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March 12, 2021

Legislative Reference Library
645 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Via Electronic Mail

**Re: In the Matter of the Proposed Permanent Rules Relating to Horseracing:
Revisor's ID 4687**

Dear Librarian:

The Minnesota Racing Commission intends to adopt rules relating to horse racing. We plan to publish a Notice of Intent to Adopt Rules Without a Public Hearing in the March 15, 2021 State Register.

The Commission has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Commission is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at (651) 356-1200.

Yours very truly,

A handwritten signature in black ink that reads "E. Joseph Newton". The signature is written in a cursive, flowing style.

E. Joseph Newton
General Counsel

Enclosure: Statement of Need and Reasonableness

RD04687

Minnesota Racing Commission

STATEMENT OF NEED AND REASONABLENESS

Possible Amendment to Rules Governing Horse Racing, Minnesota Rules, Parts 7869 Definitions; 7870 Licensure; 7876 Horse Stabling; 7877 Class C Licenses; 7884 Harness Races; 7890 Horse Medication; 7892 Medical Testing; 7897 Prohibited Acts.

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.

7869.0100, Subp. 9a. **Definitions.**

This rule part is being added to define "break off a qualifier" which is used elsewhere in this document.

7869.0100, Subp. 9b. **Definitions.**

This definition is being added to define "breath analyzer" which is used elsewhere in this document.

7869.0100, Subp. 51a. **Definitions.**

This definition is being amended to require a specific number of horse races be conducted to constitute a "racing day."

7870.0500, Subp.1 **Contract Approval**

This rule is being amended to include the review of contracts entered into during non-live racing and to include contracts that pertain to the cardrooms. Changes to the formatting were also made for clarity.

7870.0500, Subp. 3. **Information required.**

This rule is being amended reframes the rule and clarifies what information is necessary.

7870.0500, Subp. 4. **Basis for Commission Approval.**

This amendment adds pari-mutuel wagering and card playing activity to contract approval items.

7876.0100, Subp. 10. **Original certificate of veterinarian inspection.**

This rule is amended to require an inspection date and EHV-1 product name on the certificate of veterinary inspection for on-track stabling.

7876.0110, Subp. 4. **Original certificate of veterinarian inspection.**

This rule is amended to require an inspection date and EHV-1 product name on the certificate of veterinary inspection for off-track stabling.

7876.0120, Subp. 1. **Certificate of veterinarian inspection.**

This rule is amended to require an inspection date and EHV-1 product name on the certificate of veterinary inspection for on-track an off-track stabling.

7877.0110, Subp. 4. **Racing Officials.**

This amendment eliminates the term “association veterinarian” as there is no such position and it is unnecessary to include it.

7877.0120, Subp. 1. **Fees.**

This rule separates out an “animal chiropractor” from a veterinarian for licensing fees and also removes the multiple, corporate, partnership licensing requirement as it has been removed elsewhere in the rules.

7877.0130, Subp. 2 **Stable Name**

This subpart removes multiple owners, corporate, or partnerships from the fess structure as they are eliminated elsewhere in this document. It also separates out an animal chiropractor from a veterinarian in the fee structure.

This amendment changes the title of the subpart and clarifies what constitutes ownership under a stable name.

7877.0130, Subp. 9b. **Animal Chiropractor.**

This subpart is being added to reflect the separate classification of an animal chiropractor and specifies the standards for licensure.

7877.0130, Subp. 14 **Authorized Agents**

This subpart removes the multiple owner license requirement as it is removed elsewhere in the rules.

7877.0170, Subp. 2. **Trainers.**

There are several parts to this rule change. Part 1 provides a new location for an equine infectious anemia certificate as many horses no longer have hard copies of foal registration papers. Part 2 requires an inspection date on a health certificate. Part 3 requires reporting when a trainer receives a horse from a second trainer.

7877.0170, Subp. 9. **Veterinarians.**

This subpart is added to ensure that all horses working in front of a commission veterinarian are sound enough to do so and have no underlying musculoskeletal or health related medical problems.

7877.0170, Subp. 9c. **Animal Chiropractor.**

This subpart is being added to reflect the new and separate classification of an animal chiropractor and specifies the duties of and responsibilities of a licensee.

7877.0170 Subp. 10. **Pony riders.**

This change specifies certain health requirements and reporting for a pony horse brought on to association grounds.

7877.0175, Subp. 4a. **Paddock judge responsibilities for harness races.**

This amendment would require the paddock judge to not only inspect horses for equipment changes but also require reporting any changes to the judges. It also deletes obsolete horse identification practices and removes the reference to an “association veterinarian.” This also relabels subsequent parts.

7877.0175, Subp. 9. **Patrol judge.**

This change eliminates the requirement that the paddock judge report lameness of a horse as that is more properly reported by a veterinarian. This also relabels subsequent parts.

7877.0180, Subp. 1a. **Other employees.**

This change eliminates “association veterinarian” from the conflict of interest rule as the term is being eliminated as there is no association veterinarian.

7877.0180, Subp. 2 and 2a. **Veterinarians, veterinary assistant, equine masseuse, animal chiropractor.**

This amendment adds animal chiropractors to the list of licensees that are prohibited from participating in pari-mutuel wagering and changes the title of the subpart. It also creates a subpart that separates the pari-mutuel wagering prohibition from the other proscribed actions of a veterinarian and clarifies the “commission” as the “racing commission.”

7877.0180, Subp. 3. **Wagering by owners, trainers, drivers, or jockeys.**

This amendment expands the type of wagers owners, trainers, drivers and jockeys may not place and adds the words “wagering by” to the title of the rule. It also requires that owners, trainers, drivers and jockeys retain certain documentation on wagers that they are able to place. It is being renumbered as well.

7884.0170, Subp. 4. **Scratched as unsound.**

The change clarifies that a horse scratched as “unsound” during a warmup for a race in which it is entered must compete in a qualifying race prior to reentry. It also clarifies that a horse scratched at other times may require a qualifying race prior to reentry.

7884.0190, Subp. 2a. **Horse required to compete in qualifying races regardless of duration of meet.**

This change would require a horse breaking in the first race after qualifying to requalify.

7884.0190, Subp. 8. **Medications.**

The rule change allows for testing of horses that are competing in qualifying races and requires a negative result before entry into a race.

7884.0210. **Claiming races.**

This amendment adds a subparagraph to the rule that would allow a successful claimant to scratch the claimed horse in the first race in which it was entered after being claimed.

7884.0220, Subp. 2. **Driver to register.**

The amendment requires breath alcohol detection testing when they report to the paddock prior to a race and prohibits the driver from leaving the paddock or drivers’ lounge after registering with the paddock judge.

7884.0230, Subp. 8. **Number pads.**

The amendment would require number pads be returned immediately after a warmup or race and without damage.

7884.0260, Subp. 2. **Conduct after word “go” is given.**

This change limits use of the whip on the horse.

7890.0100, Subp. 3a. **Animal Chiropractor.**

This adds a definition for animal chiropractor and renumbers subsequent affected subparts.

7890.0100, Subp.13. **Medication.**

This change eliminates a rule on electrolytes as a similar rule is already present.

7890.0100, Subp. 14e. **Out of competition testing.**

This add as definition for out of competition testing renumbers subsequent affected subparts.

7890.0100, Subp. 14g. **Prescription Number.**

This adds a definition of prescription number.

7890.0110, Subp. 7b. **Thyroid supplements.**

This amendment allows for thyroid supplements in certain horses and specifies the requirements, limits and reporting thereon.

7890.0110, Subp. 7c. **Clenbuterol.**

This amendment prohibits the use and administration of clenbuterol during racing and training unless specific conditions are met. The rule change also adds the conditions and restrictions for the use of clenbuterol.

7890.0110, Subp. 8a. **Intra-articular injections.**

This change prohibits the use of any intra-articular injection within 7 days of a race that the horse in entered in.

7890.0110, Subp. 10. **Medications.**

This rule, which requires that only certain medications be present in a horse during a post-race test, is expanded to include out of competition testing.

7890.0110, Subp. 11. **Medical labeling.**

The rule requires that all drugs and medications kept on association grounds must be validly prescribed and properly labeled. The amendment adds the prescription number and date dispensed to items on the label.

7890.0120, Subp. 1a. **Animal chiropractors must keep records.**

This adds a subpart to existing rule and requires the animal chiropractor must maintain records and submit them daily to the Commission Veterinarian. The rule also specifies the contents needed on the report.

7890.0130, Subp. 1, **Prima facie evidence.**

This change adds out of competition testing to the prima facie standard already contained in the rule. It also adds clenbuterol to the prohibited administrations of medications.

7890.0130, Subp. 2. **Distributed purse money.**

This change adds clenbuterol to the list of prohibited substances when determining redistribution of the purse money based on a positive test.

7890.0140, Subp. 6. **Furosemide may be permitted.**

This amendment would limit the use of furosemide to horses that are older than three (3) years old.

7890.0160. **Responsibility of veterinarian.**

This amendment adds the veterinary assistant, equine masseuse and animal chiropractor to the list of individuals prohibited from entering a horse stall and specifies that this prohibition starts 24 hours prior to a race in which the horse is entered.

7892.0120, Subp. 1. **Horses tested.**

This change expands out of competition testing to include any horse on the grounds of a racetrack licensed by the Commission.

7897.0100, Subp. 21. **Pregnant mare or filly.**

This changes the number of days in foal that a pregnant mare or filly may race.

7897.0100, Subp. 24. **Security and surveillance equipment.**

This change adds a prohibition of tampering with security or surveillance equipment used by the Commission or the association.

7897.0150, Subp. 2. **Penalties imposed by stewards.**

This change increases the penalties the stewards may impose to be consistent with statutory changes.

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 651-356-1200; 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, 240.23 and 240.24.

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.

Also, Minnesota Statutes section 240.24 authorizes the Racing Commission to “make and enforce rules governing medication and medical testing for horses running at licensed racetracks.” And 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 owners, horse trainers and other persons involved in horse racing. 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.

- (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 and simplify existing rules or bring current rules into alignment with industry standards. 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.**

There were no alternative methods available. A number of meetings were held with industry participants and stakeholders. Many of the proposed rules reflect changes in national racing standards and were presented by industry participants and stakeholders. Other rules changes are proposed in order to update, clarify or simplify existing rules.

(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 practices, or conform rules to national trade association rules to keep 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 government units, businesses, or individuals.

The consequences of not adopting the proposed rules would be that some of Minnesota's medication and horse racing rules would be outdated and inconsistent with national practices. This could lead to confusion in the Minnesota horse industry as horses move from state to state and also less ability to detect prohibited drugs in racehorses. Without the proposed rule changes, detection and prevention of the administration of prohibited medications would be more difficult, leading to an unsafe environment.

(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. In January 2021 federal legislation was enacted creating the Horse Racing Safety and Integrity Authority that may in the future act to affect state horseracing. However nothing in the recently enacted law should affect these rules. 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 2020 after receiving recommendations from racing stewards, racetracks, Racing Commission staff and industry members. A well-attended stakeholder meeting was held on November 16, 2020 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.

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 November 16, 2020. 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. After the initial 60-day comment period, on December 17, 2020 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 October 5, 2020 edition of the State Register.
2. Posting the Request for Comments on the Commission's website at www.mrc.state.mn.us with a link to the Office of Administrative Hearings rulemaking e-comments website.
3. Posting the Request for Comments on the Office of Administrative Hearings rulemaking e-comments website with a link from commission's website.
4. Posting the Request for Comments on the Commission's Facebook page.
5. E-mailing the Request for Comments to everyone registered to be on any of the Commission's mailing lists, in addition to those persons on the rulemaking list required under Minnesota Statutes, section 14.14, subdivision 1a.
6. E-mailing the Request for Comments to each of the commission's contact persons with the Class A & B licensees.
7. E-mailing the Request for Comments to each person holding a Class C license from the Commission to work as a racing veterinarian in the past two years.
8. E-mailing the Request for Comments separately to each of our contacts at the six horsepersons' organizations that are affected by horse racing in Minnesota, along with a specific request that they post it on their website or otherwise communicate it to their members. These organizations include: the Minnesota Thoroughbred Association, the Minnesota 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.
9. E-mailing the Request for Comments to organizations in Minnesota that we have identified as having an interest in animal health, including the Minnesota Board of Animal Health, the Minnesota Board of Veterinary Medicine, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University of Minnesota College Of Veterinary Medicine. We will request that these organizations disseminate the Request for Comments to their members and constituents as they see fit.

10. The start of this rulemaking project was announced at the September 17, 2020 public meeting of the Minnesota Racing Commission.
11. Commission staff will hold a public stakeholder meeting within the 60-day comment period, to obtain input from interested persons. This meeting will be announced at Commission meetings, via our website, and via our mailing lists as described above.
12. Commission staff will update the Commission and the public on the progress of rule development at each regularly scheduled public meeting of the Minnesota Racing Commission.

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. 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 Safety Coordinator.

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

RULE BY RULE ANALYSIS

7869.0100, Subp. 9a. Break off a qualifier.

This is a term used by the Stewards at the harness horse track to identify a horse that alters its pacing or trotting gait in their first racing start after successfully completing a qualifying race. It is added to the definitions because it is used elsewhere in the rule packet.

7869.0100, Subp. 9b. Breath Analyzer.

This definition is added as it is used elsewhere in the rule packet. It is the current definition used by the United States Trotting Association (USTA 4.17). (Exhibit 1).

7869.0100, Subp. 51a. Racing Day.

This change is made to accurately define the minimum and maximum number of races needed to have a successful racing day. Both are needed to ensure a good quality of racing and not put an excessive strain on the horse population. Approval by the stewards and executive director allows for changes in case of unforeseen issues such as inclement weather or civil unrest.

7870.0500, Subp. 1. Contracts and subcontracts subject to prior commission approval.

The large, cumbersome subpart 1 paragraph has been subdivided into parts A through G for clarity and ease of understanding. The remainder of this proposed rule change is necessary to accurately reflect changes in procedures that occurred with the addition of the card clubs at the two pari-mutuel racetracks in Minnesota. Contracts are no longer limited to those occurring during racing but are reviewed throughout the year as some of them are related to card club operations. The seven-day limit for contract submission to the commission is struck as arbitrary as the contracts are well evaluated weeks in advance by staff and commission working groups prior to submission to the commission. The rule change allows the commission to regulate contracts for the card club and not just pari-mutuel racing, a correction that should have been made years ago with the inception of the card club. The change also adds pari-mutuel wagering operations, card playing operations, and information technology operations of the licensee to those groups that need to be considered by the commission when evaluating a contract. These are groups that should have been evaluated for several years and are added to make the rule more complete.

7870.0500, Subp. 3. Information Required.

This rule change moves the last sentence in F to letter G and relabels them appropriately. It is moved as it is a separate statement having little to do with the signature, name, address, and title of an individual providing the information.

7870.0500, Subp. 4. Basis for commission approval.

Similar to the other subparts, this proposed rule change adds pari-mutuel wagering and card playing to the contract items requiring commission approval.

7876.0100, Subp. 10. **Original certificate of veterinary inspection.**

This proposed rule change makes two alterations to information required on the certificate of veterinary inspection (CVI) for each horse entering the grounds of the racetrack. Part one is related to the time period when a horse is evaluated by a veterinarian (DVM) prior to travel. The inspection date is the date a horse is physically examined by a veterinarian and deemed to be healthy. The issue date is the date the veterinarian actually signs the CVI and makes it an official certificate. The current rule states that the CVI must be issued within 10 days of arrival but does not specify when a horse must be inspected. This means a horse could be inspected many weeks prior to the day the CVI is actually issued. The extended amount of time from inspection to issue may not accurately reflect the health of the horse when it is shipped or arrives at the racetrack. Ten days is an adequate amount for a practicing DVM to inspect a horse and issue a CVI for travel. The change ensures that each horse coming through the stable gate has been physically examined by a DVM within a short period prior to travel and limits the number of ill horses that may enter the grounds. The second part of this proposed rule change adds the requirement for the name of the specific EHV-1 vaccine used. This information is currently tracked in the racing commission database and used if a horse tests positive for the disease or the manufacturer issues a recall and is added to the rule for completeness. (Exhibit 2).

7876.0110, Subp. 4. **Original certificate of veterinary inspection.**

This proposed rule change makes two alterations to information required on the certificate of veterinary inspection (CVI) for each horse entering the grounds of the racetrack. Part one is related to the time period when a horse is evaluated by a veterinarian (DVM) prior to travel. The inspection date is the date a horse is physically examined by a veterinarian and deemed to be healthy. The issue date is the date the veterinarian actually signs the CVI and makes it an official certificate. The current rule states that the CVI must be issued within 10 days of arrival but does not specify when a horse must be inspected. This means a horse could be inspected many weeks prior to the day the CVI is actually issued. The extended amount of time from inspection to issue may not accurately reflect the health of the horse when it is shipped or arrives at the racetrack. Ten days is an adequate amount for a practicing DVM to inspect a horse and issue a CVI for travel. The change ensures that each horse coming through the stable gate has been physically examined by a DVM within a short period prior to travel and limits the number of ill horses that may enter the grounds. The second part of this proposed rule change adds the requirement for the name of the specific EHV-1 vaccine used. This information is currently tracked in the racing commission database and used if a horse tests positive for the disease or the manufacturer issues a recall and is added to the rule for completeness. (Exhibit 2).

7876.0120, Subp. 1. **Certificate of veterinary inspection.**

This proposed rule change makes two alterations to information required on the certificate of veterinary inspection (CVI) for each horse entering the grounds of the racetrack. Part one is related to the time period when a horse is evaluated by a veterinarian (DVM) prior to travel. The inspection date is the date a horse is physically examined by a veterinarian and deemed to be healthy. The issue date is the date the veterinarian actually signs the CVI and makes it an official certificate. The current rule states that the CVI must be issued within 10 days of arrival but does not specify when a horse must be inspected. This means a horse could be inspected many weeks prior to the day the CVI is actually issued. The extended amount of time from inspection to issue may not accurately reflect the health of the horse when it is

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7877.0110, Subp. 4. **Racing officials.**

The term association veterinarian is struck as it was removed from the racing commission rules in 2018.

7877.0120, Subp. 1. **Licensing fees.**

This proposed rule specifies an animal chiropractor as a separate entity. This is not a new licensing fee as animal chiropractors have been charged this dollar amount for the past three years. There currently is no distinct racing commission licensing category for them so animal chiropractors are licensed under the veterinary category, which is technically incorrect. Both are allowed to perform chiropractic but have different licensing requirements though the Board of Veterinary Medicine or the Board of Chiropractic Examiners. This licensing fee correction is needed as proposed rules present in this packet separate an animal chiropractor from a veterinarian and provide specific licensing criteria and guidance for animal chiropractors.

7877.0130, Subp. 2. **Stable name**

Individuals are required to obtain a Class C license if they own and wish to race a horse at a licensed racetrack in Minnesota. This proposed rule change is needed to remove the requirement that these same licensed individuals must also obtain an additional Class C license for each partnership that is not a stable. The current requirement may result in a licensed owner having numerous Class C licenses, often three, four, or more. This is struck as it is an onerous and confusing rule with no direct benefit to horseracing. The language for the stable name, which does remain in effect, has been moved to be clearer and more concise.

7877.0130, Subp. 9b. **Animal chiropractor**

This proposed rule is necessary to clearly define the criteria and means for a human chiropractor to become licensed by the racing commission as an animal chiropractor. The Minnesota Board of Chiropractic Examiners has explicit rules outlining how a human chiropractor can become licensed to practice on animals and the commission must stay within their rules. This is best accomplished by requiring documentation of training and registration with the Board of Chiropractic Examiners. The racetrack is a closed environment with specific and distinct rules regarding many aspects of animal medical practice. It is important that an animal chiropractor seeking to work on racehorses know and understand how these commission rules affect their practice so that horses, trainers, and owners are not penalized by their lack of knowledge or inexperience. (Exhibits 3, 4 and 5).

7877.0130, Subp. 14. **Authorized agents**

The term licensed multiple owner is struck in this rule as it is removed above in 7877.0130, subp. 2.

7877.0170, Subp. 2. **Trainers**

O. Thoroughbreds born after 2018 no longer have a physical, printed copy of their foal registration certificate, rather a digital certificate, which cannot be kept on file in the racing office. This proposed rule change is made to accommodate the lack of a Thoroughbred foal registration certificate and still provide a place for equine infectious anemia (EIA) certificates to be physically located. It is necessary for the racing secretary to have an accurate and timely copy as no horse may start with an expired EIA certificate. It also becomes important at the end of the season when horses are leaving, and the trainer cannot locate a copy of the EIA test result. Quarter Horses are not affected by this change as they still have printed foal registration certificates which are kept on file in the race office. (Exhibits 6 and 7).

P. This proposed rule change makes two alterations to information required on the certificate of veterinary inspection (CVI) for each horse entering the grounds of the racetrack. Part one is related to the time period when a horse is evaluated by a veterinarian (DVM) prior to travel. The inspection date is the date a horse is physically examined by a veterinarian and deemed to be healthy. The issue date is the date the veterinarian actually signs the CVI and makes it an official certificate. The current rule states that the CVI must be issued within 10 days of arrival but does not specify when a horse must be inspected. This means a horse could be inspected many weeks prior to the day the CVI is actually issued. The extended amount of time from inspection to issue may not accurately reflect the health of the horse when it is shipped or arrives at the racetrack. Ten days is an adequate amount for a practicing DVM to inspect a horse and issue a CVI for travel. The change ensures that each horse coming through the stable gate has been physically examined by a DVM within a short period prior to travel and limits the number of ill horses that may enter the grounds. The second part of this proposed rule change adds the requirement for the name of the specific EHV-1 vaccine used. This information is currently tracked in the racing commission database and used if a horse tests positive for the disease or the manufacturer issues a recall and is added to the rule for completeness. For thoroughness, this rule change also adds the requirement for piroplasmosis testing which is found in other stabling sections of the racing commission rules (7876.0100, On-Track Stabling, subp. 11; 7876.0100, Off-Track Stabling, subp. 5; 7876.0120 On-and Off-Track Stabling, subp. 1). (Exhibit 2).

W. This rule is necessary to ensure that the stewards know who is responsible for the custody and care of each horse on the backside if a loose horse is found or claims of equine neglect are made. They must also know who to contact should a commission veterinarian recommend that a horse be scratched from racing or additional testing be requested. It is necessary for them to have this information within 24 hours of transfer, so the correct trainer is identified during entries and the correct trainer's name is present on the program.

7877.0170, Subp. 9. **Veterinarians**

J. The goal of this proposed rule change is to prevent unnecessary injuries from occurring during an official timed workout. Horses working in front of a commission veterinarian to be allowed to enter a race are generally on the Veterinarian's List as unsound or lame or have not raced as two-year old horses or for an extended period of time. Data obtained from the national equine injury database (EID) show that horses in these groups are among the most fragile in terms of sustaining a non-recoverable injury. Many horses have or had serious underlying issues that the practicing veterinarian is aware of, putting the practicing veterinarian in the best position to evaluate a horse prior to a workout. This rule does not require the practicing veterinarian to identify specific issues, only that they have examined the horse and found it sound to work at speed in front of a commission veterinarian. This should decrease the number of horses attempting to work that are not yet ready and prevent further injury or death. This proposed rule

should not be a large hindrance for the practicing veterinarians as the number of horses working in front of the commission veterinarian is usually less than 120 for the entire race meet. (Exhibits 8 and 9).

7877.0170, Subp. 9c. **Animal chiropractor**

This proposed rule clearly spells out the duties and responsibilities of an animal chiropractor as defined by the Minnesota Board of Chiropractic Examiners. These same duties and responsibilities must apply to animal chiropractors working at the racetrack. It also adds animal chiropractors to the list of practitioners who should not be in the stall with an entered horse at any time within 24 hours prior to the race in which the horse was entered. There is no reason for an animal chiropractor to be in the stall working on a horse in that short time period prior to racing and their work may compromise the findings of the commission veterinarian's prerace examination or affect the outcome of a race. (Exhibit 5).

7877.0170, Subp. 10. **Pony riders**

Pony horses manage racehorses during training and racing and should be held to the same standards as every other horse coming onto the grounds. This proposed rule change mirrors that of 7876.0120, subp.1 and also adds the requirement for EHV-1 vaccination, rectal temperature, and piroplasmiasis testing present in that rule. These changes will help ensure that a pony horse, which has daily interaction with many different horses and horse barns, will be less likely to spread communicable diseases. (Exhibit 2).

7877.0175, Subp. 4a. **Paddock judge responsibilities for harness racing**

B. The rule change updates a commission rule, so it is consistent with the United States Trotting Association 6.17 where the duties of the paddock judge are clearly spelled out. (Exhibit 10).

D. This rule is struck as it is currently found in rule 7877.0175, subp. 5A where it is assigned as the duty and responsibility of the identifier and not the paddock judge.

G. The term association veterinarian was struck from the racing commission rules in 2018 so this term needs to be removed.

7877.0175, Subp. 9. **Patrol judge.**

This rule is struck since determining if a horse is lame or unfit is the responsibility of the commission veterinarian working on the track and not the patrol judge. Lay individuals such as the patrol judge are not provided with specific training about equine lameness and should not be required to monitor horses for these issues (7877.0715, subp.8).

7877.0180, Subp.1a. **Other employees**

The term association veterinarian was struck from the racing commission rules in 2018 so this term needs to be removed.

7877.0180, Subp. 2 and 2a. **Veterinarian, Veterinary Assistant, Equine Masseuse, Animal Chiropractor; Veterinarian Designated as an Official**

This proposed change is needed to add an animal chiropractor to those individuals that are not allowed to wager on the races. Similar to the veterinarian, veterinary assistant, and equine masseuse, an animal chiropractor is in the unique position of having pertinent animal related medical knowledge on many, if not all, of the horses participating in a race. It is not in the best interest of racing and does not protect the betting public if any of these individuals, including an animal chiropractor, are allowed to use this knowledge for personal gain. The existing rule is split for clarity by creating a separate subpart using language from the old subpart. It makes clear any veterinarian that is acting as a racing official may not prescribe medications. Allowing such a practice would diminish the integrity of racing. This simply clarifies the rule.

7877.0180, Subp. 3. **Wagering by Owners, Trainers, Drivers or Jockeys.**

The goal of this proposed rule is to prevent owners, trainers, drivers or jockeys from specifically betting against their horse and to modernize the rules to address single- and multi-race exotic wagers that are common in pari-mutuel wagering. Part 1 clarifies that owners, trainers, drivers, or jockeys cannot place a Win wager on any horse other than their own. Part 2 adds limitations on Place and Show wagers while still allowing the owners, trainers, jockeys or drivers to place a Win/Place, Win/Show, or Win/Place/Show combination wager on their own horse as long as the bettor is wagering on their horse to win AND the Place or Show wager is the same dollar amount or better as the Win wager. Placing a combination Win/Place, Win/Show, or Win/Place/Show wager is a fairly common wager and as long as the dollar amount wagered in the Place or Show wager is equal to or lower than the Win wager, the owners, trainers, drivers or jockeys are not considered to be betting against their own horse. Parts 3 and 4 aim to modernize the wagering rules to prevent the owners, trainers, drivers or jockeys from wagering on any horse other than his or her own horse to win a race in a multi-race wager sequence. The modernization of these rules is needed to protect the integrity of racing and wagering and ensure confidence by the betting public.

7884.0170, Subp. 4. **Scratched as unsound**

Standardbred racehorses typically warm up on the track two races prior to their designated race. During this time period a horse is moving at a good pace or trot, but not at racing speed. The warmup is often the only chance the commission veterinarian has to fully observe the horse prior to racing, and should any unexpected veterinary problems be noted, the trainer is required to bring the horse by the veterinarian for a closer look. If the horse is determined by the commission veterinarian to be unsound, a recommendation is made to the stewards to scratch the horse from racing. Any horse scratched during a warmup due to unsoundness is placed on the Veterinarian's List and needs an examination and timed qualifying race prior to reentry into a race as these horses have high potential for a non-recoverable injury. In Standardbred racing, a qualifying race allows the commission veterinarian to observe a previously unsound horse at speed and determine if the horse is fit enough to enter a race. Observing at speed is important as subtle lameness issues are often not visible while walking or slow trotting but become apparent when the horse is physically challenged. Horses scratched at other times, either during a race or when not competing, may not be unsound. The horse may have struck the front leg with the back hoof resulting in an abrasion or bruise or have a minor physical issue such as muscle stiffness or a foot abscess. In this instance, the horse would not necessarily need a qualifying race as the source of the problem has been identified. Typically, the commission veterinarian determines this based on a physical examination and decides if the horse: 1. Needs a specific number of days on the Veterinarian's List, 2. Needs a re-examination in seven days, or 3. Needs an official timed workout or qualifying race. (Exhibit 11).

The last sentence of this subpart is struck and moved to the appropriate subpart on medications (7884.0190, subp. 8).

7884.0190, Subp. 2a. **Horses required to compete in qualifying races regardless of duration of meet.**

A “break” is defined in 7869.0100 subp. 9. as the act of a harness horse altering either its pacing or trotting stride. Horses break for several reasons, including age and inexperience, poor training, poor driver handling, and unsoundness. Break off a qualifier, a newly defined term in this rule packet, refers to a change in stride or gait that occurs during the first race the horse started in after qualifying. This proposed rule change requires a horse that breaks off a qualifier to requalify prior to entry into a race. Requalifying is needed to allow the stewards and commission veterinarian another chance to evaluate the horse to determine whether it is adequately trained to continue racing, has an ongoing unsoundness issue, or if continued racing poses a safety issue for other horses in the field. The proposed rule also decreases the number of breaks allowed in back-to-back races from three to two. Horses that continue to break generally do so for a reason and continued breaks are best resolved during training hours and not when patrons and fans are wagering on a horse.

7884.0190, Subp. 8. **Medications.**

This proposed rule change simply moves the sentence from the incorrect section 7884.0170, subp. 4. to the more appropriate medications section. There is no change to the rule.

7884.0210, F. **Claiming races.**

This change is spelled out in USTA rule 11.02, part g. It is not unusual in Standardbred racing for horses to race twice a week and depending on when entries are taken, a horse may already be entered into another race while still competing in the first race. If this occurs and the horse is claimed, this proposed rule allows the person claiming the horse to scratch the horse from the subsequent race. This is needed to provide the new trainer additional time to become familiar with the horse’s gait, medical history, and equipment worn and to determine the merits of fulfilling the second engagement. (Exhibit 12).

7884.0220, Subp. 2. **Driver to register**

This proposed rule change is similar to USTA rule 5.12, which mandates that all drivers submit to a breath analyzer test for alcohol prior to racing. This proposed rule requires breath analyzer testing, establishes a time and place for testing, and provides two locations for drivers to congregate after testing. Typically, the driver’s room at most racetracks is located within the paddock so once breath analyzer testing has taken place, the drivers would not leave the paddock. At the licensed Standardbred racetrack in Minnesota, the driver’s room is located in a separate building not far from the paddock. By adding the paddock and driver’s room to this rule, the location of the driver is limited to one of two places which are both under surveillance by the investigators. In the event a driver leaves one of these two areas, breath analyzer testing would need to occur again. This is necessary to ensure that all races are run without any interference from alcohol in a driver’s system. (Exhibit 13).

7884.0230, Subp. 8. **Number pads.**

Number pads are pieces of equipment worn during pre-race warmup and racing to identify each horse. They are expensive pieces of equipment provided by the racetrack and should not be thrown haphazardly on the ground or run over by a horse and race bike after a race. This proposed rule is needed to prevent drivers from discarding the number pads as they exit the racecourse and to provide the

stewards with an ability to deal with the situation should it occur. It is particularly important as damaged number pads become a safety hazard for a horse in a subsequent race if the snaps are broken and the pad slips underneath the horse. (Exhibits 14 and 15).

7884.0260, Subp. 2. **Conduct after word “go” is given.**

This proposed rule change is necessary to limit the overaggressive nature of the driver when a horse is tired. The current rules, in particular whipping with action other than the wrist or under the shafts of the sulky, are difficult for the stewards to enforce as they are subjective, and because the drivers are located some distance from the stewards. This change will provide concrete evidence that abuse of the whip is occurring as a set number of strikes are a more reliable indicator of use, both at the time of the race and during video reviews.

There is no real reason to strike a horse with a whip from the start to the $\frac{3}{4}$ mile pole marker. This is the time period when a horse leaves the starting gate, moves forward, and establishes its position in the field. Some less experienced drivers use a whip at the start, but this often results in a tumultuous start with horses going off stride and drivers swerving to avoid each other. Limiting whip use to a single time from the start to the $\frac{3}{4}$ mile pole marker should eliminate this and result in a cleaner, safer start. Once the horse has reached the $\frac{3}{4}$ mile pole marker and is advancing, the use is limited to no more than four times as any more is excessive when horses are already at their maximum limit of exertion. The whip, in the hands of good drivers, can be useful in “waking a horse up”, but in the hands of other drivers may cause pain and injury to a fatigued horse that has no more left to give.

There continues to be considerable discussion in Thoroughbred and Quarter Horse racing about the use of the whip and many racing jurisdictions are moving towards tighter control. Public perception certainly plays a part, but so does frank abuse of an animal by whipping it excessively to try and improve its placing. The racing commission in 2016 under 7883.0160, subp. 6a limited the use of the riding crop in Thoroughbreds and Quarter Horses to three consecutive strikes and a pause to give the horse time to respond. This rule is needed to provide similar protection for the Standardbred horse. (Exhibits 16 and 17).

7890.0100, Subp. 3a. **Animal chiropractor.**

The definition of animal chiropractor is added as the term is used elsewhere in this rule packet. (Exhibit 18).

7890.0100, Subp. 13 E. **Medication.**

This rule change eliminates a rule on electrolytes as there already is a rule addressing this issue at Minn. R. 7890.0110, subp.13 D. Eliminating this item clarifies the rule and helps avoid confusion.

7890.0100, Subp. 14e. **Out of competition testing.**

This definition is added as the term is used elsewhere in this rule packet. (Exhibit 19).

7890.0100, Subp. 14g. **Prescription number.**

This definition is added as the term is used elsewhere in this rule packet. (Exhibit 20).

7890.0110, Subp. 7b. **Thyroid supplements.**

This proposed rule is needed to control the misuse of thyroid supplements. Thyroid supplements are a prescription medication and should only be prescribed and used for a horse with a specific diagnosis of hypothyroidism. Very few horses are truly hypothyroid and the only current means to diagnose the disease is with a thyroid releasing hormone (TRH) stimulation test. Other laboratory tests such as the T3 and T4 used in humans and dogs are not diagnostic in horses. Some trainers have ignored the need for a diagnosis and routinely use thyroid supplements in all their horses, presumably to increase performance. It is not unusual for one or two trainers to have their entire barn on thyroid supplements as evidenced by ten-pound pails of thyroid supplement found in their shed row. The long-term consequence on the horse's health is unknown, especially when a horse is claimed and no longer receives a thyroid supplement. There is also some circumstantial evidence that use of a thyroid supplement in a healthy horse is associated with sudden death. In 2013, California cited widespread use of thyroid supplements in horses that died suddenly and this past year, Maryland reported sudden deaths associated with the use of thyroid supplements. The Racing Medication & Testing Consortium (RMTC) and the American Association of Equine Practitioners (AAEP) in August 2020, issued a combined thyroxine advisory stating that the use of thyroxine (levothyroxine sodium) in horses with normal thyroid function is not justifiable. This was followed by a rule change and guidelines from the New York State Gaming Commission, guidelines for use in Florida from the Stronach group, and an updated proposed rule from the California Horse Racing Board. It is important to note that this rule does not prevent the use of a thyroid supplement, it simply limits the use to a horse with a true laboratory diagnosis of hypothyroidism. (Exhibits 21-26).

7890.0110, Subp. 7c. **Clenbuterol.**

This proposed rule is needed to more strictly regulate the use clenbuterol in the Thoroughbred or Standardbred racehorse. The use in Quarter Horses is already prohibited under American Quarter Horse Association (AQHA) and Association of Racing Commissioners International (ARCI) rules. Historically, clenbuterol was approved by the FDA in 1998 as bronchodilator, or a drug used to treat respiratory disease in horses. It also has a muscle building effect, called repartitioning, where the proportion of protein to fat in the body is increased. This means that clenbuterol builds muscle mass, similar to anabolic steroids, and larger, more developed muscles enhance performance. Under current Minnesota rule, clenbuterol is regulated by a threshold concentration of 140 picograms/mL urine and a withdrawal time of 14 days. Many trainers abuse the drug by giving it daily until 14 days before a race, stopping, and reinstating the drug treatment(s) right after the race. Some use a micro dose or very small amount on a daily basis that comes in under the allowable threshold concentration regardless of when administration is discontinued. The anabolic effect, however, does not go away with a 14-day vacation or micro dosing.

Most individuals involved with regulation of horse racing agree that clenbuterol has moved from a drug with a known therapeutic use to a drug of abuse. The New York State Gaming Commission tested the hair of almost 100 horses that were raced by trainers indicted for performance enhancing effects. Of these horses, 77% showed the presence of clenbuterol in their hair sample. In the Minnesota 2020 race meet, random out of competition hair testing in just 10 Standardbreds resulted in 2 positive findings for clenbuterol. The abuse needs to stop, and many jurisdictions are moving in that direction. California amended their clenbuterol rule on October 15, 2018 and the MidAtlantic States Coalition, which includes Maryland, New York, and 5 other East Coast states, announced on October 27, 2020 that they would be using a comparable rule. It should be noted that this does not prohibit the use of clenbuterol in a Thoroughbred or Standardbred horse that might benefit from the respiratory effects, but more tightly controls the presence on the grounds and use in horses. (Exhibits 27-32).

7890.0110, Subp. 8a. **Intra-articular Injections.**

This proposed rule change is needed to prevent the use of any intra-articular injections, also known as an injection into a joint space. The intra-articular use of a corticosteroid medication was prohibited within 7 days of racing in the 2020 rule package. This proposed rule change is needed to prevent the use of any intra-articular injection within 7 days of a race. There are some drugs such as lidocaine or mepivacaine that may be injected into a joint space and not detected with normal screening. Both of these drugs are local anesthetics known to block sensation in the intra-articular space and prevent a pain response. Other drugs such as a shorter acting analgesic agent may mask signs of lameness, making a horse appear sound on prerace examination and unsound when physically stressed with racing. There is no valid veterinary reason for injecting anything into the joint space of a horse within 7 days of a race. When a horse is entered, it should be sound and ready to race and not require an intra-articular injection to assist it before or during the race.

7890.0110, Subp. 10. **Medications.**

This proposed rule change is necessary as it expands medication testing to include those substances found during routine out of competition testing. Out of competition testing occurs when serum and/or urine is obtained from horses that are not entered to race but are on the grounds of a racetrack. Generally, out of competition testing is random, with horses chosen by draw from a hat or another means. When used in this method it provides a broad look at potential medication problems on the backside. Sometimes it is more targeted, based on investigator surveillance or steward's request. When used in this method, it provides a narrow look at a specific medication. Many of these medications such as snail/snake venom, and blood doping agents have a long duration of action but are very difficult to detect in post-race testing. Regardless of how it is performed, this rule is needed to prohibit non-permitted medications in out of competition samples obtained from racehorses present on the grounds of a racetrack licensed by the commission.

7890.0110, Subp. 11. **Medical labeling.**

This addition to the current rule is needed as prescription labels for veterinary dispensed medications are similar to those required by state and federal law. The addition of a prescription number allows the practicing veterinarian to accurately document and track dispensed prescription medications and quickly identify the specific medication should a trainer not understand the instructions or if part of the label is illegible or missing. The addition of a dispensing date, the date the prescription is prepared and packaged, is good veterinary practice and goes hand in hand with documenting and tracking each prescription dispensed. (Exhibit 33).

7890.0120, Subp.1a. **Animal chiropractors must keep records.**

This proposed rule change requires an animal chiropractor to keep records in the same manner required by a veterinarian. This is necessary as animal chiropractors are professionals granted full access to the grounds for practicing chiropractic care and as such are held to the same standards as veterinarians. The filing of a timely form provides the commission veterinarian with information that may be invaluable should a horse be slowed or stopped while training or during or after a race and may be useful during an active investigation by the stewards.

7890.0130, Subp. 1. **Prima facie evidence.**

This section has been modified so it is clearer and more concise. Rather than one long paragraph, it has been divided into two distinct sections, each one independent of the other. Section A deletes the

reference to furosemide as it is found elsewhere in the racing commission rules (7890.0140, subp. 7a) and incorporates the remainder of the deletions into a shorter, more succinct section. Out of competition testing and clenbuterol were added to conform with their presence in the proposed rule packet [7890.0110, subp.7c (clenbuterol) and subp. 10 (out of competition testing).]

7890.0130, Subp. 2. **Distributed purse money.**

It generally takes 5 to 9 days for the chemist to issue a final report of horses tested after racing, and purse money is often paid prior to the final report. This proposed rule change is needed to add clenbuterol, restricted in this rule packet under 7890.0110, subp. 7c. to the list of drugs that, if present in a postrace sample, affects the distribution of purse money.

7890.0140, Subp. 6. **Furosemide may be permitted.**

Furosemide is a medication that has historically been used by trainers to prevent exercise induced pulmonary hemorrhage (EIPH), or bleeding, in the lungs. It is generally used by a majority of trainers even though a horse has not demonstrated any hemorrhage or need for the drug. The use of furosemide in racehorses has undergone significant change in the past three years and the racing commission has followed a measured approach to the use. Last year the use of additional furosemide was removed from the rules. Analysis of the 2020 racing season data did not show any evidence of harm from this rule change. This proposed rule goes a step farther by eliminating the use of furosemide in 2-year-old racehorses. It is needed because a majority of trainers use furosemide in 2-year-old racehorses, the youngest eligible racing age for horses, simply because they can and not because there is a documented history of bleeding. This use flies in the face of sound science. Furosemide is a drug meant to be used as a treatment for a medical condition, yet a majority of the trainers are using it prophylactically in 2-year-old racehorses to treat something that doesn't exist, and in fact, may never exist.

This change in 2-year-old furosemide administration has recently been put in place in multiple jurisdictions throughout North America. Racetracks in Kentucky, Maryland, New York and California are all successfully racing without the race day administration of furosemide in 2-year-old horses. Numerous stakes races, including this year's Breeders' Cup races, were run successfully without 2-year-old horses receiving furosemide. Based on information from these racetracks and groups, the occurrence of bleeding in 2-year-old racehorses appears to low and manageable by the trainers. (Exhibits 34-39).

7890.0160, **Responsibility of veterinarian.**

This proposed rule change is needed to ensure that a horse is racing without the influence of medications or physical procedures such as shockwave or muscle manipulation. Under this proposed rule, the veterinarian, veterinary assistant, equine masseuse and animal chiropractor may not have contact with or treat a horse within 24 hours of a race. There is no good scientific reason for these individuals to be in the stall with a horse during that time frame, unless it is to administer furosemide, or it is an emergency in which case the commission veterinarian should be notified, and the horse scratched from racing. Prior to 2020, veterinarians were allowed in the stalls within 24 hours, as phenylbutazone, a common nonsteroidal anti-inflammatory drug, was administered intravenously at 18 to 24 hours prior to racing. This is no longer applicable as the 2020 rule package moved the use of phenylbutazone to at least 48 hours prior to racing. There are no medications, other than furosemide, where the administration is detailed in 7890.0140, subp.7a, that need to be administered within 24 hours. Eliminating access to these individuals decreases the potential for unintentional, accidental, or deliberate administration of medications or procedures that may affect the outcome of the race.

7892.0120, Subp. 1. **Horses tested.**

This proposed rule change simply clarifies that all out of competition testing must be done on the grounds of the racetrack. This conforms with Statute 240.24, subd. 1. which limits medical testing to horses running at licensed racetracks.

7897.0100, Subp. 21. **Pregnant filly or mare.**

This proposed rule change is needed to put the racing commission rules in compliance with the National Thoroughbred Racing Association (NTRA) requirements for racetrack accreditation. It is not a major change and affects only those mares and fillies in allowance or stakes races as current claiming rules [(MRC 7883.0140, subp. 12 and USTA 11.02 (h)] already prevent a pregnant mare or filly from racing. Further, no pregnant fillies or mares have raced in any allowance or stakes races at a Minnesota pari-mutuel track in the last 10 years. (Exhibit 40).

7897.0100, Subp. 24 **Security and Surveillance Equipment.**

This new language is necessary to prevent anyone from tampering with security and surveillance equipment installed at the racetrack. This equipment is installed to protect the integrity of horse racing and ensure the safety of both human and equine participants. The equipment is located in plain sight and broom handles and long poles can and have been easily used to change the view of the cameras. Without this rule, malicious alteration of equipment can occur, and no fine could be issued by the stewards.

7897.0150, Subp. 2. **Penalties imposed by stewards.**

This language was corrected to match language in Statute 240.16 subp. 1.

EXHIBITS

Exhibit 1	USTA definition 4.17 (Breath Analyzer)
Exhibit 2	Minnesota Certificate of Veterinary Inspection.
Exhibit 3	Minnesota Board of Chiropractic Examiners – Animal Chiropractic Registration Requirements.
Exhibit 4	Minnesota Statute 148.032 – Registration in Animal Chiropractic Diagnosis and Treatment.
Exhibit 5	Minnesota Rules 2500.7010 Registration, 2500.7020 Documentation of Referral, 2500.7030 Patient Record, 2500.7040 Continuing Education.
Exhibit 6	American Quarter Horse Association certificate of registration.
Exhibit 7	TRPB Making Transition to Digital Tattoos. The Blood Horse. December 18, 2018.
Exhibit 8	Final Grayson Webinar Explores Findings of Equine Injury Database. Thoroughbred Daily News. June 9, 2020.
Exhibit 9	Equine Injury Database. The Jockey Club.
Exhibit 10	USTA 6.17 (Paddock Judge)
Exhibit 11	Minnesota Racing Commission Veterinary Department Official Veterinarian’s List Notice
Exhibit 12	USTA rule 11.02 (Prohibitions)
Exhibit 13	USTA rule 5.12 (Breath Analyzer Requirements)

- Exhibit 14 Photo of Standardbred horses with racing equipment
- Exhibit 15 Labeled photo showing Standardbred racing equipment
- Exhibit 16 Staff. California, New York Move Forward on Riding Crop Restrictions. The Blood Horse. October 3, 2020.
- Exhibit 17 ARCI. RCI Strengthens Rule Restrictions on Crop Use – Issues Guidelines for Officials. December 8, 2020.
- Exhibit 18 Minnesota Rule 2500.7000 Definitions. subp.2. Animal chiropractor
- Exhibit 19 ARCI Model Rule 011-022 (Out of Competition Testing)
- Exhibit 20 U. S Department of Health & Human Services. United States Health Information Knowledgebase. Definition of Prescription Number.
- Exhibit 21 Thyroxine In SoCal: Nearly 300 Scrips This Year, Over Half for Two Trainers. Thoroughbred daily News. November 20, 2020.
- Exhibit 22 RMTc. Thyroxine Advisory. August 18, 2020.
- Exhibit 23 NYSGC. Guidelines for Thyroxine Therapeutic Use Exemption & Thyroid Hormone Testing. August 29, 2020.
- Exhibit 24 The Stronach Group. Requirements for identification and treatment of hypothyroid horses in Florida.
- Exhibit 25 CHRB Proposed Rule Addition of Rule 1866.4 Thyroxine Restricted.
- Exhibit 26 Paulick. CHRB Approves Continuing Education Program For Trainers; Poised To Further Tighten Corticosteroid, Thyroxin Use. The Paulick Report. November 19, 2020.
- Exhibit 27 ARCI Controlled Therapeutic Medications Schedule (Clenbuterol). Version 4.2. December 2019.
- Exhibit 28 Staff. Report: 77 Percent of New York Thoroughbreds from Indicted Trainers Were Positive for Clenbuterol After Arrests. The Paulick Report. November 12, 2020.
- Exhibit 29 CHRB Board Meeting October 2018, Proposed Amendment of Rule 1866.1 Presence of Clenbuterol in Quarter Horses.
- Exhibit 30 Kentucky Horse Racing Commission approves rule further restricting use of clenbuterol. Daily Racing Forum. December 8, 2020.
- Exhibit 31 Mid-Atlantic States to Add Clenbuterol Restrictions. The Blood Horse. October 27, 2020.
- Exhibit 32 Paulick. View From The Eighth Pole: It's Time To Get Rid of Clenbuterol. The Paulick Report. February 19, 2020.
- Exhibit 33 Example of Veterinary Prescription Label
- Exhibit 34 Cherwa. Major horse racing tracks agree to phase out use of race-day Lasix. LA Times. April 18, 2019.
- Exhibit 35 Angst. New KY Medication Rules Go Into Effect in Late August. The Blood Horse. August 13, 2020.
- Exhibit 36 Staff. Lasix-Free 2-Year-Old Races Approved in Maryland. The Blood Horse. August 5, 2020.
- Exhibit 37 Voss. Board: No Lasix For California 2-Year-Olds This Year. The Paulick Report. March 3, 2020.
- Exhibit 38 Angst. BC Joins Major tracks in Banning Lasix in 2-Year-Olds. The Blood Horse. November 1, 2020.
- Exhibit 39 Paulick. View From The Eight Pole: The Sky Is Not Falling Because of Lasix Ban. The Paulick Report. November 16, 2020.
- Exhibit 40 NTRA Code of Standards 2020. Prohibited Practices.

CONCLUSION

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

A handwritten signature in black ink, appearing to read 'S. May', is positioned above the typed name and title.

Steve May
Executive Director
Minnesota Racing Commission

DATE: March 15, 2021
This document available for
public review on this date.