VIRGINIA RACING COMMISSION

Statement of Final Agency Action

On June 14, 2000, the Virginia Racing Commission adopted the exempted regulation “Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Medication (11 VAC 10-180-10 et seq.).

Explanation of Substantive Changes

The Virginia Racing Commission relied heavily upon the counsel of the Racing Safety and Medication Committee in revising the regulation pertaining to medication. The committee is composed of nearly two dozen members including veterinarians, horsemen, and representatives of Colonial Downs, the Maryland-Virginia Racing Circuit, the Virginia Thoroughbred Association, and the Virginia Harness Horse Association.

At the January meeting, it was announced that the committee would be assembled to revisit medication regulation. An initial meeting was held at Laurel Park in Maryland in mid-February and two subsequent meetings were held in March at the Virginia Thoroughbred Association's offices in Warrenton.

A revised regulation was drafted incorporating the recommendations of the committee and copies were made available at the commission's April and May public meetings. Also, copies were distributed to the commission's Standing Advisory Panel.

The following recommendations of the committee were adopted by the Virginia Racing Commission at its public, monthly meeting in June, following a section-by-section review conducted by the commission veterinarian and during which there was no dissent expressed by those in attendance. The revisions are:

Section 10:

The definition of "controlled substance" has been expanded to include the provisions of the Virginia Drug Control Act. The definition of "licensed veterinarian" has been added to recognize that many racehorses are treated out-of-state prior to racing in Virginia. The definition of "permitted race day substances" has been clarified.

Section 20:

The provisions have been revised to clarify that in some circumstances a racehorse may be treated or a prescription may be written for a racehorse by a "licensed veterinarian;" however, when the racehorse is treated within the enclosure of the racetrack, then the

veterinarian must also have a permit issued by the commission as well.

In subsection F, a typographical error has been corrected.

Section 30:

In subsection E, a degree of flexibility has been incorporated into the designation of bleeders from other jurisdictions. The commission veterinarian has found that other jurisdictions are often unable to forward documentation within the tight time constraints.

Section 40:

Throughout the section, the terminology “a permit holder designated by the trainer” has been inserted where appropriate. The experience of the commission has been that often someone other than a groom attends the horse at the test barn where samples are collected.

Also, throughout the entire regulation, the terminology “commission veterinarian or his designee” has been inserted where appropriate to indicate that it could be an assistant veterinarian, test barn supervisor or veterinarian technician.

In subsection B, the horses in qualifying races or timed workouts are now subject to drug testing.

In subdivision C (6), the provisions have been revised to recognize that the United States Trotting Association also uses “freeze branding” as a means of horse identification in addition to lip-tattoo numbers.

Section 50:

In subsection B, the terminology “as shipped by the commission veterinarian” was been deleted. This is now clearly the responsibility of the permit holder.

In subsection F, the terminology “commission’s veterinary-pharmacological consultant” has been deleted because the commission veterinarian will now advise the stewards on these matters.

In subdivision F (7), the terminology “in writing” has been eliminated, as the stewards will notify by other means.

In subsection H, the retrospective testing of samples has been eliminated because other jurisdictions have experienced “chain of custody” challenges in regards to this procedure. However, split samples cannot be disposed of without the permission of the Senior Commonwealth Steward.

In subdivision J (4), it has been the experience of the commission that the various horsemen’s associations often fail to provide a witness to attend the storage of split samples. However, a designee of the commission veterinarian can also now witness the procedure.

In subsection K, the time limitation has been eliminated in the shipment of a split sample to the reference laboratory.

In subdivision L (11), the commission veterinarian is strictly forbidden to ship a split sample because this is the responsibility of the trainer, owner or their designee.

Section 60:

In subdivisions C (1), (2), (3) and (4), the various nonperformance altering substances must be administered concurrently with the administration of furosemide.

Section 70:

In subsection C, stewards may now take disciplinary actions for overages of phenylbutazone in qualifying races and timed workouts.

Section 80:

In subsection B, the amount for the administration of furosemide has been reduced from four to three hours and the amount of time for submission of furosemide treatment form has been moved back from one to two hours.

Statement of Basis, Purpose, Substance and Issues

Basis: 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.” Further, the commission regulatory action relating to the medication in racehorses is exempted under the provisions of §9-6.14:4.1. (B) (23) of the Virginia Administrative Process Act.

Purpose: The commission relies heavily upon its special advisory panel—the Racing Safety and Medication Committee—to advise it on matters pertaining to medication in racehorses. The committee represents the widest possible spectrum of interests within the horse racing and breeding community in the Commonwealth. The committee is charged with keeping the commission advised of the rapid developments in medications, their effects on racehorses, and procedures followed within the Mid-Atlantic Region. The recommendations of the committee, which have been adopted by the commission, will enhance the public’s health, safety and especially the welfare of horse racing in Virginia.

Substance: In addition to minor revisions to the chapter, there are three fairly substantial changes, which were recommended by the Racing Safety and Medication Committee that were adopted by the commission. The first substantial change is the reduction from four to three hours for the administration of furosemide. The second substantial change is that furosemide may be administered outside the enclosure of the racetrack. The third substantial change tightens the administration of other medications by requiring that it be administered concurrently with furosemide.

Issues: These revisions to the chapter pertaining to medication in racehorses represents reasonable refinements to the regulations that were hailed at the recent annual meeting of the Association of Racing Commissioners International “as the model for the rest of the nation.”

Summary:

Among the many recommendations of the Racing Safety and Medication Committee adopted by the commission and incorporated in the amendments include three substantial changes. The substantial changes include: (i) the reduction the time of administration of furosemide from four to three hours prior to post-time, (ii) the administration can occur outside the enclosure of the racetrack but the medication must be administered by a veterinarian who is a permit holder, and (iii) the permitted adjunct therapies must be administered concurrently with furosemide.