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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

July 27, 2000

Charles Bednarik, Chairman
State Athletic Commission
302 North Office Building
Harrisburg, PA 17120

Re: IRRC Regulation #16-17 (IRRC #2117)
State Athletic Commission
Boxing and Wrestling

Dear Mr. Bednarik:

Enclosed are our Comments. They are also available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director

cae

Enclosure

cc: Honorable Paul I. Clymer, Majority Chairman, House State Government Committee
Honorable Michael Gruitza, Democratic Chairman, House State Government Committee
Honorable Charles D. Lemmond, Jr., Chairman, Senate State Government Committee
Honorable Allen G. Kukovich, Minority Chairman, Senate State Government Committee
Honorable Kim Pizzingrilli
L. Lawrence Boyle
Joyce McKeever

Comments of the Independent Regulatory Review Commission

on

State Athletic Commission Regulation No. 16-17

Boxing and Wrestling

July 27, 2000

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Athletic Commission (SAC) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by June 26, 2002, the regulation will be deemed withdrawn.

1. General. - Clarity.

References to the Athletic Code

In several places, the regulation uses a general reference to the entire "Athletic Code." Rather than referencing the entire Athletic Code, each statutory citation or reference in the regulation should refer to the specific statutory section(s) or subsection(s) that are pertinent to the particular regulatory provision. For example, the licensing of physicians in Subsection 3.3(a) of the regulation should provide a complete citation to Sections 905(a) and 910 of the Athletic Code (5 Pa.C.S.A. §§ 905(a) and 910).

Functions of a SAC Commissioner or the Executive Director

Various provisions throughout the regulation state that "the Commission [SAC] or Executive Director" will perform a certain duty or function. For example, Subsection 3.2(a) states that inspectors "shall be appointed by the Commission [SAC] or Executive Director and approved by the Secretary." It is our understanding that SAC's intent is to allow one member of the SAC or the Executive Director to appoint or nominate a person to be an inspector. There was no intent to involve the entire SAC in the hiring of each inspector. The SAC counsel identified other provisions where the intent was for one SAC Commissioner or the Executive to perform a function or duty.

To clearly state the SAC's intent, the regulation should replace the phrase "the Commission or Executive Director" with "a Commissioner or the Executive Director." In addition, Section 1.1 of the regulation should include a definition of the term "Commissioner" as a member of the SAC.

Forms, Manuals and Procedures

In certain provisions, the regulation refers to forms or procedures approved or prescribed by the SAC. For example, Subsection 3.3(b) refers to both a physician's report on a form prescribed by the SAC and "procedures prescribed by the SAC as approved by the Medical Advisory Board." According to SAC staff, these procedures are set forth in a document entitled the "Medical/Safety Manual" which SAC publishes for the physicians assigned to contests. In addition, SAC publishes manuals for judges and referees, contract forms for boxers, managers and promoters, and other prescribed forms.

The regulation should include information on how copies of these forms and manuals may be obtained. This information could be a SAC address or telephone number that people could use to request a form or manual.

2. Section 1.1. Definitions. - Consistency with Statute; Clarity.

Commission credentials

The definition of this term contains the phrase "in furtherance of the Commission's official duties." This phrase does not add anything to the meaning of the term. The phrase should be deleted from this definition in the final-form regulation.

Bout

The term "bout" is not defined in this section; however, the term is used throughout the regulation. For example, Section 3.1(j) states that the SAC may videotape a "bout" to review action. Additionally, Section 5.2(c) speaks to rescheduling a "bout" or "main bout." In the final-form regulation, SAC should define "bout" and "main bout" and use the terms consistently throughout the regulation.

Event

The regulation defines this term as "one or more boxing contests, as defined in section 302 of the Athletic Code...." However, the term "boxing contest" does not appear in Section 302 of the Athletic Code. Instead, the term "contest" in Section 302 of the Athletic Code is defined as "a boxing engagement...."

It is our understanding that the term "event" is intended to mean an engagement including one or more bouts or contests. This definition needs to be modified to clearly match SAC's intent and the term should be used consistently throughout the regulation.

Subsection (b) – Incorporation by reference

This subsection incorporates by reference the definitions in Section 302 of the Athletic Code pertaining to boxing and the definitions in Section 1902 of the Athletic Code pertaining to wrestling. However, it is our understanding that SAC's intent was to incorporate all the statutory definitions. The phrases "pertaining to boxing" and "pertaining to wrestling" were meant to identify pertinent sections of this regulation, not the applicable statutory definitions.

To enhance clarity, this subsection should be divided into two subparagraphs. The first subparagraph should clearly state that all the definitions in Section 302 of the Athletic Code are incorporated for the provisions of the regulation related to boxing which include Subparts A and B. The second would state that all the definitions in Section 1902 of the Athletic Code are

incorporated for the regulatory provisions related to wrestling which include Subpart C of the regulation.

3. Section 3.1. Executive Director. – Clarity.

Attending a representative number of events

Subsection (b) states that the Executive Director shall attend a “representative number” of athletic events. The SAC should clarify what constitutes a “representative number” by specifying a minimum number or percentage of bouts or events that the Executive Director will attend.

Approval of proposed matches

Subsection (h) gives the Executive Director “the authority to approve or prohibit each proposed matching of boxers within this Commonwealth.” The regulation should clearly state the criteria or processes the Executive Director will use in deciding which matches would be approved or prohibited. For example, the criteria could include references to statutory requirements such as Section 708 of the Athletic Code related to suspension and revocation for injuries, or Section 711 of the Athletic Code related to limitation on difference in weights.

Circumstances not addressed by this part

Subsection (i) states “Circumstances arising that are not addressed by this part shall be ruled on by the Executive Director.” What is meant by the word “circumstances”? Are these “circumstances” limited to situations relating to the SAC’s duties under the Athletic Code?

Reviewing videotape

Subsection (j) states: “The Executive Director and the Commission may use a videotape of a bout to review actions taken relating to a bout.” It is our understanding that the intent of this subsection is to state that a single Commissioner, the Commission as a whole, OR the Executive Director has the option of reviewing a videotape. To clearly state this intent, this phrase should be revised to state “The Executive Director, a Commissioner or the Commission...”

Right of appeal

Subsection (k) indicates that actions by the Executive Director are subject to the right of appeal to the SAC. There are two concerns.

First, it is our understanding that in practice there are two levels of appeal and review. Initially, the Executive Director may meet with concerned parties to discuss one of his actions and informally work toward resolution of differences in opinion. If the issues are not resolved by the informal review, parties may appeal to the SAC. The subsection should reflect the actual practices of the Executive Director and SAC. It should outline the two-tier process which includes informal review and the right of appeal. The regulation should also include references to the appropriate regulatory or statutory rules of procedure for appeals such as 1 Pa. Code Chapter 35 or 2 Pa.C.S.A. §§ 501 - 508.

Second, Sections 1301 – 1305 of the Athletic Code specifically outline the procedures for SAC to consider recommendations by the Executive Director that a permit or license be suspended or revoked. For example, a person has the right to a hearing before SAC “within ten business days after the date on which the license or permit is suspended or revoked” pursuant to Section

1304(b) of the Athletic Code. This subsection should include a reference to Sections 1301 – 1305 of the Athletic Code.

4. Section 3.2. Inspectors. - Statutory authority; Clarity.

Nomination of inspectors

Subsection (a) indicates that inspectors will be “appointed by” a SAC Commissioner or the Executive Director and “approved by the Secretary.” Since the Secretary has the authority to make appointments, this provision should state that an inspector will be “nominated by” a SAC Commissioner or the Executive Director.

Agents of the Department of Revenue

Subsection (d) identifies the inspectors as agents of the Department of Revenue. Section 210 of the Fiscal Code (72 P.S. § 210) states that the Department of Revenue has the authority to appoint agents to “facilitate collection of money from persons ... who have business with administrative departments, boards or commissions...” Since the Department of Revenue, not the SAC, has the authority to appoint its agents, the phrase “as agents of the Department of Revenue” should be deleted.

The subsection also states that it is the inspector’s duty to “enforce legislative and regulatory provisions pertaining to the collection of revenues” due to the Commonwealth. This language is vague. The SAC should include a specific reference to Section 916 of the Athletic Code and any other specific regulatory or statutory provisions that relate to collection of revenues.

5. Section 3.3. Physicians. - Clarity.

Procedures

Subsection (b) requires examinations to be “conducted in accordance with procedures prescribed by the SAC as approved by the Medical Advisory Board...” It is not clear what “procedures” are to be used by the physician. The regulation should state that the approved procedures are set forth in the “Medical/Safety Manual” published by SAC.

Designee

Subsection (c) refers to a “designee.” The term “designee” is not defined. It is not clear whether a designee would be employed by the SAC. The regulation should define the term “designee” or it should be deleted from the final-form regulation.

Follow up ministrations and postbout physical report

Subsection (h) requires “follow up ministrations” by the attending physician when there is a knockout or technical knockout. New language in this subsection requires the attending physician to complete a “postbout physical report on each boxer.” The SAC’s “Medical/Safety Manual” contains a form entitled “Post Fight Check” for the attending physician. This subsection should state that the report will be completed on a form prescribed by SAC.

6. Section 3.4. Announcers. - Clarity.

Subsection (j) states: "Only an assigned announcer may make an announcement from the ring unless another person is specifically authorized." Announcers for professional events must be licensed by the SAC and assigned by the promoter or sponsor of the event. However, it is not clear who would "specifically authorize" another person to make an announcement from the ring. The regulation should indicate who has the authority to authorize "another person" to make announcements.

7. Section 5.1. Tickets. - Statutory authority; Reasonableness.

As proposed, Subsection (e) requires "ticket holders to events under the jurisdiction of the Commission to surrender their tickets or the appropriate stubs at the admission gates...." Since ticket holders are not licensees, the burden of the requirement "to collect the tickets from the ticket holders" should be placed upon the promoter who is a licensee. The SAC should restate the requirement for ticket collection in Subsection (i) accordingly.

8. Section 5.2. Postponements and cancellations. - Implementation procedure; Clarity.

Subsection (e) states that ticket holders will be entitled to a refund in cases of postponement or cancellation of the main event or the entire program "under the conditions of time, place and procedure that the Commission [SAC] approves and announces in each instances." How will this information be announced? What media will be used to notify ticket holders of how, when and where they can obtain a refund?

9. Section 13.3. Additional license fees. - Clarity.

This section requires that "license fees or taxes due to the Commonwealth within a maximum of 48 hours after each *promotion*." The term "promotion" is not defined, however, the regulation does define the term "event" and the Athletic Code defines the term "contest." The SAC should replace the term "promotion" with the defined term "event" or "contest."

10. Section 21.1. Contracts. - Clarity.

Subsection (n) indicates that a promoter may not advertise or announce a boxing contest until the event has been approved. Is this a reference to approval by the Executive Director? If appropriate, this subsection should cross-reference Subsection 3.1(h) of this regulation.

11. Section 21.3. Ring and ring equipment. - Clarity.

Paragraph (7) reads: "The ring shall be amply illuminated if needed, as determined by the Commission [SAC]." Existing language that describes the type of illumination required is being deleted. Why? What standards will the SAC use to determine the need for ample illumination?

12. Section 21.4. Conduct of bouts. - Clarity.

Part of Subsection (c) and all of Subsection (e) prescribe clothing and glove requirements for boxers. However, the title and other subsections of this section address "conduct of bouts." To

be consistent with the headings of the sections, the SAC should move the clothing and glove requirements in Subsections (c) and (e) to Section 21.8 relating to “boxers.”

13. Section 21.10. Seconds. - Clarity.

Subsection (j) provides that “a manager, second or another person having received ample warnings to stop an offending conduct may be ejected from the corner.” There are four issues pertaining to the language in this subsection.

First, it is not clear who “another person” would be. Only individuals licensed by the SAC are allowed in the boxer’s corner of the ring. The regulation should clearly specify who is allowed in a boxer’s corner and delete “another person” from the final-form regulation.

Second, the regulation should address situations when “another person” who is not licensed but is a spectator or ticket holder disrupts the bout or impedes the boxers. Since this section relates to seconds or licensees in each boxer’s corner, provisions for situations involving spectators should be added to Section 21.4 relating to “conduct of bouts” or Section 21.11 relating to “referees.”

Third, it is not clear how many warnings are “ample.” Existing language that the SAC has proposed be deleted from the regulation indicated two warnings. The SAC should delete “ample” and replace it with a specific number of warnings in the final-form regulation. For example, the SAC could state “having received two or more warnings....”

Fourth, the phrase “offending conduct” has not been defined. If the phrase is not defined, then what may be offensive to one referee may not be offensive to another. The SAC should define “offending conduct” and include examples in the final-form regulation.

14. Section 21.11. Referees. - Clarity.

Subsection (c)(7) establishes that a referee is to determine whether an injury resulted from an “accidental foul” or an “intentional foul.” The word “foul” is not defined. However, Subsection 21.16(b) includes a comprehensive list of fouls and other practices prohibited in boxing bouts by the SAC. Subsection 21.11(c)(7) should include a cross-reference to the activities or actions that constitute a foul in Subsection 21.16(b).

15. Section 21.12. Judges. - Clarity.

Subsection (c) contains the phrase “generally recognized rules of boxing.” In Subsection 21.11(c)(8), the reference to the rules generally recognized in the sport under the traditional title of the “Marquis of Queensbury Rules” is being deleted. The reference to “generally recognized rules of boxing” is vague. It is our understanding that the Association of Boxing Commissions (ABC) has established rules which the SAC uses for championship events. Whether it is the ABC’s rules or another source, the regulation should specify the rules that apply to the sport in Pennsylvania. The SAC should consider incorporating a specific reference in the regulation, or the term “generally recognized rules of boxing” should be defined.

16. Miscellaneous Clarity Issues.

Typographical errors

Subsection 3.2(e), as published in the *Pennsylvania Bulletin*, states:

Subject only to the direction of the Commission, an inspector or the Executive Director shall have authority over the following....

However, Subsection 3.2(e) of the proposed regulation submitted by the SAC states:

Subject only to the direction of the Commission or the Executive Director, an inspector shall have authority over the following....

The meaning of the two versions is very different and the SAC should include the correct version in the final-form regulation and ensure the correct version is published by the *Pennsylvania Bulletin*.

Missing parenthesis

In the version of the regulation published in the *Pennsylvania Bulletin*, Section 21.4, relating to “conduct of bouts,” is missing a closing parenthesis after Subsection (a). This should be corrected in the final-form regulation.

Reversed bracket

Also in the version published in the *Pennsylvania Bulletin*, Subsection 21.4(c) has a bracket that should be a closing bracket after the words “their seconds.” Instead the bracket is facing the wrong direction. This should be corrected in the final-form regulation.

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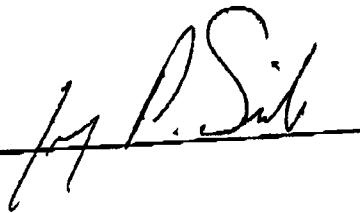
INDEPENDENT REGULATORY REVIEW COMMISSION

To: Gregory Sirb
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Date: July 26, 2000
of Pages: 9

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Athletic Commission's regulation #16-17 (#2117). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:  Date: 7-27-00