



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Virginia Racing Commission
VAC Chapter Number:	11 VAC 10-20-220
Regulation Title:	Assignment of racing days
Action Title:	Amend
Date:	04/10/2003

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Racing Commission has adopted three new substantive provisions in its regulations "Assignment of racing days" (11 VAC 10-20-220). The provisions are (i) allowing the Commission to consider an assignment or revision at its next regular meeting, (ii) changing the racing days upon application by the licensee, and (iii) allowing for a letter of credit instead of a bond with surety. Also, there are two instances where the word "that" is substituted for the word "which."

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The Virginia Racing Commission derives its statutory authority to promulgate regulations from the provisions of §59.1-369 of the Code of Virginia. The Code states, in part in subdivision 3, “The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter.”

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

In accepting the recommendations of its Rules Committee, the Virginia Racing Commission has amended three substantive provisions of the regulations pertaining to the assignment of racing days. First, the Commission will be allowed to consider the assignment or amendment of racing days without the 15-day delay in the matter. Second, the Commission can consider a change in the racing days, upon application by the licensee, at any time during the calendar year. Third, the licensee can submit a letter of credit instead of a bond with surety to cover any indebtedness. Through these amendments, the regulations will protect the health, safety and welfare of the participants in horse racing.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The experience of the Commission has been that the assignment or the revision of racing days should be considered at the earliest possible moment. Hence, the Commission, the licensee and horsemen agreed that the imposition of a 15-day should be avoided unless the Commission

determines that a public hearing is necessary. Also, the Commission may change the assignment of racing, upon application by the licensee, at any time during the calendar year. Finally, the Commission can accept a letter of credit or a bond with surety to cover indebtedness upon the licensee.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

The primary advantages and disadvantages to the horse racing community are important. The amendments allow for a more expeditious consideration of the assignment and revision of racing days. The amendments make the revision of racing days, upon the application of the licensee, at any time of the year rather than early part of the calendar year. The amendments allow the use of a letter of credit or a bond with surety for indebtedness upon the licensee.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

There will be no projected cost to the Virginia Racing Commission because of new substantive provisions and there will be no projected costs to the localities. Further, there will be no projected costs to the licensee or the horsemen.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

In B:

The Commission can consider the assignment or revision of racing days without waiting 15 days of the receipt of the request, unless the Commission holds a public hearing. Also in subsection 1, the word “that” replaces the word “which.”

In C:

In subsection 25, the word “that” replaces the word “which.”

In D:

In subsection 2, the words “upon application by the licensee” are required to change the assignment of racing days previously made and the words “at the beginning of any calendar year” are deleted so that the change can be made at any time of the year.

In subsection 3, the words “a letter of credit in” have been added so that a licensee can use a letter of credit or a bond with surety to cover any indebtedness. The words “it determines to be sufficient” to replace “of \$1 million or a higher amount” to include the increased costs in conducting horse racing.

Alternatives

Please describe the specific 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.

The amendments have the ability of selecting the least burdensome or intrusive alternative to assignment or revision of racing days. The amendments allow the Commission to make assign or revised racing days as quickly as possible, unless the Commission determines that a public hearing is necessary. Further, if a revision of racing days is necessary, the Commission can change at any time in the year, upon application by the licensee. Finally, the licensee may use a letter of credit or bond with surety to cover any indebtedness.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The regulations will be published in *The Virginia Register*. There will be a public hearing on the regulations approximately 30 days after they appear in *The Virginia Register*. Because the recommendations came from the Rules Committee, there has already been considerable comment built into the promulgation process.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Representatives of Colonial Downs and the horsemen form a major portion of the Rules Committee and they have a great deal to do with the wording of the amendments to the section. They are readily aware of the import of the amendments.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Commission has an ongoing review process for its regulations. The regulations are reviewed at the conclusion of each race meeting and amendments are made when necessary.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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 amendments will have no impact on the family or family stability.