

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 12, 2019 in the Red Rocks Conference Room Suite 300 at 1707 Cole Blvd Lakewood, Colorado 80401. Chairwoman Inmann called the meeting to order at 10:03 AM.

Members Present

Pam Inmann, Chairwoman (by phone)
Tina Estes, Vice-Chairwoman (by phone)
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member (by phone)

Staff Present

Cory Amend, Senior Director of Enforcement Division
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Suzanne Karrer, Communications Manager
Kathleen Apodaca, Licensing Supervisor
Breanne Rodlin, Assistant to Division Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of February 12, 2019

After establishing that a quorum of Commission members was present, a motion was made by Commissioner Estes, Seconded by Commissioner Hoffman and unanimously carried to approve the minutes of February 12, 2019.

Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing issued on and dated February 12, 2019, Chairwoman Inmann convened the scheduled Rule-Making hearing at 10:05 a.m. following a motion made by Commissioner Hoffman and seconded by Commissioner Scott. Mr. Bradford Jones, Assistant Attorney General serving on behalf of the Colorado Racing Commission and the Division of Racing Events, as well as Zach Ceriani, Legal Assistant to the Division of Racing Events, provided guidance and advice to the commission during the Rule-Making Hearing.

As a preliminary matter, Commissioner Inmann provided instructions in relation to the conduct of the Rule-Making Hearing based upon guidance from Assistant Attorney General, Bradford Jones. Due to a single rule consideration, Mr. Jones advised the commission that the rule could either be passed or denied, immediately following comments and discussion, rather than moving the rule to an adoption group before its acceptance.

In the absence of Director Dan Hartman, Zach Ceriani—Legal Assistant to the Division—explained that in accordance with the Governor’s directive to all State agencies, the Division had reviewed its rules and processes in order to determine whether certain rules had become outdated and/or no longer conformed to existing practices. He noted that, pursuant to Executive Order #2, each State agency was charged by the Governor with the responsibility for evaluating 20% of its rules on an annual basis for the aforementioned purpose. He stated that a rule review workshop open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals and recommendations had been solicited and accepted from industry representatives for presentation during this Hearing. Further, he informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and Publication of the Notice of Rule-Making Hearing in the Colorado Registry whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules had been made available in print form at the meeting and electronically on the Division’s website. Additionally, he stated that certain rule proposals endorsed by the Association of Racing Commissioners International Model Rules Committee had been included for consideration at this time.

Acknowledgement was then made by both the Commission and the Division that an annual review of its entire rulebook is undertaken in order to 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals as well as proposals to amend or repeal certain rules.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration. Chairwoman Inmann explained that Mr. Ceriani would give a brief explanation of the proposed rule change and then the floor would be opened for discussion amongst the public as well as the commission.

Thereupon, Mr. Ceriani presented the following rule for consideration:

- Consideration of proposed modification of Rule #5.441: Mr. Ceriani explained that consideration of this rule was made following the rule making hearing held on February 12, 2019, as it was proposed after filing of the model ARCI rules made in early January. Prior to the rule-making hearing in February, Proposed Modified Rule #5.441 was discussed immediately after in a workshop with stakeholders and Colorado Horseman’s Association members during the CHA board meeting. In order for the rule to go into effect for the 2019 racing season, modifications to the rule would have to be discussed, accepted, and submitted to the Secretary of State’s office prior to May, or otherwise during the March Commission meeting.

Commissioner Inmann then requested that Mr. Ceriani proceed with a description of the proposed modifications to be made to Rule 5.441. Mr. Ceriani demonstrated that there were two (2) major changes on the table pertaining to prohibited substances and medications. He advised the Commissioners and meeting attendees to turn to page twenty one (21) of the rule-making packet. He explained that a small modification was made to strike version 13.4 and replace it with 14.0 regarding the Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule issued by the Association of Racing Commissioners International. He described that version 14.0 pertained to updating the drug list and penalty scheduling used by the Commission and Division to designate prohibited substances.

Mr. Ceriani then suggested that a larger rule change was located on page fourteen (14) of the rule making packet. He explained that in the past two to three years, there was a large push within multiple associations including the ARCI and American Quarter Horse Association (AQHA) to combat the usage and over-usage of Clenbuterol. He stated that in 2017, the Colorado Racing Commission (CRC) adopted a stronger penalty for Clenbuterol, making it a Class B substance. This classification put Clenbuterol within the same category as nerve-blocking agents, which the CRC placed a larger penalty on. He described that after placing a larger penalty on Clenbuterol, the Commission did not anticipate that if after a trainer was fined two thousand-five hundred dollars (\$2,500.00) and was suspended for one hundred eighty (180) days, said trainer would return back to Arapahoe Park for the rest of the season. However, there were multiple trainers who did return. To combat the infractions involved with Clenbuterol, the Commission then agreed to increase the fine for a second offense to five thousand dollars (\$5,000.00) and the third offense to a ten thousand dollars (\$10,000.00).

Legal Assistant Ceriani mentioned that per a push by the AQHA, Albuterol another steroid bronchodilator, was included in the same penalty structure as Clenbuterol in the ARCI model rules. He stated that the model rule change confirmed an absolute prohibition on Albuterol and Clenbuterol in racing Quarter Horses. Mr. Ceriani declared that this prohibition also included mixed races involving Quarter Horses and Thoroughbreds. He also explained that as of 2019, the ARCI model rules committee moved Clenbuterol to a Category "A" penalty in an attempt to reduce the amount of positive tests and trainers using the drug outside of its therapeutic use. He then described the reasoning behind the stricter rules and prohibitions on Clenbuterol as it pertained to the Colorado Racing Commission.

Mr. Ceriani explained that the reason for changing the penalty structure and modifying rule #5.441 was to eliminate the trend of "stacking" Clenbuterol and Albuterol in a fifty-fifty mixture. This idea of stacking would allow trainers to use both bronchodilators comingled in order to produce a

negative test that falls under the threshold for any one of the drugs presented in the horse's system. He also made a reference to the creation and passing of rule #5.314 during the February rule-making hearing which was created to eliminate stacking of ANY substance carrying the same pharmacological and physiological effects within race horses.

Following the description of Proposed Modified Rule #5.441, Chairwoman Inmann inquired whether there were any questions or comments from the public. Mr. Bruce Seymore, President of Arapahoe Park and Mile Hi Racing and Entertainment, stated that all members of the Association were in support of the proposed rule change. He explained that there was an appreciation for the accountability held over not only the trainer but also over the horse owner and practicing veterinarian.

After Mr. Seymore was finished with his comment and no other members of the public wished to speak, Chairwoman Inmann asked if any members of the commission had comments or questions about proposed modified rule #5.441. Commissioner Hoffman inquired whether this rule change stemmed from the AQHA. Mr. Ceriani answered yes and that the proposal was made by the AQHA and accepted by the ARCI model rules committee. Commissioner Hoffman then asked why the AQHA was pushing and in favor of the change. Mr. Ceriani responded that the rule was pushed through due to the high potential for abuse of Clenbuterol and Albuterol usage above the therapeutic threshold, which ultimately would produce secondary steroidal and performance enhancing effects. He also stated that the AQHA had the highest interest because the infractions were most commonly seen in racing Quarter Horses, as opposed to other breeds. Commissioner Hoffman then asked why the rule was not considered for Thoroughbreds. Mr. Ceriani replied that Clenbuterol and Albuterol were much less abused in Thoroughbred racing. He also said to note that the way the new rule was to be structured, Clenbuterol and Albuterol would stay in the Class B penalty with fines and suspensions equating to the same amounts for Quarter Horse racing if found in Thoroughbred racing. Commissioner Hoffman inquired if any amount, no matter how trace, of Clenbuterol or Albuterol would trigger a positive test and be structured under a Class B penalty. Mr. Ceriani responded that any level of detection would result in an automatic positive, as the new rule structure called for an absolute prohibition of both drugs. Commissioner Hoffman asked if rule #5.441 was adopted and approved with modifications on the day of the rule-making hearing, would it go into effect for the 2019 raacemeet and be retroactive for the end of the 2018 race meet. Mr. Ceriani stated that yes the rule would be in effect for 2019, but would not be retroactive for 2018.

Chairwoman Inmann asked if any other Commissioners had questions or comments about the proposed modification of rule #5.441. Since no further questions were asked and no comments were made, she then opened up the floor for deliberation. Again, there were no statements made. Chairwoman Inmann stated that she was comfortable with this rule change, as it was already implemented by the ARCI and had gained the approval of the AQHA. A motion was thereupon made by Commissioner Bowen, seconded by Commissioner Scott, and unanimously carried to accept proposed modified rule #5.441 into the Official Rulebook of the Colorado Racing Commission for the 2019 racing season.

With the passing of Proposed Modified Rule 5.441, Chairwoman Inmann called for the conclusion of the Rule-Making Hearing. A motion was thereupon made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to close the Rule-Making hearing at 10:33AM.

Reconvening of Regular Commission Meeting

Following the conclusion of the rule-making hearing, Mr. Bradford Jones, Assistant to the Attorney General, wanted to give the Commission an update. He informed the Commissioners that during the next scheduled meeting of the Colorado Racing Commission, a policy of best practices was to be created in order to abide by the guidelines set in a recently passed senate bill. Chairwoman Inmann then thanked Mr. Bruce Seymore and Mr. Billy Byers, representatives from Arapahoe Park, for their attendance to and input during the meeting.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday April 9, 2019** in the Red Rocks Conference Room in Suite 300 at 1707 Cole Boulevard, Lakewood, Colorado 80401.

Adjournment

There being no further business to consider, a motion was made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to adjourn the rule-making hearing and regular meeting of the Colorado Racing Commission at 10:35 AM.

The undersigned hereby approve the foregoing Minutes:

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER