
This rule details the requirements for the associations' facilities and equipment required for protection of the association's patrons and licensees. The purpose of the proposed amendments is to assist with the associations' difficulties staffing medical personnel due to the shortage of medical personnel throughout the State of NM.

15.2.2.8 ASSOCIATIONS:

A. General duty:

(1) An association, its officers, directors, officials and employees shall abide by and enforce the Horse Racing Act and the rules and orders of the commission and stewards.

(2) An association may request an exemption from a requirement in this chapter to utilize new technology or innovative construction or design of the racetrack facilities. The commission may grant an exemption if the commission determines that: the association's proposal substantially satisfies the purpose of the requirement; the exemption is in the best interests of the race horses, the racing industry and the citizens of this jurisdiction.

B. Financial requirements: insurer of the race meeting:

(1) Approval of a race meeting by the commission does not establish the commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

(2) An association shall agree to indemnify, save and hold harmless the commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.

(3) An association shall provide the commission with a certificate of liability insurance as required by the commission.

(4) An association shall maintain one or more trust accounts in financial institutions insured by the FDIC or other federal government agency for the deposit of nominations and futurity monies and those amounts deducted from the pari-mutuel handle for distribution to persons other than the association according to the Horse Racing Act and commission rules. An association may invest nominations and futurities monies paid by owners in a U.S. treasury bill or other appropriate U.S. Government financial instrument instead of an account in a financial institution, in which case the provisions of this rule shall apply to such instrument.

(5) An association shall keep its operating funds and other funds that belong exclusively to the association separate and apart from the funds in its trust accounts and from other funds or accounts it maintains for persons other than itself, such as a horsemen's book account.

(6) An association shall employ proper accounting procedures to insure accurate allocation of funds to the respective purses, parties and organizations and detailed records of such accounts shall be made available to the commission or its staff on demand in connection with any commission audit or investigation.

(7) An association shall insure that sufficient funds for the payment of all purses on any race day are on deposit in a trust account at least two business days before the race day and shall provide the commission with documentation of such deposits prior to the race day. Exceptions to this subsection may be made by the commission or the agency director for good cause shown.

(8) An association shall add all interest accrued on funds in a trust account to the balance in the account and distribute the interest to those for whom the funds are held with the exception of administrative costs pursuant to Subsection E of Section 60-2E-47 NMSA.

(9) An association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Horse Racing Act and commission rules and not otherwise.

(10) An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Horse Racing Act, commission rules, association rules and race conditions.

(11) An association is authorized to offset a portion of the jockey and exercise rider insurance premium from gaming monies subject to the approval of the commission.

(12) An association shall insure that funds for the payment of the ten percent track breeder's awards on New Mexico bred winners, that have been requested by the New Mexico horse breeders' association and whose purses have been cleared by the New Mexico racing commission, will be sent via wire transfer to the designated bank account set up for that purpose within five business days after the request.

C. Bond requirements:

(1) An association shall file with the commission a bond or other security payable to the New Mexico racing commission in an amount determined by the commission for pari-mutuel racing and in either case not more than the financial liability of the association license throughout the race meeting for which the association license is requested.

(2) The bond shall be executed by the applicant and a surety company or companies authorized to do business in this jurisdiction, and conditioned upon the payment by the association licensee of all taxes and other monies due and payable pursuant to statutory provisions and all monies due from horsemen's accounts and payable, presentation of winning tickets, the licensee will distribute all sums due to the patrons of pari-mutuel pools.

(3) The financial liabilities incurred by the association licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

D. Financial reports:

(1) The commission may require periodic audits to determine that the association has funds available to meet those distributions for the purposes required by the Horse Racing Act, commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.

(2) An association shall file a copy of all tax returns, a balance sheet and a profit and loss statement.

(3) An association shall file with the commission an unaudited balance sheet and profit and loss statement as required by the commission. Those submissions must be in a format, which conforms to the requirements set out in the association license application.

(4) An association shall file an annual audit with the commission within 90 days after the association's fiscal year-end. The commission, upon good cause shown, may extend the time for filing.

E. Facilities and equipment: facilities for patrons and licensees:

(1) An association shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.

(2) An association shall provide and maintain adequate restroom facilities for the patrons and licensees.

(3) An association shall provide an adequate supply of free drinking water.

(4) An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.

(5) During a race performance, the association shall provide a first aid room equipped with at least two beds and other appropriate equipment; the services of at least one physician, nurse practitioner or certified emergency medical technician.

(6) An association shall provide two properly equipped ambulances, ready for immediate duty and equipped for transport at any time the racetrack is open ~~[for racing or training hours]~~ during live racing. Each ambulance shall be staffed with one certified paramedic or an intermediate emergency medical technician, nurse practitioner or physician assistant. The other staff will be certified EMTs. If the ambulance is being used to transport an individual, the association may not conduct a race until a properly equipped and staffed ambulance is in place, or a physician is on duty.

(7) An association shall provide one properly equipped ambulance ready for immediate duty and equipped for transport at any time the racetrack is open for training hours. The ambulance shall be staffed with one certified paramedic or an intermediate emergency medical technician, nurse practitioner or physician assistant. The other staff will be certified EMTs. If the ambulance is being used to transport an individual, the association may not conduct a race until a properly equipped and staffed ambulance is in place, or a physician is on duty.

(8) Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

~~(8)~~(9) The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

~~(9)~~(10) An association shall provide adequate office space for the use of the stewards and other commission personnel as required by the commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the commission. An association shall provide the board of stewards, state investigator and official veterinarian access to the *RTO Incompass* system as prescribed by the

racetrack office as well as e-mail notification for all entry clerk overrides for horses on stewards', veterinarian's, paddock judge's, bleeders' and starter's lists.

~~(10)~~(11) An association shall promptly post commission notices in places that can be easily viewed by patrons and licensees.

~~(11)~~(12) An association shall ensure that all concessions provide prompt and efficient service to the public at all race meets or simulcast performances. The associations shall specifically ensure that concessions have adequate staff and inventory to provide prompt and efficient service to the public.

[15.2.2.8 NMAC - Rp, 15 NMAC 2.2.8, 3/15/2001; A, 8/30/2001; A, 11/14/2002; A, 8/30/2007; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/2018; A, 4/20/2021; A, 5/24/2022; A, 4/9/2024]