

VIRGINIA RACING COMMISSION

Statement of Final Agency Action:

On April 17, 2002, the Virginia Racing Commission adopted a final and exempted regulation entitled "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 its Racing Safety and Medication Committee in revising the regulation pertaining to medication in racehorses. 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 of the Commission, it was announced that the Committee would be assembled to revisit the medication regulation in view of efforts to update regulations among the Mid-Atlantic jurisdictions with an emphasis on bringing about uniformity from state-to-state.

An initial meeting was held at Laurel Park in Maryland in an effort to include the input from Maryland-based trainers who race in Virginia. Two more subsequent meetings were held at the Virginia Thoroughbred Association's offices in Warrenton.

A revised regulation was drafted and discussed in a section-by-section review during the Commission's April 17, 2002 meeting where the audience was invited to comment and make recommendations. All of the recommendations from those in attendance were accepted. The substantive changes are:

Section 10: Amends the section to include a definition of the prohibited act of "milkshaking or bicarbonate loading" of racehorses.

Section 20: Amend the section to specifically prohibit a trainer from allowing a horse to have a prohibited substance in its system, provides for veterinarians to report their treatment of racehorses, prohibits the possession of certain paraphernalia, and clarifies the exclusions by the U.S. Food and Drug Administration.

Section 50: Amends the section to delete reference to a program no longer provided by the Association of Racing Commissioners International and deletes reference to Class 4 and Class 5 substances.

Section 60: Amends the section to reflect the consolidation from five classes of substances to three, including the re-categorization of the substances, and sets forth amended disciplinary actions for such violations to reflect the consolidation from five to three classes of substances.

Section 70: Amends the section to further clarify the disciplinary actions for overages of phenylbutazone.

Section 80: Amends the section to further clarify the permitted substances that may be administered to a racehorse on race day as well as consolidate the permissible adjunct therapies from other sections in the chapter.

Section 90: Amends the section to reflect the latest practices followed in the Mid-Atlantic Region concerning bicarbonate testing.

Summary of Public Comments and Agency's Response:

The amendments to the exempted regulation were developed through a series of meetings of the Racing Safety and Medication Committee of the Virginia Racing Commission. The Committee is composed of representatives of the two licensees as well as representatives of the breed associations and private practice veterinarians.

The amendments were discussed during the Commission April 17, 2002 meeting in Richmond and all suggested revised were incorporated in the final draft.

Summary of Regulation:

Among the recommendations of the Racing Safety and Medication Committee adopted by the Virginia Racing Commission and incorporated in the amendments include five very substantial changes. The substantial changes include: (i) a definition of "milkshaking" and a subsequent prohibition from possession of the paraphernalia for "milkshaking," (ii) the requirements for the filing of veterinary treatment reports, (iii) the consolidation from five classes to three classes of substances and revision of the guidelines for disciplinary actions, (iv) the consolidation of all permissible bleeder medications in one section, and (v) a revision of regulations pertaining to bicarbonate testing to reflect current practice in the Mid-Atlantic Region.

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 §2.2-4002 (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 five fairly substantial changes, which were recommended by the Racing Safety and Medication Committee that were adopted by the commission. The substantial changes are: (i) a definition of "milkshaking" and a subsequent prohibition from possession of the paraphernalia for "milkshaking," (ii) the requirements for the filing of veterinary treatment reports, (iii) the consolidation from five classes to three classes of substances along with revision of guidelines for disciplinary actions, (iv) the consolidation of all permissible bleeder medications in one section, and (v) a revision of the provisions pertaining to bicarbonate testing to reflect current practice in the Mid-Atlantic Region.

Issues: These revisions to the chapter pertaining to medication in racehorses represents reasonable refinements to the regulations and ensure that the regulations will

bring uniformity in veterinary practice throughout the Mid-Atlantic Region thereby protecting the integrity of horse racing in the Commonwealth.

Furthermore, the commission was cognizant that the filing of veterinary treatment reports would place a new burden upon the regulated public. So that this important regulatory function could be integrated into practice during the relative short live race meetings at Colonial Downs and with many of the horses shipping into the racetrack, the commission gave considerable discretion to the commission veterinarian to work with the private practitioners to achieve this end.

Impact upon families: The regulations in this chapter will have no impact upon families in the Commonwealth.