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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 462
OREGON RACING COMMISSION

FILED

03/06/2023 11:58 AM

ARCHIVES DIVISION

SECRETARY OF STATE

FILING CAPTION: Amends OAR 462-130-0050 to clarify appeal procedures and update agency address

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/20/2023 12:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Legal review and recommendations.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Electronically stored. Available upon request.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

No impact

FISCAL AND ECONOMIC IMPACT:

No impact

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No cost to comply

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

small business were not involved with the development.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

No need. Legal review provided direction.

AMEND: 462-130-0050

RULE SUMMARY: Amends OAR 462-130-0050 to clarify appeal procedures and provide new address for the agency.

CHANGES TO RULE:

462-130-0050

Appeal to the Commission; Stay Pending Appeal ¶

(1) Any person who is the subject of any stewards' order or ruling, other than those involving a decision concerning a disqualification in a race due to a foul or riding infraction, may file a written appeal requesting a hearing under ORS 183 (the Oregon Administrative Procedures Act) before an administrative law judge and subsequent commission consideration of the proposed order regarding the matter, other than as to the extent of disqualification for a foul in a race. The appeal must be in writing and filed with the commission offices at the Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232. The appeal must be filed with the commission at PO Box 366 Gresham, OR 97030. The appeal must be received by the commission, within ten days from the date the Stewards order or ruling was served, unless a different time if filing deadline was expressly specified. The filing date will be the postmark date on the envelope in the Steward's order or ruling. Evidence of the filing date of the written appeal will be the postmark date on the envelope which contained the written appeal, the date printed by the facsimile machine or email, or other credible documentation of the date the written appeal was sent to the commission. The appeal must be signed by the appealing party and shall set forth clearly and concisely the following information:¶

- (a) The order, ruling, or decision to be reviewed and the date thereof.¶
- (b) The specific acts or failure to act upon which gave cause to the appeal and the dates thereof.¶
- (c) The reasons for the appeal, the appeal is based, and the date or dates upon which they occurred.¶
- (d) The address to which any notices from the commission may be mailed to the appealing party to the appellant (owner, out rider, jockey etc.) may be mailed and emailed.¶

(2) An appeal from an order or ruling of the stewards to the commission shall not affect such decision until the appeal has been acted upon by the commission, unless otherwise ordered by the commission or by a court of competent jurisdiction.¶

(3) A However, at the time a licensee submits a written appeal to the commission, the licensee may request in writing that the commission stay the effective date of any penalty or sanction imposed by the stewards. The request should state any good cause that supports the request. The executive director, or commissioner in the absence of the executive director, may, in his/their discretion, grant the stay for good cause shown.¶

(4) An appeal may not be withdrawn except with the approval of the executive director.¶

(5) Appeals to the commission shall be heard within 90 days from the date the appeal request is received in the commission's main office, unless a continuance is requested by the licensee or the assistant attorney general and approved by the executive director or the hearings officer. The appeal Hearing will take place before an Administrative Law Judge from the Office of Administrative Hearings. The Administrative Law Judge's proposed ruling or order will thereafter be subject to commission consideration and commission issuance of the final order.

Statutory/Other Authority: ORS 462.270(3)

Statutes/Other Implemented: ORS 462.405