



Fast Track Proposed Regulation Agency Background Document

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| Agency name | Department of Professional and Occupational Regulation |
| Virginia Administrative Code (VAC) citation | 18 VAC 120-40 |
| Regulation title | Professional Boxing and Wrestling Event Regulations |
| Action title | Add requirements for negative test results for hepatitis and HIV |
| Date this document prepared | 11/14/08 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed changes will require for boxing and mixed martial arts events: (1) a participant in a boxing or mixed martial arts event to provide a negative test result for hepatitis B and C and HIV prior to participating in an event; (2) that the promoter provide a disinfecting solution at ringside; and (3) clearly state that regulated medical waste must be disposed of in accordance with DEQ regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The agency adopted the Fast Track action on October 21, 2008.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

§ 54.1-831 of the Code of Virginia authorizes the Department to promulgate regulations.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The new and amended regulations will protect the health and safety of ring officials, other participants in the event, and the public by reducing their risk of exposure to serious, life-threatening diseases.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

These changes are expected to be non-controversial and are necessary to protect the health and safety of ring officials, other participants, and the public by reducing their risk of exposure to serious, life-threatening diseases. The proposed changes are common sense and no participant, ring official or member of the public would expect the Commonwealth of Virginia to allow an individual with a serious, life-threatening disease to participate in a contest which could facilitate the spread of the disease.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The proposed changes will require for boxing and mixed martial arts events: (1) a participant in a boxing or mixed martial arts event to provide a negative test result for hepatitis B and C and HIV prior to

participating in an event; (2) that the promoter provide a disinfecting solution at ringside; and (3) clearly state that regulated medical waste must be disposed of in accordance with DEQ regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

Participants in boxing and mixed martial arts events will now have to provide proof of the required negative tests; however, such tests are available for no cost from local health departments and are necessary to protect the health and safety of ring officials, other participants, and the public. There are no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

N/A

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

N/A

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum:
1) *the establishment of less stringent compliance or reporting requirements;* 2) *the establishment of less stringent schedules or deadlines for compliance or reporting requirements;* 3) *the consolidation or simplification of compliance or reporting requirements;* 4) *the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and* 5) *the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The regulations were developed with consideration that the affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

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| Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures | None. |
| Projected cost of the regulation on localities | None. |
| Description of the individuals, businesses or other entities likely to be affected by the regulation | Individual fighters who are going to participate in an event in Virginia will now be required to present a negative test for hepatitis B and C and HIV prior to participating in an event. Such tests are available from local health departments at no cost. |
| Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. | The change is expected affect 100 to 125 participants on an annual basis. The tests are available from local health departments at no cost. |
| All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. | Tests for hepatitis B and C and HIV are available from local health departments at no cost – further, these tests are only required of licensed participants who are going to participate in an event. |

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Not requiring a negative test for participants in boxing and mixed martial arts events is the other option; however, this option places ring officials, other participants and the public at risk of exposure to serious, life-threatening diseases. The reference to the DEQ Regulated Medical Waste Management Regulations only brings this requirement to the attention of promoters; they have been subject to the requirements of this regulation whether they were previously aware of the requirement or not. The requirement for the disinfecting solution is also required to ensure the safety of ring officials and other participants.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|-------------------------------|---|----------------------------|---|
| 15 | | | Add references to the new requirement in section 85. |
| | 85 | | Add a new section to require a negative test for boxing and mixed martial arts participants for hepatitis B and C, and HIV, prior to an event (no more than 180 days prior to the event). |
| 240 | | | Add requirement for a disinfecting solution to be present ringside. In addition, clearly state that regulated medical waste must be disposed of in accordance with DEQ regulation. |
| 411.1 | | | Add requirement for a disinfecting solution to be present ringside. In addition, clearly state that regulated medical waste must be disposed of in accordance with DEQ regulation. |