

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF FUNERAL DIRECTORS
[49 PA. CODE CH. 13]

Renewal Fee

[Correction]

In the document which appeared at 39 Pa.B. 414 (January 24, 2009) amending § 13.12 (relating to fees), the Fiscal Note information was inadvertently omitted. The text of the Fiscal Note should have read as follows:

Fiscal Note: Fiscal Note 16A-4817 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1657-111. Filed for public inspection January 23, 2009, 9:00 a.m.]

Title 58—RECREATION

STATE ATHLETIC COMMISSION
[58 PA. CODE CH. 29]

Mixed Martial Arts

The State Athletic Commission (Commission) amends its regulations to add Chapter 29 (relating to mixed martial arts) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 38 Pa.B. 2155 (May 10, 2008). Publication was followed by a 30-day public comment period, during which the Commission received no public comments or comments on the proposed regulations from the House or Senate State Government Committees (Committees). The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on July 9, 2008.

A. *Effective Date*

The final-form rulemaking will be effective February 27, 2009.

B. *Statutory Authority*

The final-form rulemaking is authorized under section 5 Pa.C.S. § 103(b)(1) (relating to duties of commission), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional and amateur boxing contests and exhibitions and all matters pertaining thereto. The regulations are further authorized by 5 Pa.C.S. § 302 (relating to definitions), which defines boxing as “the act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body, including, but not limited to, the foot, knee, leg, elbow or head.”

C. *Comments Received*

The only comments received were from IRRC. The Commission responds to all IRRC's comments in the order in which they were raised:

Referees

IRRC questioned whether there would be enough qualified referees to officiate all of the matches, if the number of professional and amateur contestants and the number of events held each year is greater than the Commission estimates. IRRC also asked what implementation procedures are in place to ensure that a sufficient number of qualified referees are available for this new form of competition.

Like IRRC, the Commission also believes that having a sufficient number of qualified referees familiar with the regulations and other safety protocols is essential to protecting the health and safety of the contestants. The Commission has begun the process of cross-training some of its currently-licensed professional boxing referees to referee mixed martial arts (MMA) events, by sending the Pennsylvania officials to training programs in New Jersey and Ohio. The athletic commissions of those two neighboring states have adopted MMA rules very similar to those adopted by this rulemaking. When training of MMA officials begins in this Commonwealth, the Commission will utilize as instructors a list of referees and judges licensed in Ohio and New Jersey who are specifically recommended to the Commission by the athletic commissions of these states. The Commission also retains a list of qualified referees and judges from New Jersey and Ohio who would be available for licensure and work in this Commonwealth if needed. Finally, under § 29.17(c) (relating to promoter licensing and bonding requirements), the Commission reserves the right to limit the number of MMA events per month to ensure the proper regulation of each event.

IRRC also questioned whether the rules for boxing referees found in § 21.11 (relating to referees), which apply to MMA referees, are sufficient to ensure that MMA referees are adequately trained and prepared to officiate an MMA contest.

The existing rules in § 21.11 are sufficient to protect contestant health, safety and welfare in MMA events. The referee rules are quite detailed in their scope and provide that referees serve an apprenticeship of at least 3 months, as well as work and undergo instruction under the direction of licensed officials under conditions and occasions that the Commission designates. See § 21.11(b)(2). The powers and duties of the referees are clearly spelled out in the regulation in § 21.11(c), and include the requirement to continually and carefully observe the physical condition of the participants. Whether the event is boxing, kickboxing or mixed martial arts, the referee has full and final responsibility (either at his own discretion or upon direction from the attending physician) to immediately halt a contest when the safety of a participant is jeopardized. See § 21.11(c)(6). Referees have absolute authority to interrupt a round in the event of injury to a participant and request that the attending physician examine and rule upon the condition of the injured contestant. See § 21.11(c)(7). The Executive Director of the Commission is charged with training, supervision, ensuring adherence to procedures and monitoring operations of officials. See 5 Pa.C.S. § 105(3) and § 3.1(b) and (e). The Commission, through its Executive Director, will make its expectations clear to all referees in the course of mandatory training and will not permit those who are unable to satisfactorily perform the duties required under § 21.11 to act as referees.

Commission approvals

IRRC noted several places in the regulations which state that approval from the Commission is needed for contestant equipment, ring set-up and other match-related items, and asserted that it is not clear how these approvals will be granted by the Commission. IRRC recommended that the final-form regulations should specifically state how contestants and promoters must obtain the approvals required through these regulations.

The Commission's existing regulations are replete with the requirement for Commission approval on most aspects of competition: from boxer-manger contracts (§ 21.1(d)); the time, place and duration of events (§ 21.4(g) and § 5.2(b)); matchups (§ 3.1(h)); ring flooring material and deviations to the ring size (§ 21.3); gloves and other equipment (§ 21.4(d) and § 21.8(m)(4)); changes to an already-established program (§ 21.4(h)), to name a few. The existing boxing regulations, which will apply to mixed martial arts unless otherwise provided under Chapter 29, do not always specify the manner of approval. The type and manner of Commission approval varies with the event or object to be approved. Typically, Commission approvals of contracts, events permits, and duration of rounds are done well ahead of the event and in writing. But as the date of the event draws closer, approvals are typically done on a verbal basis, due to time constraints. The Commission stresses the fluidity of boxing events: match-ups may change at the last minute as opponents fail to make weight or do not clear medical requirements on the day of the fight. Ring setup occurs the morning of the event; gloves and other equipment are observed by Commission representatives shortly before the start of each fight. The Commission anticipates that the same time constraints will be present at MMA events as well. Additionally, while the Executive Director of the Commission is onsite at and directing nearly every boxing event, the Secretary or the Executive Director may designate Commission or Department staff to act on behalf of the Executive Director at events under the jurisdiction of the Commission. See § 1.3(g). Therefore, the Commission feels that it is impractical and unduly restrictive to the Commission and participants alike to specify the exact procedures for many of the approvals in question, including those in §§ 29.4(b)(4), (c)(4) and (6), 29.25(a) and (b), and 29.26(a). The Commission also notes that the Commission approval language of §§ 29.4(b)(4), (c)(4) and (6) and 29.25(a) and (b) conforms to similar provisions in the boxing regulations in Chapter 21 (relating to professional boxing). However, the Commission will amend §§ 29.9(a)—(d) and 29.27(a)—(f) to conform to existing boxing language on gloves in § 21.4(d), to provide more clarity and specificity to contestants and promoters.

Fees

IRRC noted that § 29.3(b) requires a professional contestant to be licensed by the Commission and recommended that the Commission add a cross-reference to the appropriate boxing fees.

The Commission has made this change by adding § 29.3(f) to make clearer that all boxing fees contained in Chapter 13 (relating to bonds and fees) of the Commission's current regulations apply to MMA events and licensees, unless otherwise specified by Chapter 29.

Commission-approved forms

IRRC noted that §§ 29.3(c) and 29.22(d) require debut contestants to complete a "Commission-approved form." IRRC recommended that the final-form regulations should state how this form is obtained.

The Commission has made this change by adding text to those sections making it clear that the form may be obtained by request from the Commission office or on-line at the Commission's web site at www.dos.state.pa.us/sac.

Cleaning of ring or fenced area

IRRC wrote that § 29.4(d) requires the promoter to "thoroughly clean" the ring area after each match and that the final-form regulation should specify acceptable methods for cleaning the ring and whether the Commission intends for the ring area to be disinfected or merely washed down between matches.

Because there will be more competitor skin contact with the mat in mixed martial arts than in boxing, the ring area is to be both cleaned and disinfected between matches. The Commission has made this change to require disinfection, as well as cleaning, of the ring or fenced area. The Commission finds it unnecessary to specify acceptable methods for cleaning the ring, although it notes that typical methods of cleaning are wiping and mopping.

Duration of rounds

IRRC commented that § 29.5(a) and (b) include the phrase "except with the permission of the Commission or the Executive Director." IRRC questioned whether both written and oral permission were permitted and recommended that the final-form regulation clarify this point.

Permission in these subsections may be either written or oral. The Commission has made this change. The Commission has also made this change to the corresponding amateur rules on duration of rounds in § 29.25(a) and (b).

Acts constituting fouls/flagrant fouls

IRRC commented that it is not clear what constitutes a "flagrant foul" under §§ 29.12(a) and 29.29(a), noting that the term is not defined in this section, in § 29.2 (relating to definitions) or in 5 Pa.C.S. § 302 (relating to definitions). IRRC suggested that this term be defined in the final-form regulation.

The Commission notes that neither the term "foul" nor "flagrant foul" is defined in Chapter 29, in 5 Pa.C.S. § 302 or in the Commission's regulations in § 1.1 (relating to definitions). However, a list of fouls for boxing is provided in § 21.16 (relating to safety code) and for kickboxing in § 25.6 (relating to weight classes of contestants). Fouls in boxing, kickboxing and MMA may be accidental or intentional. A flagrant foul in MMA is an intentional foul—using any foul technique enumerated under §§ 29.12(b) or 29.29(b) that causes harm or injury to an opponent, after which the injured contestant may not be able to continue with competition. This concept is already contained in the boxing regulations in § 21.5 (relating to scoring system), in which a boxer may be disqualified if he "inflicts, by foul means, a crippling injury upon his opponent so that the latter is adjudged incapable of continuing the contest." See § 21.5(c). The Commission has added this definition to § 29.2 and incorporated the language of § 21.5(c). A flagrant foul tends to be, but is not always, a stand-alone separate act. An example of a foul which is not flagrant would be one which is committed inadvertently, in the process of or at the end of a legitimate move.

Promoter licensing and bonding requirements

IRRC questioned whether the 10-day notice required in § 29.17(3) should be received by the Commission "at least 10 days in advance of the event" or merely should be postmarked by that date.

The Commission clarifies this notice requirement in the final-form regulation by specifying that notification should be received by the Commission at least 10 days in advance of the event.

With regard to the requirement in § 29.17(3) that promoters must receive written approval from the Commission to hold the event on the specified date, IRRC asked in what time frame the Commission will respond with the approval.

The approval procedure is the same as what the Commission presently requires for boxing and kickboxing events. The Commission office typically responds to the requests within 1–2 days.

D. Fiscal Impact and Paperwork Requirements

The final-form regulations will have no adverse fiscal impact on the Department of State or the Commission, because the Commission is self-supporting and uses no General Fund moneys. While the Commission will incur additional costs in enforcing the regulations, the Commission expects revenues generated from the 5% tax on gross gate receipts will pay for the enforcement. The regulations will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. Any additional paperwork requirements upon the Commonwealth or the private sector will be limited to applying for and maintaining licensure for mixed martial arts licensees (contestants, promoters, referees, judges and timekeepers). The regulations will have no adverse fiscal impact on the boxers, boxing and wrestling promoters, referees, judges and timekeepers which the Commission currently regulates.

F. Sunset Date

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 24, 2008, the Department submitted copies of the notice of proposed rulemaking, published at 38 Pa.B. 2155 to IRRC and the Committees for review and comment.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), these final-form regulations were deemed approved by the Committees on December 17, 2008. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 18, 2008, and approved the final-form regulations.

I. Additional Information

Individuals who require information about the final-form rulemaking may contact Gregory P. Sirb, Executive Director of the State Athletic Commission, 2601 North Third Street, Harrisburg, PA 17110, (717) 787-5720.

J. Findings

The Commission finds that:

(1) Public notice of intention to adopt these regulations was given under sections 201 and 202 of the act of July 31, 1968, (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the CDL.

(4) These regulations are necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

K. Order

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code, are amended by adding §§ 29.1, 29.4, 29.6–29.8, 29.10–29.16, 29.21, 29.23, 29.24, 29.26, 29.28 and 29.29 to read as set forth at 28 Pa.B. 2155; and by adding §§ 29.2, 29.3, 29.5, 29.9, 29.17, 29.22, 29.25 and 29.27 to read as set forth in Annex A.

(b) The Commission shall submit this order, 28 Pa.B. 2155 and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Commission shall certify this order, 28 Pa.B. 2155 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on February 27, 2009.

CHARLES P. BEDNARIK,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 104 (January 3, 2009).)

Fiscal Note: Fiscal Note 16-41 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart B. BOXING

CHAPTER 29. MIXED MARTIAL ARTS

Subchapter A. PROFESSIONAL MIXED MARTIAL ARTS

§ 29.2. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Boxing Act—5 Pa.C.S. Part I, Subpart B.

Contestant—A person who engages in mixed martial arts competition, either as a professional or as an amateur.

Flagrant foul—An intentional foul, using any foul technique under §§ 29.12(b) or 29.29(b) (relating to acts constituting fouls), that causes a crippling injury upon an opponent, so that the injured contestant is adjudged incapable of continuing the contest or exhibition.

Mixed martial arts—Competition involving the use, subject to any applicable limitations set forth in this chapter, of a combination of techniques from different disciplines of the martial arts, including grappling, kicking and striking.

(b) The definitions in sections 101 and 302 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to professional boxing.

§ 29.3. General requirements.

(a) Professional contests and exhibitions of mixed martial arts must be conducted under the supervision and authority of the Commission.

(b) Professional contestants shall be licensed by the Commission.

(c) Debut contestants shall complete a Commission-approved form detailing the contestant's experience and training in mixed martial arts competitions. The form may be obtained by request from the Commission office or from the Commission's web site at <http://www.dos.state.pa.us/sac>.

(d) The Commission may review the applicant's experience, qualifications, medical records, win-loss record and training record as part of its determination whether to issue or renew any professional mixed martial arts license.

(e) Professional mixed martial arts contestants shall be covered by insurance which shall be set by Commission policy and paid for by the promoter or sponsor of the event.

(f) The fees specified under Chapter 13 (relating to bonds and fees) apply to mixed martial arts permits, contestants, promoters and other licensees, except as otherwise provided in this chapter.

§ 29.5. Duration of rounds.

(a) A nonchampionship contest of professional mixed martial arts may not exceed three rounds of 5 minutes per round with a 1 minute rest period following each round, except with the written or oral permission of the Commission or the Executive Director.

(b) A championship contest of professional mixed martial arts may not exceed five rounds of 5 minutes per round with a 1 minute rest period following each round, except with the written oral permission of the Commission or the Executive Director.

§ 29.9. Equipment.

(a) The gloves used in professional mixed martial arts contests and exhibitions must be new for all main events. The gloves used for all undercard events must be in good condition and approved by the referee and the Executive Director or a designee before and during use or they must be replaced.

(b) Contestants shall wear open finger gloves weighing between 4 to 8 ounces, which shall be supplied by the promoter and approved by the referee and the Executive Director or a designee before and during use. Contestants are not permitted to supply their own gloves.

(c) Male contestants shall provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the referee and the Executive Director or a designee.

(d) Female contestants shall provide and wear a chest protector during competition. The chest protector is subject to examination and approval by the referee and the Executive Director or a designee. Female contestants may provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the referee and the Executive Director or a designee.

(e) For each contest or exhibition, the licensed promoter shall provide each contestant's corner with a clean water bucket and a stool.

§ 29.17. Promoter licensing and bonding requirements.

Mixed martial arts promoters shall:

(1) Be licensed by the Commission.

(2) Be required to execute and file a surety bond with the Commission of not less than \$10,000.

(3) Notify the Commission in writing of the time, date and location of the event. The notification must be received by the Commission at least 10 days in advance of the event. Promoters must receive written approval from the Commission to hold the event on the specified date. The Commission reserves the right to limit the number of mixed martial arts events per month to ensure the proper regulation of each event.

(4) Submit a written list of all the scheduled match-ups which includes the full names, records and scheduled rounds for all contestants. The Commission reserves the right to limit the number of mixed martial arts bouts scheduled for each event.

(5) Submit a list of all officials that may be working that event, including referees, judges and timekeepers. Officials must be approved by the Commission. Officials for professional events must also be licensed by the Commission.

Subchapter B. AMATEUR MIXED MARTIAL ARTS**§ 29.22. General requirements.**

(a) Amateur contestants shall be at least 18 years of age.

(b) Amateur contests and exhibitions of mixed martial arts shall be conducted under the supervision and authority of the Commission.

(c) Amateur contestants shall be licensed by the Commission.

(d) Debut amateur contestants shall complete a Commission-approved form detailing the contestant's experience and training in mixed martial arts competitions. The form may be obtained by request from the Commission office or from the Commission's web site at <http://www.dos.state.pa.us/sac>. The trainer of the debut contestant shall certify that the contestant is skilled enough to compete and has never engaged in any type of professional mixed martial arts event. A professional boxer may compete as an amateur in a mixed martial arts event only with the approval of the Commission.

(e) The Commission may review the applicant's experience, qualifications, medical records, win-loss record and training record as part of its determination whether to issue or renew any amateur mixed martial arts license.

(f) Amateur mixed martial arts contestants shall be covered by insurance which will be set by Commission policy and paid for by the promoter or sponsor of the event.

(g) Amateur contestants shall attend the prebout meeting with a designee of the Commission to review all rules and regulations of the Commission pertaining to amateur mixed martial arts.

§ 29.25. Duration of rounds.

(a) A contest of amateur mixed martial arts with a contestant with three or less amateur bouts may not exceed three rounds of 2 minutes per round with a 1 minute rest period between rounds, except with the written or oral permission of the Commission or the Executive Director.

(b) A contest of amateur mixed martial arts with a contestant with more than three amateur bouts may not exceed three rounds of 3 minutes per round with a 1 minute rest period between rounds, except with the written or oral permission of the Commission or the Executive Director.

§ 29.27. Equipment.

(a) The gloves used in amateur mixed martial arts contests and exhibitions must be new for all main events. The gloves used for all undercard events must be in good condition and approved by the referee and the Executive Director or a designee before and during use or they must be replaced.

(b) Amateur contestants shall wear open finger gloves weighing at least 7 ounces, which shall be supplied by the promoter and approved by the referee and the Executive Director or a designee before and during use. Contestants are not permitted to supply their own gloves.

(c) Contestants shall wear a mouth guard, shin pads and instep pads during competition.

(d) Ankle wraps may be used during competition. Ankle wraps are subject to examination and approval by the referee and the Executive Director or a designee.

(e) Male contestants shall provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the referee and the Executive Director or a designee.

(f) Female contestants shall provide and wear a chest protector during competition. The chest protector is subject to examination and approval by the referee and the Executive Director or a designee. Female contestants may provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the referee and the Executive Director or a designee.

(g) For each contest or exhibition, the licensed promoter shall provide each contestant's corner with a clean water bucket and a stool.

[Pa.B. Doc. No. 09-153. Filed for public inspection January 30, 2009, 9:00 a.m.]
