



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Racing Commission
Virginia Administrative Code (VAC) citation	11 VAC 10-20-240
Regulation title	Transfer or acquisition of interest in owner's, owner-operator's or operators license
Action title	Amendment
Document preparation date	12/04/2003

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Preamble

The APA (Section 2.2-4011) states that an "emergency situation" is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an "emergency situation" as described above.*
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.*

The General Assembly during the 2003 Session enacted an amendment to 59.1-386 shall be effective within 280 days or less from its enactment. The amendments to 11 VAC 10-20-240 carry out this purpose.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The amendments specify certain procedures for for the transfer or acquisition of an interest in an existing license. They changes are:

1. On the transfer of a race meet or meetings, the commission shall act within sixty days of receiving the request;
2. Any person acquiring actual control of an existing license shall apply to the commission for approval;
3. The Commission may demand such information of the applicant and shall approve or deny the request within sixty days;
4. For person acquiring actual control of an existing license, the applicant must provide the following:
 - a. A proposal for the future operation of the license;
 - b. Additional information provided by the applicant; and
 - c. The applicant has the experience, expertise, financial responsibility and commitments to meet the requirements of the Act, regulations, contracts with horsemen, and any proposal submitted by the commission.
5. For those applicants who have not sought commission approval, it may take actions against the existing license.

Legal basis

- 1) *Please confirm that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*
- 2) *Please indicate that the regulation is not otherwise exempt under the provisions of subdivision A.4 of Section 2.2-4006 of the APA.*

The Office of the Attorney General will submit the appropriate cover letter.

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	Subsection D.		The regulations set forth specific proposals for persons acquiring an interest in an existing license. In those cases, where the applicant has not sought the approval of the commission, it may taken actions against an existing license.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

It is in the interest of horse racing and breeding within the Commonwealth that licensed racetracks are operated with the highest quality. This has provided for the safe conduct of the sport within Virginia and has ensured the facilities are safe for the patrons who attend the races.

Family impact

Please assess the impact of the emergency regulatory action on the institution of the family and family stability.

The amendments to 11 VAC 10-20-240 will have no impact on the institution of the family and family stability.