



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Virginia Racing Commission
VAC Chapter Number:	11 VAC 10-20-190
Regulation Title:	Criteria for unlimited horse racing facilities
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summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed.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 new substantive provisions in its regulation “Criteria for unlimited horse racing facilities” (11 VAC 10-20-190). The provisions are (i) incorporating the latest additions to the Code of Virginia, (ii) updating the specifications for racetrack facilities, equipment and safety, (iii) and other revisions of existing regulations throughout the section.

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 this section of the regulations to incorporate the recent changes to the Code of Virginia, include the latest specifications relating to national standards for racetrack facilities, equipment and safety, and refine the wording of specific regulations within the section where appropriate. The Rules Committee is a group of interested people comprising the spectrum of horse racing in the Commonwealth. Through this amendment process Virginia’s regulations pertaining to horse racing will be in accord with those of neighboring jurisdictions and they are essential to protect the health, safety and the welfare of participants and racehorses in the Commonwealth.

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.

In the general subsection of the regulations, there are two new substantive provisions. First, the regulations take into account the new provisions in the awarding of live racing days in Virginia whereby the Commission can alter the number on the basis of what is best for the entire industry.

This provision will become effective on July 1, 2003 when the legislation becomes effective. Furthermore, there is a requirement of a toll-free telephone number for “Gamblers Anonymous.” This provision is already printed in the daily programs at Colonial Downs.

In the facilities, equipment and safety subsections of the regulations, the Rules Committee and the Commission relied heavily upon the recommendations of the Jockeys’ Guild in the specifications upon racetracks. These specifications have been presented to the Association of Racing Commissioners International and will be included in Model Rules for the sport. Furthermore, Colonial Downs already meets these specifications and this furthermore establishes a safe foundation for any future unlimited racetracks constructed within Virginia.

And throughout the section, where past experience has been beneficial, amendments have been added to incorporate the changes within the regulations.

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 essential. The clear advantage has been that horsemen, and the racetrack patrons, have grown accustomed to the racing at Colonial Downs, probably the safest racetrack in the nation. The facilities, equipment and safety requirements make it one of the safest racing facilities in the nation with very few serious injuries to the participants and horses. By making these amendments, Virginia will be assured of similar safe racetracks, if there should be additional one constructed.

The primary advantages and disadvantages to the Virginia Racing Commission are equally essential. The racetrack at New Kent is noted throughout the nation for its safe turf and dirt racecourses. In 2002, almost all of the races were run over the turf course without any serious problems. This is a good reputation that the Commission, along with Colonial Downs and the horsemen, want to maintain.

Because Colonial Downs already meets the requirements for facilities, equipment and safety, there will be no fiscal impact on the licensee. Also, the horsemen appreciate the quality of the facilities, equipment and safety requirements where they race their horses. The patrons also appreciate that their wagers are upon horses racing over safe courses.

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 the facilities already exist and there will be no projected costs on localities.

A new racetrack, if constructed, would have to incur the costs of facilities, equipment and safety. The cost providing the facilities, equipment and safety would be very expensive for the construction of a new racetrack. The cost could exceed \$10 million to \$20 million.

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.

A. Generally

3. The licensee has 15 days, instead of 30 days, to submit the most recent inspection reports on the facility.

7(b). The rephrasing of the sentence specifies that the owner's account shall be forwarded to him at the close of each race meeting.

10. The word "handicapper" has been changed to "vendor" and the words "be licensed" has been changed to "possess a permit" to purposes of clarification.

13. A new subsection has been added that incorporates the wording newly passed legislation. The wording states that the Commission has the authority to alter the number of racing days.

14. A new subsection requires that a toll-free telephone number be included for "Gambler's Anonymous." The telephone number is printed in Colonial Downs' programs.

B. Facilities.

1. The licensee must provide a certified report from surveyor on the grade and measurement of the racing surface with the distances measured three-feet out from the inside rail prior to the opening of the racetrack. The report shall be approved by the executive secretary of the Commission.

2. The licensee shall have an adequate amount of growing medium for the inner turf course and that the course shall resemble the terrain with no rails leading from the main to the turf course. The inner turf course shall have portable inner rails.
3. The main track requirements specify the construction of the safety rail so that it withstands the impact of a horse running at racing speed. The design and construction shall be approved by the commission.
4. The distance poles, including photo-finish mirror, shall be a minimum 10-feet away from the inside rail.
6. The barns are specified to have hot-and-cold running water, be ventilated, proper drainage, and be in comfortable during the racing season.
10. This subsection has been deleted and the first-aid issues are dealt with in greater detail later in the section.
12. The jockeys' room is to include a "sauna or steam room."
14. The word "test barn" has been substituted for "detention barn."
17. A seat for a "patrol judge" shall be available in the mobile starting gate for harness racing.
19. The word "hold a permit issued" by the commission is substituted for the words "to be licensed."
21. No participant may ride in a race or an exercise without protective helmet and the chinstrap buckled.
22. The licensee shall have three outriders for flat and steeplechase race meetings.
24. No one person may race or exercise a racehorse without wearing a protective safety vest with a rating of five as defined by the British Equestrian Trade Association.

C. Equipment.

1. The licensee shall have an adequate number of assistant starters for flat race meetings and backup equipment for moving the starting gate.
2. The licensee shall have two electronic photo-finish devices and the devices shall be calibrated before the first day of the race meeting.
3. The stewards have the discretion to direct a video camera operator to videotape any action in during racing.

4. The licensee shall have an electronic timing device to record the winning time in at least hundredths of a second.

5. The words “test barn” has been substituted for “detention barn.”

7. The “old” subsection has been deleted because of advent of cell phones.

7. The words “payouts” has been substituted for “payoffs” and “exacta” has been substituted for “perfecta.”

8. The licensee has specifications for equine and human ambulances on racing days and training hours. In regards to first aid for people, the licensee shall appropriate equipment and, during flat race meetings, a physician present.

9. The licensee shall maintain adequate lighting for the participants and racehorses, the patrons and the electronic equipment.

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.

Again, the requirements on an unlimited horse racing facility are already in place at Colonial Downs and there is a vital interest on the part of the commission for ensuring that the high requirements will be in place for other racetracks, if they are constructed. The real purpose is to have first-class facilities for racing horses in Virginia.

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 public 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.