

MAINE STATE HARNESS RACING COMMISSION

IN RE: PARI-MUTUEL HARNESS)
RACING DATE)
ASSIGNMENTS FOR)
CALENDAR YEAR 2025 &) **DECISION AND ORDER**
AUTHORIZATION)
REQUESTS FOR)
INTERSTATE SIMULCAST)

I. INTRODUCTION

On November 19, 2024, the Maine State Harness Racing Commission (“Commission”) held an adjudicatory hearing in Room 101, Deering Building, 90 Blossom Lane, Augusta Maine pursuant to Title 8 M.R.S. §§ 271, 275-N, 5 M.R.S. §§ 9061 – 9064, and Chapter 19, § 4 of the Maine State Harness Racing Commission Rules (“Commission Rules”). At the 2023 annual hearing, all applicants were awarded two-year licenses to hold live harness horse racing meets for public exhibition with parimutuel pools at agricultural fairs and commercial tracks in the State of Maine. The licenses covered calendar years 2024 and 2025. Thus, the purpose of this hearing was to consider the licensees’ applications for race dates for live harness racing, and to authorize interstate simulcasting at commercial tracks, all for calendar year 2025.

The race date applicants were:

1. Sagadahoc Agricultural & Horticultural Society, Topsham: Fair Meet (“Topsham Fair”);
2. Skowhegan State Fair, Skowhegan: Fair Meet (“Skowhegan Fair”);
3. Windsor Fair, Windsor: Fair Meet (“Windsor Fair”);
4. Franklin County Agricultural Society; Farmington Fair, Farmington: Fair Meet.
 (“Farmington Fair”);
5. Cumberland Farmers Club / Cumberland Fair, Cumberland: Fair Meet and Extended Meet
 (“Cumberland Fair”);

6. West Oxford Agricultural Society / Fryeburg Fair, Fryeburg: Fair Meet (“Fryeburg Fair”);
7. Bangor State Fair (“Bangor State Fair”);
8. HC Bangor, LLC; Bangor Raceway; Commercial Meet (“Bangor Raceway”); and
9. First Tracks Investments, LLC; First Tracks Cumberland; Commercial Meet (“First Tracks”)

The race date applications were heard on a consolidated basis pursuant to Commission Rule, Chapter 19, § (4)(5). A quorum of the Commission was present during all stages of the proceedings. Harry B. Center, II, Barry Norris, Patricia Varnum, Chandler Woodcock, and Don Marean participated and voted as Commission members. The Commission determined that Commission members did not have a conflict of interest that would prevent any of them from participating in the hearing.

The Department of Agriculture, Conservation and Forestry, the Maine Association of Agricultural Fairs, the Maine Standardbred Breeders and Owners Association, and the Maine Harness Horsemen’s Association (“MHHA”) have automatic intervenor status under Chapter 19, § 4(6). Executive Director Shane Bacon represented the Department of Agriculture, and MaryAnn Tompkins was present for the MHHA. Rhoda Underhill was present for the MSBOA as well as Carolyn Corse virtually.

Admitted into evidence without objection were the following staff exhibits:

Exhibit #	Description
1	Notice of Hearing to applicants and intervenors
2	HC Bangor LLC application
2a	Simulcast request
3	First Tracks Investments, LLC application
3a	Simulcast request
4	Bangor State Fair application
4a	Simulcast request
5	Topsham Fair application

5a	Simulcast request
6	Skowhegan State Fair application
6a	Simulcast Request
7	Windsor Fair application
7a	Simulcast request
8	Farmington Fair application
8a	Simulcast request
9	Cumberland Fair application
9a	Simulcast request
10	Fryeburg Fair application
10a	Simulcast request
11	Revised (11/18/2024) 2025 Proposed Race Dates Calendar
12	2024 Race Date Calendar
13	2024 Horse Supply Tracking Sheet
14	1990 Excerpt Census
15	MHHA letter regarding First Tracks racing fewer days

Testifying at the hearing were Shane Bacon, Executive Director of the Maine Harness Racing Commission, Thomas Smith of the Bangor Raceway, Chris McErlean of Penn National Entertainment, also on behalf of Bangor Raceway, Mike Cianchette of First Tracks, and Gunner LaCour of Black Bear Racing at First Tracks, and Chris McGill of the Bangor State Fair. All other applicants and intervenors were given the opportunity to testify and declined.

II. STATUTORY CRITERIA

A. Allocating Race Dates for Live Racing

Title 8 M.R.S. § 271 sets forth the criteria for allocating race dates for live racing. Section 271(2) contains the following criteria for the Commission to consider when exercising its judgment and discretion in the assignment of race dates:

- A. The revenues to be generated, consistent with the profitability and financial health of the licensee and the development of revenues from interstate simulcasting of the licensee's race programming, for the operating account pursuant to section 287; the purse supplements pursuant to section 286; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section 86;

- B. The quality of race programming and facilities offered and to be offered by the licensee, the suitability of the applicant's racing facilities for operation at the season for which the race dates are requested and the ability of the applicant to offer racing at night;
- C. The necessity of having and maintaining proper physical facilities for racing meetings, including the ability to maintain ownership of or a leasehold on the facilities; and consequently, to ensure the continuance of the facilities, the quality of the licensee's maintenance of its track and plant, the adequacy of its provisions for rehabilitation and capital improvements and the necessity of fair treatment of the economic interests and investments of those who, in good faith, have provided and maintained racing facilities;
- D. The desirability of reasonable consistency in the pattern of race date assignments from year to year;
- E. With respect to agricultural societies seeking licenses to conduct harness racing meets at the time of their annual fairs, the scheduling of agricultural fairs determined by the Commissioner of Agriculture, Conservation and Forestry pursuant to Title 7, sections 83 and 84;
- F. The preservation of a diversity of harness racing tracks in the State;
- G. The quality of the licensee's observance and enforcement of this chapter and the rules adopted pursuant to this chapter during the past year;
- H. The extent to which the licensee fully utilized race dates granted to it for the past year;
- I. The personnel and resources available to the commission for the enforcement of this chapter and the rules adopted pursuant to this chapter;
- J. The likely availability of race-worthy horses throughout the year with a goal of promoting full cards and avoiding 5-horse fields; and
- K. Such other criteria consistent with the betterment of harness racing and the public health, safety and welfare as the commission may establish by rule.

Among the other criteria to be considered and established by Commission Rule is the feasibility of the applicant conducting a race meet on dates other than those applied for, the winter

training and stabling facilities provided by the applicant, and the competitive situations affecting certain applicants. *See* Commission Rule Chapter 19, § 4(11)(A)-(N).

Regarding commercial tracks only, the Commission may award fewer than the minimum race dates set forth in § 275-A(1) if both the track and the Maine Harness Horseman's Association give express written approval and credible evidence is presented that shows fewer race days is in the best interest of Maine's harness racing industry.

In summary, the Commission must determine, based on the witnesses' testimony and exhibits, whether each applicant should be granted its requested dates to hold live harness horse races or meets for public exhibition at which pari-mutuel betting is permitted. The Commission is authorized to impose conditions on a license if one or more of the criteria are not met at the time the license is issued but may be brought into compliance within a time period during the licensing year. 8 M.R.S. § 271(6).

B. Simulcasting

Pursuant to 8 M.R.S. § 275-N, "[i]nterstate simulcasting always must be allowed at any commercial track." Under 8 M.R.S. §§ 268, § 271(8), and 295(2) simulcasting results from an agricultural fair is permitted to broadcast fair race results out but not to permit off track betting at fairs without a license as required by 8 § M.R.S. 270.

III. DISCUSSION

A. Race Dates

Mr. Bacon testified that the horse supply in Maine in 2024 was adequate for racing and will likely be adequate for 2025. Mr. Bacon explained Exhibit 13, the Horse Supply Tracking Sheet, which shows the amount of entries for the races at various locations to date in 2024. He testified that the entries were sufficient to conduct racing, but the Race Secretaries are responsible for creating race cards that promote fuller fields. This is done by racing fewer dashes, to increase the

amount of horses on each field. Mr. Bacon testified that Revised Exhibit 11 was a master calendar for 2025 which reflected all the applicant's requested dates; all dates were agreed to by the applicants; and the agricultural applicants requests for dates were in line with the 2025 fair schedule for each.

Mr. Bacon testified that all applicants had a bond that were currently in effect, but that they expire at various points throughout the year. He recommended that the race dates be awarded on the condition that all applicants meet the bond requirement contained in 8 M.R.S. § 272.¹

Thomas Smith of Bangor Raceway and Gunner LaCour and Mike Cianchette of First Tracks testified that they worked out the race dates to each commercial track's satisfaction. Bangor Raceway had initially requested 43 racing days instead of 38, but voluntarily relinquished 5 race days so that First Tracks would receive a specific distribution of the Fund to Encourage Racing at Maine's Commercial Tracks² in order to keep the track viable. The Commission questioned why Bangor Raceway had a make up date scheduled on Wednesday, November 5, 2025 instead of on a Friday, October 31, when attendance may be higher. Chris McErlean of Penn National testified that Plainridge track was scheduled to race on the 31st, which would lower viewership of a race in Maine on that date.

B. Interstate Simulcasting

Mr. Bacon testified that both First Tracks and Bangor Raceway requested authorization to conduct interstate simulcasting and that the Commission has historically authorized this in the past. Mr. Bacon testified that First Tracks and Bangor Raceway are both commercial tracks and recommended that the Commission grant the requests.

¹ The Commission has the authority to impose conditions on a license if certain criteria is not met at the time the license is issued, but may be brought into compliance within the licensing year. 8 M.R.S. § 271(6).

² 8 M.R.S. § 299.

For the calendar year 2025, each agricultural fair applicant requested permission to simulcast their signal. Title 8 M.R.S. § 295(2) permits agricultural fair associations that have provided simulcast transmission of live racing in the State on the dates that the Commissioner of Agriculture has approved pursuant to Title 7, section 84 and take a share of the simulcast funds. Section 268 addresses the Commission's adoption of rules allowing interstate simulcasting of horse racing at a licensee's racetrack at any regular meeting. The Commission intends to adopt such rules before the 2025 agricultural fair season. Mr. Bacon recommended that the Commission grant all requests.

IV. FACTS

Based on the record, the evidence showed the following facts:

1. All licensees, the two commercial tracks and seven agricultural fairs, applied for specific dates in 2025 to hold harness horse races for meets for public exhibition with pari-mutuel pools as reflected in Revised Exhibit 11.
2. Shane Bacon testified that First Tracks serves the southern half of Maine and other areas, and which has a population in excess of 300,000 people. Accordingly, First Tracks and the MHHA jointly requested to have fewer than the statutorily required race dates for the region it serves.
3. Pursuant to 8 M.R.S. § 272, all of the applicants already have or will satisfy the requirement of providing a bond or irrevocable letter of credit for calendar year 2025, prior to the actual issuance of their respective licenses for calendar year 2025.
10. First Tracks and Bangor Raceway have requested Commission authorization to transmit interstate simulcasting for the licensed race meets conducted by them. The Commission shall authorize this under 8 M.R.S. § 275-N.
11. All agricultural fairs requested permission to simulcast out the races run at the fairs.

V. DELIBERATIONS AND DECISIONS

The Commissioners considered the licensing criteria set forth in 8 M.R.S. § 271 and Chapter 19, Section 4 of the Commission Rules; evidence presented by the parties and Commission staff; and additional evidence in the record not specifically referred to herein. The Commission deliberated and made the following decisions.

A. Race Dates

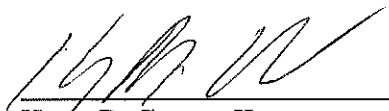
The Commission determined that the race dates as reflected in Revised Exhibit 11 should be awarded.³ The race date applications were approved and race dates awarded upon the condition that the licenses will be issued by the Department after its receipt of all necessary information from the applicants to show that Section 272's bonding requirements will be current and met during the 2025 license year. No license shall issue without a bond.

A motion to approve all race dates as requested was unanimously approved. The race dates for all applicants are reflected in Revised Exhibit 11, which is attached to this Decision and Order.

B. Simulcast Authorization

The Commissioners unanimously voted to authorize full-card simulcasting for First Tracks and Bangor Raceway. The Commissioners unanimously voted to permit the agricultural fairs to simulcast transmit their live racing during its approved dates pursuant to Title 8 M.R.S. §295(2).

Dated: December 17, 2024



Harry B. Center, II
Chair
Maine State Harness Racing Commission

³ The Commission notes that during the hearing it was revealed that although all race dates were agreed to, there was a dispute between the MHHA and licensees regarding appropriate post times. Should the MHHA and licensees not resolve the issue of post times before the 2025 racing season, the Commission will conduct an additional adjudicatory hearing to determine the post times.

RIGHT OF APPEAL

Any party to these proceedings may seek review of this Decision, to the extent that review is permitted by law, by filing a petition for review in Superior Court pursuant to 5 M.R.S. § 11001, et seq., within thirty (30) days after receiving notice of this Decision.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested on the Maine State Harness Racing Commission, all parties to the agency proceedings and the Attorney General. Any other person aggrieved by this Decision may seek judicial review in like manner by filing a petition for review in Superior Court within forty (40) days after the date of this Decision.

cc: Members of the Maine State Harness Racing Commission
Shane Bacon, Executive Director
Sagadahoc Agricultural & Horticultural Society
Skowhegan State Fair
Bangor State Fair
Windsor Fair
Franklin County Agricultural Society
Cumberland Farmers Club / Cumberland Fair
West Oxford Agricultural Society / Fryeburg Fair
HC Bangor, LLC; Bangor Raceway
First Tracks Investments, LLC
Maine Association of Agricultural Fairs
Maine Harness Horsemen's Association
Maine Standardbred Breeders and Owners Association