

RD04606

Minnesota Racing Commission

STATEMENT OF NEED AND REASONABLENESS

Possible Amendment to Rules Governing Horse Racing, Minnesota Rules, Parts 7895.0050 Definitions; 7895.0100 General Provisions; 7895.0110 Thoroughbred Breeders' Fund; 7895.0125 Thoroughbred Registration; 7895.0275 Standardbred Registration; 7895.0300 Quarter Horse Breeders' Fund; and 7895.0350 Quarter Horse Registration.

INTRODUCTION

The Minnesota Racing Commission (MRC) continuously strives to keep its rules current and relevant as the industry evolves. This rulemaking project was initiated by the MRC in order to modify, update and clarify Breeders' Fund rules. Following is a brief summary of the changes.

7895.0050, Subp. 1. **Definitions.**

This rule part is being amended to include lessees of horses in determining recipients of Breeders' Fund awards.

7895.0050, Subd. 2. **Definitions.**

This definition is being added to define "breeder award."

7895.0050, Subp. 3. **Definitions.**

This definition is being added to define "stallion award."

7895.0050, Subp. 4. **Definitions.**

This definition is added to define "purse supplements."

7895.0100, Subp. 2. **Registration.**

This amendment updates the method by which a horse's registration may be verified.

7895.0100, Subp. 3. **Decisions regarding eligibility for registration.**

This rule is being amended to delete official registering agency designation and updates the method by which a horse's registration is verified.

7895.0100, Subp. 4. **Decisions regarding eligibility to enter restricted races.**

This rule deletes the official registering agency because none exists.

7895.0110, Subp. 1. **Definitions.**

The proposal amends the definitions to include a definition of “Minnesota foaled” horse and deletes the requirement that a “Minnesota sire” be owned or leased by a Minnesota resident.

7895.0110, Subp. 3. **Distribution of money.**

These amendments specify and clarify the calculation of a breeders’ award and “stallion awards.” The rule change also deleted the methods of payment of awards.

7895.0110, Subp. 4. **Methods and time of payment.**

This rule is being repealed as unnecessary and redundant and some of the language is now in subpart 3.

7895.0110, Subp. 5. **Purse supplements.**

This amendment clarifies when purse supplements shall be paid out.

7895.0110, Subp. 6. **Time of payment.**

The amendment would adjust the time that breeders’ and stallion awards must be paid out.

7895.0125, Subp. 1. **Broodmare registration.**

This proposed change to require that a mare’s foal is eligible for restricted races and requires a broodmare be registered with the Racing Commission and changes the times of payment of awards.

7895.0125, Subp. 2. **Stallion registration.**

This amendment requires identification of the stallion in the form of a physical or digital copy of Jockey Club certificate and clarifies time limits for establishing late fees.

7895.0125, Subp. 3. **Foal registration and certification.**

This change limits the time a foal must be registered with the Racing Commission, includes lessee of the horse as well as owner and changes “foaling dam” to broodmare” for consistency. It also clarifies time limits in establishing a late fee.

7895.0275, Subp. 1. **Stallion registration.**

This rule allows for verification of the horse’s certification by requiring it be merely available through the breed registering agency, changes and clarifies when and how a stallion is eligible for an award, clarifies time limits for establishing late fees.

7895.0275, Subp. 2. **Foal Certification**

This rule changes the date foals must be registered with the Commission.

7895.0300, Subp. 1. **Definitions.**

This proposal amends the definition of “breeder,” changes the definition and requirements of an eligible “Minnesota bred,” “Minnesota foaled” and “Minnesota sire” and deletes the requirement that the horse must be identified on the horse’s original papers.

7895.0300, Subp. 2. **Division of money.**

This amendment clarifies the division of money available from the quarter horse Breeders’ Fund.

7895.0300, Subp. 3. **Distribution of money.**

This proposal would clarify when breeders’ and stallion awards are paid and clarifies what shall be paid out and to whom. It deletes the method of payment in stakes and handicap races as it is redundant.

7895.0300, Subp. 4. **Methods of Payment.**

This rule is being repealed as unnecessary.

7895.0300, Subp. 5. **Purse Supplements.**

This change specifies the amount of the award so that it is consistent with subpart 2 of the rule and changes “race meeting” to “racing meeting” for consistency with the statute definition.

7895.0300, Subp. 6. **Time of payment.**

This proposal extends the time for payment of breeders’ awards and changes the time limits for payment of awards and clarifies what happens to awards if horse race results are still under contention on December 31 of the year of the race.

7895.0350, Subp. 1. **Broodmare registration.**

This change deals with quarter horse registration and eligibility requirements. It lengthens the amount of time owners have to register their quarter horse.

7895.0350, Subp. 1a. **Broodmare registration, Minnesota bred foaled.**

This subpart is being repealed as redundant and unnecessary.

7895.0350, Subp. 1b. **Broodmare registration, Minnesota bred sired.**

This subpart is being repealed as redundant and unnecessary.

7895.0350, Subp. 1c. **Fees.**

This rule change renumbers subpart 1c as 1a and changes the characterization of the current “fines” as “fees” because that is more in keeping with what these charges are. It also provides consistency with other racing rules. It also changes the time limits for registration.

7895.0350, Subp. 2. Stallion registration.

The amendment specifies registration requirements and would now allow for a digital equivalent of the horse registration certificate. It deletes “official registering agency” as there is no such agency. It also lengthens the time frame for registering with the Racing Commission and changes “fine” to “fee” for consistency and characterization.

7895.0350, Subp. 3. Foal registration.

This rule would change required registration limits, changes “dam at the time of conception” to “broodmare” for accuracy and consistency, lengthens the time for registration, and changes “fine” to “fee” for consistency and characterization.

7895.0350, Subp. 4. Foal registration and certification, Minnesota bred sired.

This repeals the subpart as redundant and unnecessary.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact E. Joseph Newton at the Minnesota Racing Commission, 15201 Zurich Street, Suite 212, Columbus, MN 55025; phone 651-925-3956, fax 651-925-3954; or email joseph.newton@state.mn.us. TTY users may call the Racing Commission at 800-627-3529.

STATUTORY AUTHORITY

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.03, 240.18 and 240.23.

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

The Commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing: a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results, b) wire and wireless communications between the premises of a licensed racetrack and any place outside the premises, c) information on horse races which is sold on the premises of a licensed racetrack, d) liability insurance which it may require of all racetrack licensees, e) the auditing of the books and records of a licensee by an auditor employed or appointed by the Commission, f) emergency action plans maintained by licensed racetracks and their periodic review, g) safety, security, and sanitation of stabling facilities at licensed racetracks, h) entry fees and other funds received by a licensee in the course of conducting racing which the Commission determines must be placed in an escrow account, i) affirmative action in

employment and contracting by licensed racetracks, and j) procedures for the sampling and testing of any horse that is eligible to race in Minnesota for substances or practices that are prohibited by law or rule; and (k) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

In addition, Minnesota Statutes, section 240.18 provides, “the commission shall adopt rules governing the distribution of the [Breeders’] Fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.”

Also, Minnesota Statutes section 240.03 specifies Racing Commission powers and duties which include regulating horse racing in Minnesota to ensure that it is conducted in the public interest and to take all necessary steps to ensure the integrity of racing in Minnesota.

REGULATORY ANALYSIS

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

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

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

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

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

The Racing Commission believes the proposed changes will not be intrusive, as they mainly seek to clarify, specify and simplify existing rules. The cost to implement them will be minimal. The Racing Commission has not identified any less costly or less intrusive methods for achieving the purposes of the proposed rules.

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

Industry participants and stakeholders presented many of the proposed rule changes. Others are proposed in order to update, clarify or simplify existing rules. A number of meetings took place between Racing Commission staff, stakeholders, industry members and interested individuals. Much of that input and many of these rules were provided by stakeholders. They reflect current practices in the industry.

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

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

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

The consequences of not adopting the proposed rules would be that some of Minnesota's horseracing Breeders' Fund rules would be outdated inconsistent with certain practices. Not adopting these rules would have an adverse effect on the Minnesota horse breeding industry and Minnesota's agricultural wellbeing.

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

There are no current federal regulations regarding these proposed rule changes. Horse racing is regulated by the various individual state racing commissions. However, there is a growing initiative to regulate racing through national legislation. The current bill in Congress has attracted bipartisan support. Several of the proposed rules are aimed at achieving uniformity across states, reciprocity with other jurisdictions, and adoption of industry model rules and safety initiatives.

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

The proposed rules cover areas that are not addressed by federal law or other Minnesota laws or rules. The rules are designed to complement Minnesota Statutes, Chapter 240 without duplicating requirements therein.

PERFORMANCE-BASED RULES

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

ADDITIONAL NOTICE

The Racing Commission began work on these rule proposals in June of 2019 after receiving recommendations from racing stewards, racetracks, Racing Commission staff and industry members. A well-attended stakeholder meeting was held on July 30, 2019 to discuss the proposals. Notice of the meeting was sent to all persons on the Racing Commission's rulemaking list, as well as to Class A and B license holders and industry stakeholder groups. Horse trainers, owners, racetrack representatives, racing

officials, horsepersons groups, the Jockey's Guild, and Racing Commission staff attended the meeting. The public was encouraged to submit additional proposals.

After the initial 60-day comment period, the proposed rules were revised and then thoroughly discussed at a public meeting of the Racing Commission's Racing Committee, a panel comprised of three commissioners, on October 28, 2019 and November 18, 2019. Members of the public provided valuable input at this meeting. The Racing Committee unanimously voted to recommend the rules to the full Racing Commission with some minor modifications. On November 21, 2019 the full Minnesota Racing Commission met and accepted the Racing Committee's recommendation and voted to publish the Notice of Intent to Adopt Rules. The rules discussion was clearly included on all agendas duly prepared and mailed or e-mailed 7 days prior to these public meetings. Agendas were also posted on the Racing Commission's website. Minutes and recordings of the meetings are available on the Racing Commission's website at www.mrc.state.mn.us.

Our Notice Plan includes:

1. Publishing the Request for Comments in the July 29, 2019 edition of the State Register.
2. Posting the Request for Comments on the Office of Administrative Hearings rulemaking e-comments website with a link from Racing Commission's website.
3. E-mailing the Request for Comments to everyone registered to be on the Racing Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a.
4. E-mailing the Request for Comments to Class A & B licensees as well as horsemen's organizations that are affected by horse racing in Minnesota, including the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Jockey's Guild, and the United States Trotting Association.
5. E-mailing the Request for Comments to organizations in Minnesota identified as having an interest in animal health including the Minnesota Board of Animal Health, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University Of Minnesota College Of Veterinary Medicine.
6. Our Notice Plan also includes giving notice required by statute. We will mail the proposed rules and Notice of Intent to Adopt to everyone who has registered to be on the Racing Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. The Proposed Rules and the Notice of Intent to Adopt will also be published in the State Register.
7. We will post the Notice of Intent to Adopt Rules, along with the draft rules and SONAR on the Office of Administrative Hearings rulemaking e-comments website, with a link on our website.
8. The Racing Commission will send an e-mail with a link to the draft rules, SONAR, and Notice of Intent to Adopt Rules to all Class A & B licensees, horsemen's organizations, and animal health organizations in Minnesota, and everyone registered to be on the Racing Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a, as noted in paragraphs 3-5 above.

CONSULT WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Racing Commission will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Racing Commission publishes the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Racing Commission will submit a copy of the cover

correspondence and any response received from Minnesota Management and Budget to OAH with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

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

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

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

LIST OF WITNESSES

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

1. Steve May, MRC Executive Director.
2. Dr. Lynn Hovda, Chief Commission Veterinarian, Minnesota Racing Commission.
3. E. Joseph Newton, MRC General Counsel.
4. Stephanie Jenson, MRC staff.

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

RULE BY RULE ANALYSIS

7895.0050 Subp. 1. “Breeder.”

This proposed change, which adds the word “lessee” to the definition provides breeders’ award eligibility to lessees of horse as well as owners. This rule will allow for more equitable distribution of awards and identifies the proper person to receive the award. It also clarifies the definition to conform with other rules.

7895.0050 Subp. 2. Breeder Award.

This new definition is needed for clarity and consistency throughout the rules as it provides a clearer understanding of when and to whom awards will be distributed. It also is needed to clarify and conform to other rules.

7895.0050 Subp. 3. **Stallion Award.**

This new definition is needed for clarity and consistency throughout the rules for a clearer understanding of when and to whom awards will be distributed. It also is needed to clarify and conform to other rules.

7895.0050 Subp. 4. **Purse Supplements.**

This rule is needed as the term purse supplements is used throughout this chapter. It defines current common practice and specifies what monies are used to supplement purses and to whom the distributions are made. It also is needed to conform with the other changes in the rules.

7895.0100 Subp. 2. **Registration.**

This amendment updates the language of the rule and allows for use of electronic verification of foal certificates. It reflects industry and breed standards in moving to digital identification. Each specific breed of horse has a breed specific registry where digital certificates are housed and made available to regulatory personnel when requested. Exhibit 1.

7895.0100 Subp. 3. **Decisions regarding eligibility for registration.**

This amendment deletes the portion of the rule regarding use of an official registering agency as there is no single universal registry for all breeds. Rather, the change reflects the industry practice of using the breed specific registering agency. It has no tangible effect on the industry. This amendment also updates the language of the rule and allows for use of digital certificates or identification to verify foal certificates. This allows for ease and expediency and is the only method allowed by some breed specific registries. Exhibit 2.

7895.0100 Subp. 4. **Decision regarding eligibility to enter restricted races.**

This amendment deletes the portion of the rule regarding use of an official registering agency as this does not currently exist. The Racing Commission does not use such an agency and the change reflects current practices. It has no tangible effect on the industry.

7895.0110 Subp. 1A and 1B. **Definitions.**

This proposed rule switches the order of the terms to conform with use in the statute. It also states more clearly that the Minnesota bred or Minnesota foaled horse must be registered with the Racing Commission. This is already required by rule and allows for stricter overview of the Breeders' Fund.

The rule also eliminates the requirement that the horse be owned or leased by Minnesota residents and requires only the stallion be in Minnesota during the year's breeding season. This change allows for more expansive stallion ownership while still promoting breeding in the state. This better reflects the reason for having a Breeders' Fund in Minnesota.

7895.0110 Subp. 3. **Distribution of money.**

This change adds language to allow lessees to receive breeders' awards as this is common practice and in conformance with other rule changes. It allows for use of either a physical or digital

certificate for identification as the Jockey Club only began requiring digital certificates with the foal crop of 2018.

The purpose of these proposed rules is to encourage Minnesota-bred horses to race in Minnesota when live racing is being conducted here, as the demand for horses at racetracks throughout North America, particularly during the Minnesota live racing season, exceeds the supply of horses. Owners who enter Minnesota-bred horses to race in Minnesota will be rewarded with payments from the Breeders' Fund. Further, the proposed rule is needed to limit the total amount that any one horse can earn, so that the horse does not earn a disproportionate share of the total amount available for awards to every Minnesota-bred in any given year. This rule is reasonable as it prevents one exceptional horse who may win multiple stakes races and a large amount of purse money from depleting the Breeders' Fund of monies to pay awards to other Minnesota-bred horses.

7895.0110 Subp. 4. **Methods and time of payment.**

This rule deleted and moved to a new subpart 4 as purse supplements are not related to breeders' awards or stallion awards. Moving the language provides a clearer picture of distributions.

7895.0110 Subp. 5. **Purse supplements.**

This rule is renumbered to reflect the rule change to the existing subpart 4 and renames the subdivision for housekeeping purposes. That change has no effect on the rule. making the payment. .Purse supplements are related to money earned in races and are not related to breeders' awards or stallion awards. Disbursement of money is based on entry into a supplemented race and not owner or breeder dependent.

The proposed rule reflects the Racing Commission's current method of purse supplement payment and specifies the percentage of money to be paid out so everyone participating is clear on the method and amount. It is needed to encourage Minnesota owners and breeders to enter horses in stakes races conducted in Minnesota

7895.0110 Subp. 6. **Time of payment.**

This rule is renumbered to reflect the rule change to the existing subpart 4. This proposed rule establishes December 31 as specific time by which award payments must be distributed and defines the period of annual award money earned and totaled as October 1 through September 30th. This combination provides owners and breeders with a clear time frame in which awards have been earned and when money must be paid. The rule does not prevent earlier distribution but gives the Racing Commission adequate time to process awards and distribute money.

Language is also added to allow for consideration of awards based on results which are not official, because a licensee has protested a Stewards' decision to disqualify one or more horses for a rule or rules violations, which changed the order of finish and payment of purse money. If the case has not been resolved and if the results not declared official 60 days following the end of the racing meeting, then the Racing Commission will calculate awards based on all results which are official, and the disputed or unofficial results will be used to calculate awards in the year in which the results are made official. It gives a more objective time period for awards in contested races.

7895.0125 Subp. 1. **Broodmare registration.**

The language “or the registration renewed” is removed, as the Racing Commission does not renew registrations for broodmares. Rather, each horse must be registered annually; it is not merely annual renewal. Language is again added to allow for the Racing Commission use a “copy of” a broodmare’s Jockey Club certificate, which may be a physical certificate or a digital certificate that is accessible electronically for verification purposes. This provides for convenience to both the Racing Commission and industry and is in keeping with other modern technologies.

This change also removes all references to an “official registering agency” as one does not now exist, and the Racing Commission has no plans and does not wish to designate authority to a new agency to perform duties relative to administration of the Breeders’ Fund.

The language “excluding Saturday and Sunday” is removed as unnecessary because the inclusive dates for broodmare registration are already specified in the rule and are not dependent on the day of the week.

7895.0125 Subp. 2. **Stallion registration.**

The language “or the registration renewed” is removed, as the Racing Commission does not renew registrations for stallions. Rather, each horse must be registered annually; it is not merely annual renewal. Language is again added to allow for the Racing Commission use a “copy of” a broodmare’s Jockey Club certificate, which may be a physical certificate or a digital certificate that is accessible electronically for verification purposes. This provides for convenience to both the Racing Commission and industry and is in keeping with other modern technologies.

This change also removes all references to an “official registering agency” as one does not now exist, and the Racing Commission has no plans and does not wish to designate authority to a new agency to perform duties relative to administration of the Breeders’ Fund.

The language “excluding Saturday and Sunday” is removed as unnecessary because the inclusive dates for stallion registration are already specified in the rule and are not dependent on the day of the week.

7895.0125 Subp. 3A. **Foal registration and certification.**

The change shortens the time for registering a foal as the foal may now be registered digitally or electronically for ease and expediency, saving time ab needless paperwork. The broodmare and foal must be present on the farm when the Racing Commission does farm inspections.

The shorter timeframe ensures that the foal is registered and allows the breeder more flexibility to transport the broodmare to another farm for breeding.

The “official registering agency” is being deleted because no such agency exists. .

The requirement that the treating veterinarian submitting the report must have a Minnesota license is a housekeeping update as only Minnesota licensed veterinarians can practice in Minnesota. The change does not have a substantive effect to existing requirements s it merely reflects current requirements.

7895.125 Subp. 3B and 3C. **Foal registration and certification.**

The registration late fee days are changed to reflect the amendment to subpart 3A for clarity and to make them consistent with the changes to subpart 3A. The rule reflects that late fees are based on the new 21 day requirement as opposed to the old 30-day requirement.

7895.0125 Subp. 3D and 3E. **Foal registration and certification.**

The rule change updates the existing rule. The “official registering agency” is being deleted because the Racing Commission does not use such an agency. The foal certificate may now be examined digitally or physically which allows for ease and flexibility in verification. There is no longer a requirement for paper certificates and thus no need for embossment as verification is more accurate digitally.

7895.0275 Subp. 1. **Stallion registration.**

As stated above in prior comments, in an effort to replace confusing and inconsistent language, “or registration renewed” and references to an “official registering agency” are being removed in these revised proposed rules, because the Racing Commission does not renew registrations but instead registers broodmares, foals, and stallions annually relative to administration of the Breeders’ Fund. All references to an “official registering agency” have been removed because the Racing Commission has not and has no plans to designate an official registering agency should one exist. All standardbreds are registered with the United States Trotting Association, which is a breed specific registering agency. . The Racing Commission further registers horses as Minnesota-bred; whose breeders are then eligible for participation in the Minnesota Breeders’ Fund Program.

The revised rule adds language to clearly define conditions under which a Racing Commission registered stallion may remain eligible for stallion awards if he leaves the State or is sold; and, language which provides conditions under which a “newly acquired stallion” may be eligible for stallion awards if is registered with the Racing Commission before he services any broodmares in Minnesota. These proposed rule changes allow flexibility with necessary movement of stallions, ensures compliance with Breeders’ Fund rules, and provide incentives to increase the quality and quantity of stallions registered with the Racing Commission.

The language “excluding Saturday and Sunday” is removed as unnecessary because the inclusive dates for broodmare registration are already specified in the rule and are not dependent on the day of the week.

7895.0275 Subp. 2. **Foal certification.**

Typically, foals are born between Jan. 1st and June 30th with most foals arriving in March and April.. The standardbred racing season in Minnesota is mid-May to mid-September. recommended revising This rule revises the due date for foal registrations from December 31 to August 31. Implementing this date change will encourage Minnesota breeders to register foals before they leave the State at the conclusion of the racing season in September, and it will further encourage Minnesota breeders to register foals prior to the month of September during which time harness horse people are busy preparing their stables for end of season championship races. The date change also provides the Racing Commission with adequate time to compile data, create foaling reports, and share the

information with the industry prior to the onset of a new foaling season. . The deadlines and dates below are updated in order to ensure consistency with the new deadline of August 31st in the year of foaling for registration with the Racing Commission.

7895.0300 Subp. 1. **Definitions.**

As stated previously, this rulemaking effort aspires to harmonize the rules between breeds and replace confusing and inconsistent language. The language in existing Quarter Horse Breeders' Fund rules is particularly confusing at times, and it is being removed by this rulemaking effort. At the request of the Quarter Horse and Thoroughbred Breeders' Fund Advisory Committees Racing Commission staff has revised these rules so the Quarter Horse and Thoroughbred Breeders' Fund rules are identical, wherever possible, of the horse.

The Quarter Horse rules already recognize the breeders as the owner or lessee, as this has been common practice for many years and is widely accepted by the industry. The definition of breeder (B) is changed from time of conception to a broodmare registered with the Racing Commission. This is needed as the American Quarter Horse Association (AQHA) allows artificial insemination and the use of recipient mares. Many recipient mares are "rented" and serve only as an incubator for a foal, returning to their owners after the foal is weaned. The requirement that the broodmare be registered with the Racing Commission ensures that breeder, and not the owner of a recipient mare, is eligible for payment of Breeders awards. The rule also ensures accuracy in breeding and assists in administration of the breeders' fund.

Item F clarifies that the embryo must be transferred from a donor "mare" rather than a "horse" which is confusing language.. While Racing Commission rule 7869.0100, subpart 32 defines a horse as a "filly, mare, colt, horse, gelding, or ridgling", universal breeding language defines a horse as an intact male five years of age or older and a mare as an intact female four years of age or older. . Embryos, then, are not transferred to a "horse" they are transferred to a "mare."

Item H has been updated to remove confusing language. The proposed new Item H is simple and straightforward, is consistent with language used to define Minnesota-bred and Minnesota-foaled among breeds throughout the rules, and the language matches that which is used in the governing Statute 240.18.

Item I is being revised for consistency and to remove language which is burdensome and creates an unnecessary and unwanted barrier to entry. This proposed rule removes the requirement that a stallion must be owned at least 50% or leased entirely by Minnesota residents. This change allows for more expansive stallion ownership while still promoting breeding in the state. This better reflects the reason for having a breeders' fund in Minnesota. This change also conforms with other rule changes. .

Item J adds "or Minnesota-sire" for completeness and to maintain consistency with the governing Statute 240.18.

Item L removes the requirement that the Racing Commission must rely on the recipient mare's original AQHA registration papers. It is suitable and meets Racing Commission needs to appropriately administer the Breeders' Fund that the broodmare is registered with the Racing Commission, and Racing Commission staff will visit the broodmare in person, as they do all registered broodmares and stallions, in order to ensure compliance with the Breeders' Fund rules and accuracy in its administration of the program. Exhibit 3.

7895.0300 Subp. 2. **Division of money.**

The change implements the current practice in distributing money as the lessee is the owner of the horse for distribution purposes. The stricken language is extraneous as some of it was removed in H and some is not needed to identify the proper payee. This proposed change makes the rule more accurate and is consistent with other rule changes.

7895.0300 Subp. 3. **Distribution of money.**

This change adds language to allow breeder, which includes the owner or lessee, to receive awards as is common practice and industry standards. This is necessary as the owner of a recipient mare may not be the person who actually registers the broodmare with the Racing Commission.

The purpose of the remainder of proposed rule changes is to encourage Minnesota-bred horses to race in Minnesota when live racing is being conducted here, as the demand for horses at racetracks throughout North America, particularly during the Minnesota live racing season, exceeds the supply of horses, and so the Breeders' Fund rules will reward owners who enter Minnesota-bred horses to race in Minnesota. Further, the proposed rule is needed to limit the total amount that any one horse can earn, so that he or she does not earn a disproportionate share of the total amount available for awards to every Minnesota-bred in any given year. This rule is reasonable as it prevents one superstar horse who may win multiple stakes races and a large amount of purse money from depleting the Breeders' Fund of monies to pay awards to other Minnesota-bred horses.

7895.0300 Subp. 4. **Methods of payment.**

This rule deleted and moved to a new subpart 4 as purse supplements are not related to breeders' awards or stallion awards. Moving the language provides a clearer picture of distributions.

7895.0300 Subp. 5. **Purse Supplements.**

Purse supplements are related to money earned in races and are not related to breeders' awards or stallion awards. Disbursement of money is based on entry into a supplemented race and not owner or breeder dependent. .

The proposed rule reflects the Racing Commission's current method of purse supplement payment. and specifies the percentage of money to be paid out so everyone participating is clear on the method and amount. It is needed to encourage Minnesota owners and breeders to enter horses in stakes races conducted in Minnesota

7895.0300 Subp. 6. **Time of payment.**

This rule is renumbered to reflect the rule change to the existing subpart 4. This proposed rule establishes December 31 as specific time by which award payments must be distributed and defines the period of annual award money earned and totaled as October 1 through September 30th. This combination provides owners and breeders with a clear time frame in which awards have been earned and when money must be paid. The rule does not prevent earlier distribution, but gives the Racing Commission adequate time to process awards and distribute money.

Language is also added to allow for consideration of awards based on results which are not official, because a licensee has protested a Stewards' decision to disqualify one or more horses for a rule or rules violations, which changed the order of finish and payment of purse money. If the case has not

been resolved and if the results not declared official 60 days following the end of the racing meeting, then the Racing Commission will calculate awards based on all results which are official, and the disputed or unofficial results will be used to calculate awards in the year in which the results are made official. It gives a more objective time period for awards in contested races.

7895.0350 Subp. 1. **Broodmare registration.**

This proposed rule change moves the date that a broodmare must be located in Minnesota and registered with the Racing Commission from January 31 to March 15. This rule is necessary as movement of pregnant mare is early January is often ill advised due to inclement weather and treacherous road conditions. The proposed change simply gives breeders more options to safely transport their horses. It also brings the Quarter Horse rule in line with the thoroughbred rule.

The proposed rule further allows for the use of digital or physical breed registration certificates which is in line with other proposed changes in this packet.

This rule also eliminates a barrier to entering the Minnesota Breeders' Fund program. More owners will be able to participate in the Breeders' Fund Program without the ownership percentage restriction which will result in higher quality horse in the Breeders' Fund program. It also requires a registration form be filed with the Racing Commission to enter the program so the Racing Commission may properly administer the program. The change also deletes subpart c as unnecessary because the other rule changes eliminated "Minnesota bred sired and foaled in Minnesota" breeds of horses and this change is needed for clarity and consistency.

7895.0350 Subp. 1a. **Broodmare registration, Minnesota bred foaled.**

This amendment eliminates the subpart as unnecessary because the other rule changes eliminated "Minnesota bred sired and foaled in Minnesota" and this change is needed for clarity and consistency. It clarifies and aligns the rule to the other rules regarding other breed registration.

7895.0350 Subp. 1b. **Broodmare registration, Minnesota bred sired.**

This amendment eliminates the subpart as unnecessary because the other rule changes eliminated "Minnesota bred sired and foaled in Minnesota" and this change is needed for clarity and consistency. It clarifies and aligns the rule to the other rules regarding other breed registration.

7895.0350 Subp. 1c. **Fees.**

This rule is being renumbered because of the elimination of current subparts 1a and 1b. The heading is being changed to properly reflect the nature of the payment because these amounts are not truly fines but late fees. The amounts charged are not changing. They are more administrative costs than penalties. The rule change also extends the time frame of the late fees to more accurately reflect the realistic dates used for breeder fund eligibility.

The rule further changes the time restrictions in which to register a horse with the Racing Commission before being subject to a late fee. The change in Minn. R. 7895.0350 subp.1 for when the broodmare must be in Minnesota from January 31 to March 15 subsequently changes the timing of the late fees.

The language "excluding Saturday and Sunday" is removed as unnecessary because the inclusive dates for broodmare registration are already specified in the rule and are not dependent on the day of the week.

This amendment eliminates language as unnecessary because the other rule changes eliminated “Minnesota bred sired and foaled, Minnesota bred sired, and Minnesota bred foaled horses” and this change is needed for consistency.

7895.0350 Subp. 2. **Stallion registration**

The language “or the registration renewed” is removed, as the Racing Commission does not renew registrations for stallions. Rather, each horse must be registered annually; it is not merely annual renewal. Language is again added to allow for the Racing Commission use a “copy of” a broodmare’s Jockey Club certificate, which may be a physical certificate or a digital certificate that is accessible electronically for verification purposes. This provides for convenience to both the Racing Commission and industry and is in keeping with other modern technologies. This proposed change also removes all references to an “official registering agency” as one does not now exist, and the Racing Commission has no plans and does not wish to designate authority to a new agency to perform duties relative to administration of the Breeders’ Fund.

The revised rule adds language to clearly define conditions under which a Racing Commission registered stallion may remain eligible for stallion awards if he leaves the State or is sold; and, language which provides conditions under which a “newly acquired stallion” may be eligible for stallion awards if is registered with the Racing Commission before he services any broodmares in Minnesota. These proposed rule changes allow flexibility with necessary movement of stallions, ensures compliance with Breeders’ Fund rules, and provide incentives to increase the quality and quantity of stallions registered with the Racing Commission.

The language “excluding Saturday and Sunday” is removed as unnecessary because the inclusive dates for broodmare registration are already specified in the rule and are not dependent on the day of the week.

The change also properly identifies the “Commission” as the “Racing Commission” for consistency throughout the rules and allows for the convenience of notifying the Racing Commission by electronic mail in addition to certified US Mail.

This amendment also eliminates language as unnecessary because the other rule changes eliminated “Minnesota bred sired and foaled, Minnesota bred sired, and Minnesota bred foaled horses” and this change is needed for clarity and consistency. It clarifies and aligns the rule to the other rules regarding other breed registration.

7895.0350 Subp. 3. **Foal registration**

This rule removes a portion of the title of the subpart as it is unnecessary and inconsistent. Other proposed rule changes eliminated the terms Minnesota bred sired and foaled, Minnesota bred sired, and Minnesota bred foaled horses. It clarifies and aligns the rule to the other rules regarding thoroughbred and standardbred registrations.

The proposed change shortens the time for registering a foal as the foal may now be registered digitally or electronically for ease and expediency, saving time and needless paperwork.

The broodmare and foal must be present on the farm when the Racing Commission does farm inspections. The shorter timeframe ensures that the foal is registered and allows the breeder more flexibility to transport the broodmare to another farm for breeding.

The “official registering agency” is being deleted because no such agency exists.

The requirement that the treating veterinarian submitting the report must have a Minnesota license is a housekeeping update as only Minnesota licensed veterinarians can practice in Minnesota. The change does not have a substantive effect to existing requirements as it merely reflects current requirements.

7895.0350 Subp. 4. **Foal registration and certification, Minnesota bred sired.**

This subpart is eliminated as unnecessary because the other rule changes eliminated “Minnesota bred sired” and this change is needed for clarity and consistency. It clarifies that there is not such category and aligns the rule to the other rules regarding other breed registration.

EXHIBITS

Exhibit 1. United States Trotting Association Newsletter on Microchipping Horses for Identification, December 5, 2018.

Exhibit 2. American Quarter Horse Association Frequently Asked Questions on Digital Tattoos, 2020.

Exhibit 3. American Quarter Horse Association Rules on Embryo/Oocyte Transfer.

CONCLUSION

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

DATE: September 8, 2020
This document available for
public review on this date

Steve May
Executive Director
Minnesota Racing Commission