall be selected by the racing association and implemented after approval by the commission.

C. Should no distribution be made pursuant to item A or B on the last day of the association's meeting, then the entire distributable pool and all money accumulated in the pool shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day. If, for any reason, the final day of racing is canceled or the pick six pool has not been distributed, the pool shall be escrowed by the association, and the pool, as well as all accrued interest, shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed.

Subp. 7. to 10. [Unchanged.]

7875.0200 EQUIPMENT.

Subpart 1. to 7. [Unchanged.]

Subp. 8. **Preservation.** All photo-finish film or videotape records shall be preserved for at least ~~90~~ 30 days after ~~a~~ the close of a meeting or until legal proceedings involving a recorded race are concluded, whichever is later.

Subp. 9. [Unchanged.]

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.

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STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed
Adoption of Rules of the
Minnesota Racing Commission
Amending Existing Rules

AFFIDAVIT OF ADDITIONAL NOTICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Donald R. Price, under oath states that:

Notice of the proposed rules was given on February 23, 1988, 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

CANTERBURY DOWNS

MINNESOTA THOROUGHBRED ASSOCIATION

STATE OF MINNESOTA

Donald R. Price

DONALD R. PRICE
Executive Director

Subscribed and sworn to before

me this 23rd day of February, 1988.

Martha Cusimano

NOTARY PUBLIC

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

6310.3600 REGISTRATION FEES.

Subpart 1. **Amount.** The amount of fees shall be as follows:

A. registration renewal, ~~$20~~ $25 per registration period effective May 1, 1988, and $26 effective August 1, 1988;

B. late application, ~~$15~~ $20 effective May 1, 1988;

C. replacement license, ~~$10~~ $20 effective May 1, 1988;

D. replacement registration certificate, ~~$10~~ $20 effective May 1, 1988;

E. verification of licensure status, ~~$15~~ $20 effective May 1, 1988;

F. verification of examination scores, ~~$15~~ $20 effective May 1, 1988;

G. a copy of licensure application materials, ~~$10~~ $20 effective May 1, 1988; and

H. service charge for a dishonored check, $15.

Subp. 2. ~~**Effective date**~~ **Nonrefundable.** ~~The fees in subpart 1 are effective January 1, 1987, unless specified otherwise.~~ All fees are nonrefundable.

Minnesota Racing Commission

Proposed Permanent Rules Relating to Horse 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*, sections 240.23 and 240.24 (1986).

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:

Donald Price
Minnesota Racing Commission
11000 West 78th Street, Suite 201
Eden Prairie, MN 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.

Donald Price
Executive Director
Minnesota Racing Commission

Rules as Proposed

7873.0190 PICK SIX.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Calculation of pool.** The pick six pari-mutuel pool shall be calculated ~~as follows~~ according to one of the two following methods as approved by the commission:

A. ~~One hundred~~ (1) Seventy-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Twenty-five percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

~~B.~~ (2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, 75 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as distributable amounts and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day.

B. (1) Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among holders of pari-mutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the pick six.

(2) In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner of each of the six races comprising the pick six, 50 percent of the pari-mutuel pool shall not be distributed but shall be retained by the association as a distributable amount and shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six pool that day. The remaining ~~25~~ 50 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.

The method of distribution shall be selected by the racing association and implemented after approval by the commission.

C. Should no distribution be made pursuant to item A or B on the last day of the association's meeting, then the entire distributable pool and all money accumulated in the pool shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day. If, for any reason, the final day of racing is canceled or the pick six pool has not been distributed, the pool shall be escrowed by the association, and the pool, as well as all accrued interest, shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed.

Subp. 7. to 10. [Unchanged.]

7875.0200 EQUIPMENT.

Subpart 1. to 7. [Unchanged.]

Subp. 8. **Preservation.** All photo-finish film or videotape records shall be preserved for at least ~~90~~ 30 days after ~~a~~ the close of a meeting or until legal proceedings involving a recorded race are concluded, whichever is later.

Subp. 9. [Unchanged.]

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.

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY.

Subpart 1. [Unchanged.]

Subp. 2. **Burden of proof.** If an applicant for a Class C license has had a license denied or had his or her license suspended or revoked or been excluded by another racing jurisdiction, or has engaged in conduct that the commission determines would adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, the commission shall consider such fact as prima facie evidence that the applicant is unfit to be granted a Class C license, and the burden of proof shall rest upon the applicant to establish his or her fitness. In reviewing such applications, the commission shall consider the factors provided in part 7877.0100, subpart 2.

Subp. 3. [Unchanged.]

7883.0140 CLAIMING RACES.

Subpart 1. **Who may claim.** In claiming races any horse is subject to claim for its entered price by any person who is eligible to claim or by his or her authorized agent. The following persons shall be eligible to claim:

A. A licensed owner who has a horse registered to race at the current meeting.

B. A licensed owner who lost his or her last horse through fire, misfortune, or claim, may ~~nevertheless~~ claim ~~(if he or she is otherwise eligible) for 30 racing days after he or she has lost his or her last horse. The 30 racing days may extend from one racing season to the next~~ a horse, provided:

(1) the horse is claimed during the same race meeting that the horse was lost; or

(2) the horse is claimed at another racetrack licensed by the Minnesota Racing Commission during a race meet operating concurrently with the race meet during which the horse was lost.

A person claiming under this item is required to establish eligibility to claim with the stewards and to receive his or her confirmation in writing prior to making a claim.

C. and D. [Unchanged.]

Subp. 2. to 30. [Unchanged.]

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race in which 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 and no horse participating in a race shall carry in its body any substance foreign to the natural horse, except as permitted by part 7890.0100, subpart 13, items A to D.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist ~~that~~ of any medication, substance foreign to the natural horse, or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, in the test sample of a horse shall be considered prima facie evidence that ~~such~~ the medication ~~or~~, substance, or Bute was administered to the horse 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 assistant trainer or substitute trainer was negligent in the handling or care of the horse.~~

Subp. 2. [Unchanged.]

7892.0100 DETENTION BARN.

Subpart 1. **Barn.** Each association shall provide a detention barn suitable for taking test samples. The barn shall include:

A. an office area which can be locked, and which has a floor area of not less than 100 square feet;

B. ~~a~~ three wash ~~rack~~ racks not less than ~~12~~ ten feet by 12 feet;

C. not fewer than ~~four~~ six stalls ten feet by ten feet each, with dutch doors and observation holes;

D. a refrigerator of not less than ten cubic feet;

E. a freezer not less than 16 cubic feet;

F. hot and cold running water; ~~and~~

~~F.~~ G. a walking ring; and

H. other equipment considered necessary by the commission for the bathing and watering of horses.

Subp. 2. **Security.** Each association shall furnish ~~a~~ not less than one security officer to guard the detention barn during racing hours and until the last specimen is ~~taken~~ secured for the day.

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

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

~~D.~~ B. "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~~ January 31 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~~ Thirty-one 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~~ Sixty-two percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or ~~Minnesota-owned~~ Minnesota-foaled 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.~~ C. 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~~ third or better in any pari-mutuel 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~~ third or better in any pari-mutuel 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. Purse supplements earned shall not be included in determining breeders' or stallion awards. 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~~

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~~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.~~ B. 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.~~ C. 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~~ the 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 thoroughbred race meeting.

Subp. 7. [See Repealer.]

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.

7895.0125 THOROUGHBRED REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by ~~February 1~~ January 31 of the current breeding year. The stallion's original jockey club certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from ~~February 15~~ January 31 to July 31.

~~C. Stallion reports (record of mares bred) must be received by the racing commission or official registering agency by September 30 of the immediately preceding breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

~~D. Failure to submit stallion reports (record of mares bred) by the September 30 cutoff date will disqualify any subsequent claims for stallion award payments.~~

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7895.0250 STANDARDBRED BREEDERS' FUND.

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

A. to C. [Unchanged.]

D. ~~"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.~~

~~E.~~ "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, from January ~~1 to September 1~~ 31 to July 31 in Minnesota.

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

A. 25 percent shall be set aside and paid to breeders as breeders' awards; and

B. 75 percent shall be paid to supplement purses in races which are restricted to horses that are Minnesota-bred~~,~~ or Minnesota-foaled~~, or Minnesota-owned~~. ~~In all such races, Minnesota-bred and Minnesota-foaled shall have first preference, and Minnesota-owned horses shall have second preference.~~

Subp. 3. [Unchanged.]

Subp. 4. **Methods of payment.** The amount of money distributed for breeders' awards or purse supplements pursuant to subpart 3, shall be paid out in the same percentage as the purse money in the race. Purse supplements earned shall not be included in determining breeders' or stallion awards.

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 breeders' award disbursements. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the number of potential breeders' award recipients;

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

C. the need to distribute breeders' awards and purse supplements ~~among the 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 standardbred horses within the state; and

D. that the set amount of the breeders' 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~~ the purses are earned. All money allocated for breeders' awards and stallion awards shall be distributed within 30 days of the end of the standardbred race meeting.

Subp. 7. [See Repealer.]

Subp. 8. **Residual funds.** After complying with subparts 4 to ~~7~~ 6, any remaining funds in the breeders' awards account, and all

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unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding standardbred race meeting.

7895.0275 STANDARDBRED REGISTRATION.

Subpart 1. **Stallion registration.** To be eligible to participate in the standardbred breeders' fund program, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the registration renewed with the racing commission or official registering agency by January ~~1~~ 31 of the current breeding year. The stallion's original United States Trotting Association (USTA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application or renewal. The lease agreement must contain a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from January ~~1 to September 1~~ 31 to July 31.

~~C. Stallion reports (record of mares bred) must be received by the racing commission or official registering agency by September 30 (excluding Saturday and Sunday) of the current breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

Subp. 2. [Unchanged.]

Subp. 3. to 5. [See Repealer.]

7895.0300 QUARTER HORSE BREEDERS' FUND.

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

A. "Breeder" means the owner or lessee of the dam at the time of conception in Minnesota.

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

C. "Minnesota-bred" means:

(1) a horse sired by a registered stallion who stood his entire breeding season in Minnesota; and

(2) a horse born in Minnesota.

D. ~~"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.~~

~~E.~~ "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, from ~~February 15~~ January 31 through July 31, in Minnesota.

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

A. 35 percent shall be set aside and paid as breeders' awards to~~:~~

~~(1) until December 31, 1988,~~ breeders of Minnesota-bred or Minnesota-foaled horses; and

~~(2) January 1, 1989, and thereafter breeders of a Minnesota-bred horse or a horse born in Minnesota prior to 1987;~~

B. 35 percent shall be set aside and paid as owners' awards to~~:~~

~~(1) until December 31, 1988,~~ owners of Minnesota-bred or Minnesota-foaled horses; and

~~(2) January 1, 1989, and thereafter owners of a Minnesota-bred horse or a horse born in Minnesota prior to 1987;~~

C. 20 percent shall be paid to supplement purses in races which are restricted to Minnesota-bred~~,~~ or Minnesota-foaled~~, or Minnesota-owned~~ horses. ~~In all such races Minnesota-bred or Minnesota-foaled horses shall be preferred, and~~ The purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission~~.~~; and

D. 10 percent shall be set aside and paid as stallion awards to the owners of the Minnesota-sire at the time of breeding.

Subp. 3. [Unchanged.]

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. Purse supplements earned shall not be included in determining breeder's or stallion awards.

Subp. 5. [Unchanged.]

Subp. 6. **Time of payment.** Purse supplements are part of the purse and shall be credited to owners' accounts at the time ~~such~~ the purses are earned. All money allocated for breeders' awards, owners' awards, and stallion awards shall be distributed ~~by December 31 of the year in which they are earned~~ within 30 days of the end of the quarterhorse race meeting.

7895.0350 QUARTER HORSE REGISTRATION.

Subpart 1. [Unchanged.]

Subp. 2. **Stallion registration.** To be eligible to receive any stallion award payments, the following requirements must be met:

A. Stallions must be in Minnesota and registered or the initial registration renewed with the racing commission or official registering agency by ~~February 1~~ January 31 of the current breeding year. The stallion's original American Quarter Horse Association (AQHA) certificate must be received by the racing commission or official registering agency. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.

B. Stallions must remain in Minnesota for the entire breeding season from ~~February 15~~ January 31 through July 31.

~~C. Stallion reports (roster of mares bred) must be received by the racing commission or official registering agency by September 30 (excluding Saturday and Sunday) of the immediately preceding breeding season~~

A newly acquired stallion which has not been in Minnesota for breeding purposes before January 31 of the current breeding season may be eligible for stallion awards if the stallion has been properly registered with the commission prior to servicing any mare and the stallion has not serviced any mare after December 31 of the preceding year.

~~D. Failure to submit stallion reports (roster of mares bred) by the September 30 cutoff date will disqualify any subsequent claims for the stallion award payments.~~

Subp. 3. [Unchanged.]

Subp. 4. to 6. [See Repealer.]

7897.0100 PROHIBITED ACTS.

Subpart 1. **Scope.** The following activities are considered prohibited acts ~~if they are committed, or attempted to be committed, while on the grounds of an association~~.

Subp. 2. to 5. [Unchanged.]

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CERTIFICATE OF THE

MINNESOTA RACING COMMISSION

RESOLUTION ADOPTING THE RULE

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 6th day of April, 1988, 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 amending the existing rule governing horse racing is approved and adopted, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes, Sections 240.23 and 240.24 (1986). Donald R. Price, the Executive Director of the Minnesota Racing Commission, is authorized to sign the findings of fact, conclusions, and order adopting the rule and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have subscribed my name this 6th day of April, 1988.

RAY ELIOT
Minnesota Racing Commission

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rules of the Minnesota Racing Commission Amending the Existing Rule Governing Horse Racing.

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

On April 6, 1988, the above-captioned rule was adopted by the Minnesota Racing Commission at a meeting duly called and attended by a quorum. Pursuant to a resolution approved at the meeting, Donald R. Price, Executive Director of the Minnesota Racing Commission, was given the authority to "sign the findings of fact, conclusions, and order adopting the rule" and to "perform the necessary acts to provide that the rule shall have the force and effect of law."

Donald R. Price signed the findings of fact, conclusions and order on April 6, 1988, and submitted the rule to the Attorney General for approval pursuant to Minn. Stat. § 14.26 (1986). As a result of concerns raised by the Attorney General, the findings of fact, conclusions and order is amended as follows:

FINDINGS OF FACT

1. 7873.0190, subpart 6B has been modified by including conditions under which the Racing Commission will approve or disapprove the distribution method chosen by the racing association for the pick-six wagering pool. As modified the subpart provides:

> The method of distribution shall be selected by the racing association and implemented after approval by the Commission, provided that the method of distribution benefits the wagering public and does not adversely affect the integrity of racing.

As modified, the rule requires the Commission to consider the impact of the distribution method on the wagering public and on the integrity of racing prior to approving the distribution method selected by the racing association. Thus, if one of the permissible methods of distribution provides no benefit to the wagering public, the Commission must decline to approve the proposed distribution method.

This modification is necessary because it provides stated criteria for the Commission to use in determining whether or not to approve the distribution method selected by the racing association. The modification is reasonable because the racing association is placed on notice that a distribution method which does not benefit the wagering public or which adversely affects the integrity of racing will not be approved. Although the requirement in the rule that the Commission approve the selected distribution method implies that any method adversely affecting the public will not be approved, the rule, as modified, specifically states the criteria that must be considered by the Commission prior to approval.

The rule, as modified, is not substantially different that the rule as originally published. The modified ruled

affects no classes of persons who could not have reasonably been expected to comment, nor does the rule go to new subject matter of significant substantive effect or make a major substantive change not raised by the original Notice of Intent to Adopt a Rule. Therefore, the modification is needed and reasonable.

2. 7897.0100, subpart 19 is hereby withdrawn from further consideration. As written, Subpart 19 was vague and possibly infringed upon rights guaranteed by the First Amendment to the United States Constitution.

CONCLUSION

The above-described modifications are needed and reasonable and supported by the evidence in the rule-making record.

NOW, THEREFORE, IT IS ORDERED that the above-described modifications to the rule identified as Amending the Existing Rule Governing Horse Racing are adopted this 19th day of April 1988 pursuant to the authority vested in the Commission by Minnesota Statutes, Sections 240.23 and 240.24 (1986).

Donald R. Price

DONALD R. PRICE
Executive Director
Minnesota Racing Commission

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Racing Commission Amending the Existing Rule Governing Horse Racing.

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

Notice of the Commission's intent to adopt the above-entitled rule was published in the State Register on February 22, 1988 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 February 23, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register 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 were received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the evidence in the record before the Minnesota Racing Commission, I find the following:

FINDINGS OF FACT

1. 7873.0190, Subp. 6A(2) has been modified by inserting a final sentence which provides:

> The remaining 25 percent shall be distributed among the holders of pick six tickets which correctly designate the most official winners of the six races comprising the pick six.

This sentence was inadvertently deleted from the subpart when the rule was published in the State Register. The modification is necessary to restore the rule to its original form and to ensure that the portion of the pick six wagering pool (25%) not carried over to the next racing day is distributed to holders of pick six tickets. The change merely corrects a typographical omission and clarifies the distribution of the pick six wagering pool.

The rule, as modified, is not substantially different than the rule as originally published. The modified rule affects no classes of persons who could not have reasonably been expected to comment, nor does the rule go to new subject matter of significant substantive effect or make a major substantive change not raised by the original Notice of Intent to Adopt a Rule. Therefore, I find that the modification is needed and reasonable.

CONCLUSION

The rule, as proposed and including the above-described modification, is needed and reasonable and supported by the evidence in the rule-making record.

NOW, THEREFORE, IT IS ORDERED that the rule identified as amending the existing rule governing horse racing is adopted this 6th day of April, 1988, pursuant to authority vested in the Commission by Minnesota Statutes, sections 240.23 and 240.24 (1986).

Donald R. Price

DONALD R. PRICE
Executive Director
Minnesota Racing Commission

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the Adoption of the Rule of the Minnesota Racing Commission Amending the Existing Rule Governing Horse 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. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0733.

Mary B. Magnuson

MARY B. MAGNUSON
Special Assistant
Attorney General

Dated: April 8, 1988.