

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

PENNSYLVANIA HORSE RACING COMMISSION REGULATION NO. 34-63

RULES OF RACING

NOVEMBER 25, 1998

We have reviewed this proposed regulation from the Pennsylvania Horse Racing Commission (Commission) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 163.95. Coupled entries. Clarity

The Commission is removing the restriction for horses trained by the same trainer, trained in the same stable or trained by the same management from the coupled entry rule. However, the language in Subsection (b) is not consistent with this intent. Specifically, the phrase "or trained by the same trainer shall be coupled and run as an entry" is confusing and conflicts with the other proposed changes. To remain consistent with the Commission's intent, we recommend that the phrase "or trained by the same trainer" be deleted from Subsection (b).

In addition, the amendment to Subsection (b) proposes language that applies the coupled entry rule to trainers who have an ownership interest in more than one horse in the same race. This provision is phrased in the negative and is needlessly confusing. Deleting the proposed language and rephrasing the provision in the positive would add to its clarity. For example, we suggest the following amendment:

(b) Horses owned wholly or in part by the same trainer, person or the spouse of the person [or trained by the same trainer] shall be coupled and run as an entry. [No trainer shall have any ownership interest in any other horse in the same race unless such horses are coupled as a single wagering interest.]

Last, proposed language in Subsection (d) prohibits a trainer from having more than two horses start in a race. We note that an owner is not prohibited from entering more than two horses in a race. The Commission should explain the purpose of prohibiting a trainer from having more than two horses in the same race.

2. Section 163.531. Definitions. Clarity

“Breeder”

The definition for this term is not clear. For this reason, we recommend that the Commission consider amending the definition to read:

A breeder is the owner of the dam at the time of foaling. When a horse is held under a lease or partnership registered with the Jockey Club then the lease or partnership will be deemed to be the owner.

“Pennsylvania-bred horse”

This definition imposes a minimum of 90 days that the dam or its foal must spend within the Commonwealth for the foal to qualify as a Pennsylvania-bred horse. We question how the Commission arrived at 90 days and whether the 90-day period is a sufficient limitation to assure that a foal qualifies as a Pennsylvania-bred horse. The Commission should also explain how the 90-day limitation would deter out-of-state breeders from taking unfair advantage of the Pennsylvania Breeding Fund.

In addition, we request that the Commission respond as to how the Pennsylvania Horse Breeders Association, which is responsible for the registration and records of Pennsylvania-breds, will determine that horse owners and breeders have met the conditions of the 90-day limitation. The Commission should incorporate language into the regulation explaining the conditions that horse owners and breeders will have to meet to show that they are complying with the 90-day limitation.

3. Section 165.118. Trifecta. Clarity

Subsection (j) allows coupled entries in a Trifecta race “at the discretion of the Commission or its designee.” This provision is vague. We suggest that it be clarified by deleting the proposed language and adding a cross-reference to Section 163.95 “Coupled entries” which will leave no question as to what horses have to run as coupled entries.