

## VIRGINIA RACING COMMISSION

### 11 VAC 10-20-220. Assignment of racing days.

A. Generally. The commission shall promptly consider a request for racing days and assign racing days to a licensee.

B. Consideration of requests. Upon receipt of a request for assignment or revision of racing days, the commission shall consider the request at its next regular meeting, ~~which is scheduled 15 days after receipt of a request,~~ and may, in its discretion, assign the racing days as requested, modify the request, deny the request, or hold a public hearing pursuant to the following procedures.

1. If the commission deems a hearing is appropriate, the commission shall send written notice to the licensee and give due notice of the public hearing. The notice must include a brief description of the request, a statement that persons wishing to participate may do so in writing, the time and place of any public hearing on the request, and the earliest and latest date ~~which~~ that the commission may act.

2. The licensee will be afforded the opportunity to make an oral presentation, and the licensee or its representative shall be available to answer inquiries by the commissioners.

3. Any affected parties, including horsemen, breeders, employees of the licensee, representatives of other state and local agencies will be afforded the opportunity to make oral presentations. The public may be afforded the opportunity to make oral presentations and shall be given the opportunity to submit written comments.

4. If, after a request is received, the commission determines that additional information from the licensee is necessary to fully understand the request, the commission shall direct the licensee to submit additional information.

5. If the commission further determines it is necessary for a full understanding of a request, the commission shall request the licensee or a person submitting comments to appear before the commission. The commission shall request the appearance in writing at least five days in advance.

6. If a licensee fails to comply with the foregoing, the commission may deny the request for racing days.

7. A record of the proceedings shall be kept, either by electronic means or by court reporter, and the record shall be maintained until any time limits for any subsequent court appeals have expired.

8. Three or more members of the commission are sufficient to hear the presentations. If the chairman of the commission is not present, the commissioners shall choose one from among them to preside over the hearing.

C. Criteria for assignment of racing days. The commission, in making its determination, must consider the success and integrity of horse racing; the public health and safety, and welfare; public interest, necessity and convenience; as well as the following factors:

1. The integrity of the licensee;
2. The financial resources of the licensee;
3. The ability of the licensee to conduct horse racing, including the licensee's facilities, systems, managers, and personnel;
4. Past compliance of the licensee with statutes, regulations, and orders regarding horse racing with pari-mutuel wagering privileges;
5. The licensee's market, including area, population, and demographics;
6. The performance of the horse race meeting with previously assigned dates;
7. The impact of the assignment of racing days on the economic viability of the horse racing facility including attendance and pari-mutuel handle;

8. The quantity and quality of economic development and employment generated;

9. Commonwealth tax revenues from racing and related economic activity;

10. The entertainment and recreation opportunities for residents of the Commonwealth;

11. The breeds of horse racing;

12. The quality of racing;

13. The availability and quality of horses;

14. The development of horse racing;

15. The quality of the horse racing facility;

16. Security;

17. Purses;

18. Benefits to Virginia breeders and horse owners;

19. Stability in racing dates;

20. Competition among horse racing facilities, other racing days and with other providers of entertainment and recreation as well as its effects;

21. The social effects;

22. The environmental effects;

23. Community and government support;

24. Sentiment of horsemen; and

25. Any other factors related to the assignment of racing days ~~which~~ that the commission deems crucial to its decision-

making as long as the same factors are considered with regard to all requests.

D. Assigning racing days. In assigning racing days to a licensee, the commission shall designate in writing the total number of racing days assigned, the dates within which the racing days are to be conducted and dark days, the breed or breeds to be utilized, the type or types of racing to be offered, the horse racing facility where the racing days will be conducted, and the hours of racing.

1. The commission shall approve, deny or give its qualified approval to a request for racing days within 45 days after a public hearing, if a public hearing was held on the request.

2. Upon application by the licensee, the commission may, in its discretion, ~~change at the beginning of any calendar year~~ the assignment of racing days previously made.

3. The commission shall require a bond with surety or a letter of credit in within the an amount of \$1 million or a higher amount it determines to be sufficient as the commission ~~may require~~ to cover any indebtedness, including but not limited to purses, awards to horsemen and monies due the Commonwealth of Virginia, incurred by the licensee.

E. Denial of request final. The denial of a request by the commission shall be final unless appealed by the licensee under the provisions of these regulations.