

March 5, 2025

VIA EFILING ONLY

E. Joseph Newton
General Counsel
Minnesota Racing Commission
PO Box 630
Shakopee, MN 55379
joseph.newton@state.mn.us

Re: *In the Matter of the Adopted Rules of the Minnesota Racing Commission; Governing Horse Racing, Definitions, Facilities and Equipment, Class C Licensees, Thoroughbred/Quarter Horse Races, Harness Races, Horse Medication, Physical Examination, Medical Testing, Breeders' Fund, and Prohibited Acts; Chapters 7869, 7875, 7877, 7883, 7884, 7890, 7891, 7892, 7895, and 7897*
OAH 22-9011-40189; Revisor 4887

Dear E. Joseph Newton:

Enclosed herewith and served upon you is the **ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.26** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Office of Administrative Hearings has closed this file and is returning the rule record so that the Minnesota Racing Commission can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request the finalized rules from the Revisor's office following receipt of that order. Our office will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Agency will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Agency's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for publication. A permanent rule without a hearing does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

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If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Nichole Sletten". The signature is written in a cursive, flowing style.

NICHOLE SLETTEN

Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Adopted Rules of the Minnesota Racing Commission; Governing Horse Racing, Definitions, Facilities and Equipment, Class C Licensees, Thoroughbred/Quarter Horse Races, Harness Races, Horse Medication, Physical Examination, Medical Testing, Breeders' Fund, and Prohibited Acts; Chapters 7869, 7875, 7877, 7883, 7884, 7890, 7891, 7892, 7895, and 7897

**ORDER ON REVIEW OF
RULES UNDER
MINN. STAT. § 14.26**

The Minnesota Racing Commission (Commission) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2024). On February 19, 2025, the Office of Administrative Hearings (OAH) received the documents that must be filed by the Commission under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2023). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

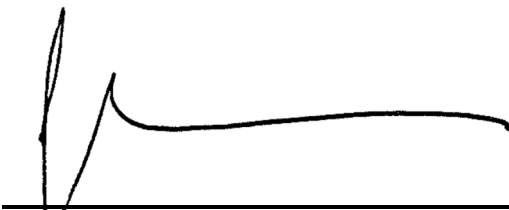
IT IS HEREBY DETERMINED:

1. The Commission has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, Chapter 14 (2024), and Minnesota Rules, Chapter 1400 (2023).
3. The record demonstrates the rules are needed and reasonable.

IT IS HEREBY ORDERED THAT:

The rules are **APPROVED**.

Dated: March 5, 2025



CHRISTA L. MOSENG
Administrative Law Judge

MEMORANDUM

Under Minn. Stat. § 14.26, an administrative law judge must approve or disapprove a rule:

as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule.

A rule not adopted in compliance with procedural requirements of Minn. Stat. §§14.001–.431 or Minn. R. 1400.2000–.2410 must be disapproved unless the error was a harmless error under Minn. Stat. § 14.15, subd. 5. An error is harmless if a failure or defect did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

The Commission filed a copy of the rule proposed for adoption with one modification, the omission of a proposed amendment to part 7883.0100, subpart 4G, in response to a comment objecting to that amendment.¹ The Commission asserts that the omission of the proposed part 7883.0100, subpart 4G, in the final rule is not a substantial change.

An agency is required to file “a copy of the adopted rule, showing any modifications to the proposed rule and the revisor's approval of them.” Although the agency included the modified proposed rule, it did not file a certificate demonstrating the revisor's approval of the modification. However, the copy submitted is in a form that supports an inference that the Revisor prepared the submitted copy of the rule. And, in any event, the failure to expressly demonstrate the revisor's approval is a harmless error. The modification simply withdraws an initially proposed amendment, and that proposed modification is unambiguously struck from the submitted rule.

The Commission's authority to adopt the rule amendments arises out of Minn. Stat. § 240.23, which authorizes rules addressing 11 subjects. The Commission properly identified these possible subjects in its Statement of Need and Reasonableness (SONAR); however, conducting the review of its proposed rule would have been facilitated had the Commission identified which item of Minn. Stat. § 240.23 authorized each proposed modification in its SONAR's rule-by-rule analysis. Upon review, each proposed modification is supported by one or more item(s) of Minn. Stat. § 240.23.

C. L. M.

¹ The Commission received one public comment on the proposed rule amendments—from the Senior Manager of Racing Operations of Canterbury Park, objecting to proposed rule part 7883.0100, subpart 4G.