



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Racing Commission
<b>VAC Chapter Number:</b>	11 VAC 10-20-220
<b>Regulation Title:</b>	Assignment of Racing Days
<b>Action Title:</b>	Amend
<b>Date:</b>	12/22/2003

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The Virginia Racing Commission has adopted three 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.”

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

---

On November 19, 2003, the Virginia Racing Commission adopted the proposed amendments to its regulation “Assignment of Racing Days” (11 VAC 10-20-220) at its regular monthly meeting.

## 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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final 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 final 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 of the regulatory action's detail.*

---

The experience of the Commission has been that the assignment or 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 notice period should be avoided unless the Commission determined that a public hearing was necessary. Also, the Commission may change the assignment of racing days, 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 final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 the 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.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

---

No changes were made in the proposed regulation.

## Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

---

On October 15, 2003, the Virginia Racing Commission conducted a public hearing on the proposed regulation and no one wished to address the regulation. The proposed regulation was adopted as a final regulation at the November meeting without comment.

### 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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

---

In B:

The Commission can consider the assignment of revision of racing days without a 15-day period of notice, unless the Commission determines to hold 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.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the 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.