Regulations Pertaining to

Horse Racing With

Pari-Mutuel Wagering

Virginia Racing Commission
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CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

11VAC10-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Virginia Racing Commission. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

11VAC10-11-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Virginia Racing Commission, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

11VAC10-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

11VAC10-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 11VAC10-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a reproposed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

11VAC10-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a reproposed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

11VAC10-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

11VAC10-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary

to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

11VAC10-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

11VAC10-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

11VAC10-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

11VAC10-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

CHAPTER 20

REGULATIONS PERTAINING TO HORSE RACING WITH PARI-MUTUEL WAGERING

Part I
General Provisions

11VAC10-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $ .10.

"Carryover" means the nondistributed pool moneys which are retained and added to a corresponding pool in accordance with this chapter.

"Commission" means the Virginia Racing Commission.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the commission.

"Entry" means two or more horses in a race that are treated as a single wagering interest for pari-mutuel wagering purposes.

"Expired ticket" means an outstanding ticket which was not presented for redemption within the required time period for which it was issued.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Horse owner" means a person owning an interest in a horse.

"Horse racing" means a competition on a set course involving a race among horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for a period not exceeding 14 days in any calendar year.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Minus pool" means that the payout is in excess of the net pool.

"Mutuel field" means two or more horses are treated as a single wagering interest because the number of wagering interests exceeds the number that can be handled individually by the totalizator.

"Net pool" means the amount of gross pari-mutuel ticket sales less refundable wagers and retainage.

"Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards.

"Off time" means the moment at which the starter dispatches the field.

"Operator's license" means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.

"Outstanding ticket" means a winning or refundable pari-mutuel ticket which was not cashed during the program for which it was issued.

"Owner's license" means a license issued by the commission allowing the holder to construct a horse racing facility for the purpose of conducting a limited or unlimited race meeting with pari-mutuel wagering privileges.

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Permit holder" includes any person holding a permit to participate in horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting where pari-mutuel wagering is offered thereon as provided in the Act.

"Person" includes a natural person, partnership, joint venture, association or corporation.

"Pool" means the amount wagered during a race meeting in straight wagering, in multiple wagering, or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, 5.0% or more of the stock of any person who is a licensee, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 5.0% or more of any such stock.

"Profit" means the net pool after the deduction of the amount wagered on the winners.

"Profit split" means a division of profit among the separate wagering interests or winning combinations resulting in two or more payout prices.

"Program" means a schedule of races run consecutively at a racetrack or simulcast to a satellite facility.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Retainage" means the total amount deducted, from the pari-mutuel wagering pool in the percentages designated by statute for the Commonwealth of Virginia, purse money for the participants, Virginia Breeders Fund, and the operators.

"Single price pool" means an equal distribution of profit to winning wagering interests or winning wagering combinations through a single payout price.

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of any affiliated corporation if the commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or licensee corporation that he should be deemed a stockholder.

"Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

"Unlimited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for periods of 15 days or more in any calendar year.

"Virginia Breeders Fund" means the fund established to foster the industry of breeding racehorses in the Commonwealth of Virginia.

"Wagering interest" means one or more horses in a race which are identified by a single program number for wagering purposes.

Part II
Licensure

11VAC10-20-20. Identification of applicant for owner's, owner-operator's, or operator's license.

An application shall include the name, address, and telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

11VAC10-20-30. Applicant's affidavit.

An application shall include an affidavit from the chief executive officer or a major financial participant in the applicant setting forth:

1. That application is made for a license to own, own-operate, or operate a horse racing facility at which pari-mutuel wagering is conducted;

2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority shall be attached;

3. That the applicant seeks a grant of a privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;

4. That the applicant consents to inquiries by the Commonwealth of Virginia, its employees, the commission members, staff and agents, into the financial, character, and other qualifications of the applicant by contacting individuals and organizations;

5. That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, staff, or agents;

6. That the affiant has read the application and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated as information and belief; as to those matters, affiant believes them to be true;

7. That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or substantial deviation from representations in the application may result in denial, revocation, suspension or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable state and federal statutes and regulations, all regulations of the commission and all other local ordinances;

9. The affiant's signature, name, organization, position, address, and telephone number; and

10. The date.

11VAC10-20-40. Disclosure of ownership and control.

An applicant must disclose:

1. The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other;

2. If the applicant is an individual, the applicant's legal name, whether the applicant is a United States citizen, any aliases and business or trade names currently or previously used by the applicant, and copies of all state and federal tax returns for the past five years;

3. If the applicant is a corporation:

a. The applicant's full corporate name and any trade names currently or previously used by the applicant;

b. The jurisdiction and date of incorporation;

c. The date the applicant began doing business in Virginia and a copy of the applicant's certificate of authority to do business in Virginia;

d. Copies of the applicant's articles of incorporation, bylaws, and all state and federal corporate tax returns for the past five years;

e. The general nature of the applicant's business;

f. Whether the applicant is publicly held as defined by the rules and regulations of the Securities and Exchange Commission;

g. The classes of stock of the applicant. As to each class, the number of shares authorized, number of shares subscribed to, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed;

h. Whether the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted;

i. The names, in alphabetical order, and addresses of the directors and, in a separate list, officers of the applicant. The number of shares held of record directly or indirectly by each director and officer as of the application date of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed;

j. The names, in alphabetical order, and addresses of each recordholder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units shall be disclosed;

k. Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and Securities and Exchange Commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of the most recent registration statement and annual report filed with the Securities and Exchange Commission;

l. Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of the most recent registration statement filed with the securities regulator in that jurisdiction; and

m. Whether the securities registration and filing requirements of the Commonwealth of Virginia have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filings with Virginia's State Corporation Commission during the past five years.

4. If the applicant is an organization other than a corporation:

a. The applicant's full name and any aliases, business, or trade names currently or previously used by the applicant;

b. The jurisdiction of organization of the applicant;

c. The date the applicant began doing business in Virginia;

d. Copies of any agreements creating or governing the applicant's organization and all of the applicant's state and federal tax returns for the past five years;

e. The general nature of the applicant's business;

f. The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policy-making authority. As to each, the applicant must disclose the nature and extent of any ownership interest, direct or indirect, including options, or other voting interest, whether absolute or contingent, in the applicant; and

g. The names, in alphabetical order, and addresses of any individual or other entity holding a record or beneficial ownership interest, direct or indirect, including options, as of the date of the application, or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.

5. If a nonindividual record or beneficial holder of an ownership or other voting interest of 5.0% or more in the applicant is identified pursuant to subdivision 3, i or j or subdivision 4, f and g, the applicant must disclose the information required by those subdivisions as to record or beneficial holders of an ownership or other voting interest of 5.0% or more in that nonindividual holder. The disclosure required by those subdivisions must be repeated, in turn, until all other voting interests of 5.0% or more in the applicant or any nonindividual holder are identified. When an applicant is unable to provide the information required, it shall explain fully and document its inability to do so;

6. Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control;

7. Any agreements or understandings which the applicant or any individual or entity identified pursuant to this part has entered into regarding ownership or operation of applicant's horse racing facility, and copies of any such agreements in writing;

8. Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation concerning the proposed horse racing facility by the applicant, and copies of any such agreements in writing; and

9. Whether the applicant, any partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more has held or holds a license or permit issued by a governmental authority to own or operate a horse racing facility, pari-mutuel wagering facility or any other form of gambling or has a financial interest in such an enterprise or conducts any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

11VAC10-20-50. Disclosure of character information.

An applicant for a license must disclose and furnish particulars as follows whether the applicant or any individual or other entity identified pursuant to subdivisions 3 and 4 of 11VAC10-20-40 and subdivisions 2 and 3 of 11VAC10-20-110 of this chapter:

1. Been charged in any criminal proceeding other than a traffic violation. If so, the applicant must disclose nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional, or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, circumstances and disposition;

3. Been accused in an administrative or judicial proceeding of violating a statute or regulation relating to horse racing or gambling;

4. Been charged in an administrative or judicial proceeding of violating a statute or regulation relating to unfair labor practices or discrimination;

5. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances and disposition;

6. Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision and disposition;

7. Failed to satisfy any judgment, decree or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances; and

8. Been delinquent in filing a tax return required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

11VAC10-20-60. Disclosure of sites and facilities.

An application for a license must disclose with respect to the pari-mutuel horse racing facility it will own, operate, or own and operate:

1. The address of the facility, ownership of site for the last five years, legal description, mortgagors, proof of title insurance, its size, and geographical location, including reference to county and municipal boundaries;

2. A site map showing existing highways and streets adjacent to the facility, and separately showing any proposed highways and streets adjacent to the facility, including their scheduled completion dates;

3. The type or types of racing for which the facility is designed, whether thoroughbred, harness standard bred, quarterhorse, or other;

4. Racetrack dimensions for each racetrack operated by the facility by:

a. Circumference;

b. Width;

c. Banking;

d. Location of chutes;

e. Length of stretch;

f. Distance from judges' stand to first turn;

g. Type of surface; and

h. Description of safety rail.

5. A description of the backstretch area, giving:

a. Dimensions and number of barns, whether open or enclosed;

b. Location and interval of barns;

c. Dimensions and number of stalls per barn;

d. Location of offices for veterinarians;

e. Location of facilities for emergency care for horses;

f. Location of facilities for feed, tack, and other vendors;

g. Location, description and number of housing units for backstretch employees;

h. Location and description of commissary, lavatory and recreational facilities for backstretch employees; and

i. Location and description of training track, if any.

6. A description of the grandstand, giving:

a. Total seating capacity;

b. Total reserved seating capacity;

c. Indoor and outdoor seating capacity;

d. Configuration of grandstand seating and pari-mutuel and concession facilities within the grandstand;

e. The number and location of men's and women's restrooms, drinking fountains and medical facilities available to patrons; and

f. Description of public pedestrian traffic patterns throughout the grandstand.

7. A description of the post-race detention barn, giving:

a. Distance from the post-race detention barn to track and paddock;

b. Number of sampling stalls;

c. Placement of viewing ports on each;

d. Location of post-mortem floor;

e. Number of wash stalls with hot and cold water and drains;

f. Availability of video monitors and other security measures; and

g. The walking ring.

8. A description of the paddock and saddling area, giving;

a. Number of stalls in the paddock;

b. Height from the floor to lowest point of the stall ceiling and entrance;

c. Paddock public address and telephone services; and

d. Public viewing area.

9. A description of the jockeys' and drivers' quarters, giving:

a. Changing areas;

b. A listing of equipment to be installed in each; and

c. The location of the jockeys' or drivers' quarters in relation to the paddock.

10. A description of the pari-mutuel totalizator, giving:

a. Approximate location of bettors' windows and cash security areas; and

b. A description of the equipment, including vendor and manufacturer if known.

11. A description of the parking, giving:

a. Detailed attention to access to parking from surrounding streets and highways;

b. Number of parking spaces available, distinguishing between public and other;

c. A description of the road surface on parking areas and the distance between parking and grandstand; and

d. A road map of the area showing the relationship of parking to surrounding, existing and proposed streets and highways.

12. A description of the height, type of construction and materials of perimeter fence;

13. A description of improvements and equipment at the horse racing facility for security purposes in addition to perimeter fence, including the vendor and manufacturer of equipment if known;

14. A description of starting, timing, photo finish, and photo-patrol or video equipment, including the vendor and manufacturer if known;

15. A description of work areas for the commission members, officers, employees, stewards, and agents;

16. A description of the facility's access to public transportation, the types of public transportation and schedules and road maps of area which show pick-up and drop-off points; and

17. A description of manure and other refuse containers and plans for their prompt and proper removal.

11VAC10-20-70. Disclosure of development process.

An applicant for a license must disclose with regard to development of its horse racing facility:

1. The total cost of construction of the facility, distinguishing between known costs and projected costs;

2. Separate identification of the following costs, distinguishing between known costs and projected costs:

a. Facility design;

b. Land acquisition;

c. Site preparation;

d. Improvements and equipment, separately identifying the costs of 11VAC10-20-60, and other categories of improvements and equipment; and

e. Organization, administrative, accounting, and legal.

3. Documentation of the nature of interim financing and the nature of permanent financing;

4. Documentation of fixed costs;

5. The schedule for construction of the facility, giving:

a. Acquiring land;

b. Soliciting bids;

c. Zoning and construction permit approval;

d. Awarding construction contracts;

e. Beginning construction;

f. Completing construction;

g. Training staff; and

h. Beginning of racing.

6. Schematic drawings;

7. Copies of any contracts with and performance bonds from the:

a. Architect or other design professional;

b. Project engineer;

c. Construction engineer;

d. Contractors and subcontractors; and

e. Equipment procurement personnel.

8. Whether the site has been acquired or leased by applicant. If so, the applicant must provide the documentation. If not, the applicant must state which actions must be taken in order to obtain the site; and

9. Whether present construction planning envisions future expansion of the facilities and, if so, a general description of the nature of such expansion.

11VAC10-20-80. Disclosure of financial resources.

An applicant for license must provide the following with regard to financial resources:

1. The most recent independently audited financial statement showing:

a. The applicant's current assets, including investments in affiliated entities, loans and accounts receivable;

b. Fixed assets;

c. Current liabilities, including loans and accounts payable; and

d. Long-term debt and equity; and

e. Statement of income and expenses, and statement of cash flow;

2. Equity and debt sources of funds to develop, own and operate the horse racing facility:

a. With respect to each source of equity:

(1) Contribution;

(2) Identification of the source;

(3) Amount;

(4) Form;

(5) Method of payment;

(6) Nature and amount of present commitment; and

(7) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts;

b. With respect to each source of debt:

(1) Contribution;

(2) Identification of the source;

(3) Amount;

(4) Terms of debt;

(5) Collateral;

(6) Identity of guarantors;

(7) Nature and amount of commitments; and

(8) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts; and

3. Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

11VAC10-20-90. Disclosure of financial plan.

An applicant for a license must disclose with regard to its financial plan the financial projections for the development period and for each of the first five racing years, with separate schedules based upon the number of racing days, types of racing, and types of pari-mutuel wagering the applicant requires to break even and the optimum number of racing days and types of wagering the applicant seeks each year. The commission will utilize financial projections in deciding whether to issue licenses.

Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and approval of types of permissible pari-mutuel pools.

The disclosure must include:

1. The following assumptions and support for them:

a. Average daily attendance;

b. Average daily per capita handle and average bet;

c. Retainage;

d. Admissions to track, including ticket prices and free admissions;

e. Parking volume, fees and revenues;

f. Concessions, gift shop and program sales;

g. Cost of purses;

h. Pari-mutuel expenses;

i. State taxes;

j. Local taxes;

k. Federal taxes;

l. Virginia Breeders Fund;

m. Payroll;

n. Operating supplies and services;

o. Utilities;

p. Repairs and maintenance;

q. Insurance;

r. Travel expenses;

s. Membership expenses;

t. Security expenses;

u. Legal and audit expenses; and

v. Debt service.

2. The following profit and loss elements:

a. Total revenue, including projected revenues from retainage, breakage, uncashed tickets, admissions, parking, and concessions, gift and program operations;

b. Total operating expenses, including anticipated expenses for:

(1) Purses;

(2) Pari-mutuel;

(3) Sales tax;

(4) Local taxes;

(5) Admissions tax;

(6) Virginia Breeders Fund;

(7) Special assessments;

(8) Cost of concession goods, gifts and programs;

(9) Advertising and promotion;

(10) Payroll;

(11) Operating supplies and service;

(12) Maintenance and repairs;

(13) Insurance;

(14) Security;

(15) Legal and audit; and

(16) Federal and state taxes.

c. Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used.

3. Projected cash flow, including assessment of:

a. Income, including equity contributions, debt contributions, interest income and operating revenue; and

b. Disbursements, including land, improvements, equipment, debt service, operating expense and organizational expense.

4. Projected balance sheets as of the end of the development period and of each of the first five racing years setting forth:

a. Current, fixed and other noncurrent assets;

b. Current and long-term liabilities; and

c. Capital accounts.

5. The applicant must also disclose an accountant's review report of the financial projections.

11VAC10-20-100. Disclosure of governmental actions.

An applicant for a license must disclose with regard to actions of government agencies:

1. The street and highway improvements necessary to ensure adequate access to applicant's horse racing facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

2. The sewer, water and other public utility improvements necessary to serve applicant's facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

3. The status of any required government approvals for development, ownership and operation of its horse racing facility:

a. A description of the approval, unit of government, date and documentation;

b. Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held; and

c. Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation. In addition, the applicant must summarize its plans to meet these conditions.

4. Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval and estimated date of approval;

5. Whether an environmental assessment or environmental impact statement of the facility has been or will be prepared. If so, the applicant must disclose its status and the governmental unit with jurisdiction, and provide a copy of any statement; and

6. Whether the applicant is in compliance with all state statutes, local charter provisions, local ordinances, and state and local regulations pertaining to the development, ownership and operation of its horse racing facility. If the applicant is not in compliance, the applicant must

disclose the reasons why the applicant is not in compliance and summarize plans to obtain compliance.

11VAC10-20-110. Disclosure of management.

An applicant for a license must disclose with regard to the development, ownership and operation of its pari-mutuel horse racing facility:

1. A description of the applicant's management plan, with budget and identification of management personnel by function, job descriptions and qualifications for each management position, and a copy of the organization chart;

2. Management personnel to the extent known and with respect to each:

a. Legal name, alias or aliases and previous name or names;

b. Current residence and business addresses and telephone numbers;

c. Qualifications and experience in the following areas:

(1) General business;

(2) Marketing, promotion and advertising;

(3) Finance and accounting;

(4) Horse racing;

(5) Pari-mutuel wagering;

(6) Security; and

(7) Human and animal health and safety.

d. Description of the terms and conditions of employment and a copy of each type of agreement;

3. Consultants and other contractors who have provided or will provide management-related services to applicant with respect to each:

a. Full name;

b. Current address and telephone number;

c. Nature of services;

d. Qualifications and experience; and

e. Description of terms and conditions of each contractor's agreement and a copy of the agreement.

4. Memberships of the applicant, management personnel and consultants in horse racing organizations.

5. Description of the applicant's marketing, promotion and advertising plans;

6. A description of the applicant's plan for concessions, including whether the licensee will operate concessions and, if not, who will;

7. A description of training of the applicant's personnel; and

8. A description of plans for compliance with all laws pertaining to discrimination, equal employment and affirmative action; policies regarding recruitment, use and advancement of minorities; policies with respect to minority contracting; and a copy of Equal Employment Opportunity Statement.

11VAC10-20-120. Disclosure of safety and security plans.

An application for a license must disclose with regard to the development of its horse racing facility:

1. A description of the local emergency services available to the horse racing facility, including fire fighting, law enforcement and medical emergency services;

2. A description of the security equipment, such as fences, locks, alarms and monitoring equipment, for the horse racing facility, including:

a. Perimeter fence and its construction;

b. Stables;

c. Paddock;

d. Cash room and the vault;

e. Pari-mutuel ticket windows;

f. Totalizator room;

g. Post-race detention barn; and

h. Parking lot.

3. A description of the security procedures to be used:

a. To admit individuals to restricted areas of the horse racing facility;

b. To secure areas where money and mutuel tickets are vaulted, and daily transfers of cash via armored trucks;

c. To provide security for patrons and employees; and

d. Specific plans to discover persons at the facility who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction or are a threat to the integrity of racing in Virginia.

4. A description of the security personnel to be employed at the facility, giving:

a. Whether personnel will be employees of the licensee or employees of an independent contractor;

b. If the personnel are employed by an independent contractor, describe the organization and qualifications of the contractor as well as meeting applicable state licensing requirements;

c. State the number of individuals to be employed and the area of the racetrack where each will serve;

d. Provide an organizational chart of the security force with a job description of each level; and

e. State whether or not the security personnel are bonded and if so, state amount and conditions of the bond and the name and address of the surety company that issued the bond.

5. A description of the fire safety and emergency procedures, giving:

a. Evacuating the patrons and controlling traffic in an emergency;

b. Inspecting the facility for fire and safety hazards;

c. Restricted smoking areas; and

d. Coordinating the facility's security, fire and safety procedures with the state police, the commission and other local agencies.

6. A description of the first aid facilities available at the horse racing facility during racing hours and the facilities available to employees during nonracing hours;

7. Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and

8. A description of the internal accounting controls to create cross checks and balances in order to safeguard assets and detect fraud and embezzlement.

11VAC10-20-130. Disclosure of public service.

An applicant for a license must disclose its plans for promotion of the orderly growth of horse racing in Virginia and education of the public with respect to horse racing and pari-mutuel wagering.

11VAC10-20-140. Disclosure of impact of facilities.

An applicant for a license must disclose and document the projected impact of its horse racing facility, including:

1. Economic impact, giving:

a. Number of jobs created, whether permanent or temporary, type of work, compensation, employer and how created;

b. Purchases of goods and services, types of purchases and projected expenditures;

c. Public and private investment; and

d. State and local tax revenues generated.

2. Environmental impact;

3. Impact on energy conservation and development of alternative energy sources; and

4. Social impact on the community in which the horse racing facility would be located.

11VAC10-20-150. Effects on competition.

An applicant must disclose the anticipated short-range and long-range effects of its ownership and operation of its horse racing facility on competition within the horse racing industry.

11VAC10-20-160. Disclosure of assistance in preparation of application.

An applicant must disclose the names, addresses and telephone numbers of individuals and businesses who assisted the applicant in the writing of its application and supply copies of all studies completed for the applicant.

11VAC10-20-170. Personal information and authorization for release.

In an application for a license, the applicant shall include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of five percent or more in the applicant and each individual identified pursuant to subdivisions 2 and 3 of 11VAC10-20-110:

1. Full name, business and residence addresses and telephone numbers, residence addresses for past five years, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he:

a. Authorizes a review by, and full disclosure to, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia, its employees, the commission, members, staff and agents to determine the signer's qualifications for a license; and

c. Releases authorized providers and users of the information from any liability under state or federal data privacy statutes.

11VAC10-20-180. License criteria.

A. The commission may issue a license if it determines on the basis of all the facts before it that:

1. The applicant is financially able to operate a racetrack;

2. Issuance of a license will not adversely affect competition within the horse racing industry and the public interest;

3. The racetrack will be operated in accordance with all applicable state and federal statutes and regulations, regulations of the commission and all local ordinances; and

4. The issuance of the license will not adversely affect the public health, safety and welfare.

B. In making the required determinations, the commission must consider the following factors:

1. The integrity of the applicant, including:

a. Criminal record;

b. Involvement in litigation over business practices;

c. Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;

d. Involvement in proceedings in which unfair labor practices, discrimination or government regulation of horse racing or gambling was an issue;

e. Involvement in bankruptcy proceedings;

f. Failure to satisfy judgments, orders or decrees;

g. Delinquency in filing of tax reports or remitting taxes; and

h. Any other factors related to integrity which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants.

2. The types and variety of pari-mutuel horse racing, pari-mutuel wagering, and other uses of the facility when racing or wagering is not offered;

3. The quality of physical improvements and equipment in applicant's facility, including:

a. Racetrack or tracks and provisions, if any, for a turf course;

b. Stabling, including fire control measures;

c. Grandstand;

d. Detention barn;

e. Paddock;

f. Jockeys', drivers' and backstretch employees' quarters;

g. Pari-mutuel totalizator;

h. Parking;

i. Access by road and public transportation;

j. Perimeter fence;

k. Other security improvements and equipment;

l. Starting, timing, photo finish and photo-patrol or video equipment;

m. Commission work areas; and

n. Any other factors related to quality which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants;

4. Imminence of completion of facility and commencement of pari-mutuel horse racing;

5. Financial ability to develop, own and operate a pari-mutuel horse racing facility successfully, including:

a. Ownership and control structure;

b. Amounts and reliability of development costs;

c. Certainty of site acquisition or lease;

d. Current financial condition;

e. Sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;

f. Provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;

g. Feasibility of financial plan; and

h. Any other factors related to financial ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

6. Status of governmental actions required for the applicant's facility, including:

a. Necessary road improvements;

b. Necessary public utility improvements;

c. Required governmental approvals for development, ownership and operation of the facility;

d. Acceptance of any required environmental assessment and preparation of any required environmental impact statement; and

e. Any other factors related to status of governmental actions which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

7. Management ability of the applicant, including:

a. Qualifications of managers, consultants and other contractors to develop, own and operate a pari-mutuel horse racing facility;

b. Security plan;

c. Plans for human and animal health and safety;

d. Marketing, promotion and advertising plans;

e. Concessions plan;

f. Plan for training personnel;

g. Equal employment and affirmative action plans; and

h. Any other factors related to management ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

8. Compliance with applicable statutes, charters, ordinances or regulations;

9. Efforts to promote orderly growth of horse racing in Virginia and educate public with respect to horse racing and pari-mutuel wagering;

10. Impact of facility, including:

a. Economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;

b. Environmental impact;

c. Impact on energy conservation and development of alternative energy sources;

d. Social impact;

e. Costs of public improvements;

f. Impact on the highway network; and

g. Any other factors related to impact which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

11. Extent of public support and opposition;

12. Effects on competition, including:

a. Number, nature and relative location of other licenses;

b. Minimum and optimum number of racing days sought by the applicant; and

c. Any other factors of the impact of competition which the commission deems crucial to decision making as long as the same factors are considered with regard to all applicants.

13. The commission shall also consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

11VAC10-20-190. Criteria for unlimited horse racing facilities.

A. Generally. Every license to conduct a horse race meeting with pari-mutuel wagering privileges, of 15 days or more in any calendar year is granted by the commission upon the condition that the licensee will conduct horse racing at its facility or meeting for the promotion, sustenance, and growth of a native industry in a manner consistent with the health, safety, and welfare of the people. The adequacy and sufficiency with which the licensee meets the criteria for the procedures, facilities, and equipment for conducting a horse race meeting of such duration shall rest with the commission.

1. Each licensee shall accept, observe, and enforce all federal and state laws, regulations of the commission, and local ordinances.

2. Each licensee shall at all time maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of the public, employees, other persons whose business requires their attendance, and for the health and safety of the horses there stabled.

3. Each licensee shall honor commission exclusions from the enclosure and eject immediately any person found within the enclosure who has been excluded by the commission and report the ejection to the commission. Whenever any licensee ejects a person from the enclosure, it shall furnish a written notice to the person ejected and shall report the ejection to the commission.

4. No later than 15 days before the first day of any race meeting, each licensee shall submit to the commission the most recent inspection reports issued by governmental authorities regarding the condition of facilities, sanitation, and fire prevention, detection, and suppression.

5. Each licensee shall provide the commission daily attendance reports showing a turnstile count of all persons admitted to the enclosure and the reports shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

6. Each licensee shall furnish to the commission within three months of the closing of its fiscal year, three copies of its balance sheet and of its operating statement for the previous fiscal year with comparison to the prior fiscal year, the same duly sworn to by the treasurer of the association, and certified by an independent certified public accountant. The financial report shall be in the form as may be prescribed from time to time by the commission.

7. Each licensee shall maintain a separate bank account to be known as the "horsemen's account," with the amount of purse money statutorily mandated to be deposited in the account within 48 hours of the running of the race. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of the account shall be bonded:

a. All portions of purse money shall be made available when the stewards have authorized payment to the earners; and

b. No portion of purse money other than jockey fees shall be deducted by the licensee for itself or for another, unless so requested in writing by the person to whom such purse moneys are payable, or his duly authorized representative. Irrespective of whether requested, at the close of each race meeting the horsemen's bookkeeper shall mail to each owner a duplicate of each owner's account showing every deposit, withdrawal, or transfer of funds affecting such owner's account.

8. Each licensee shall remit to the commission within five days of the day on which the revenue for pari-mutuel taxes, admission taxes, and breeders' funds were collected. The remittance shall be accomplished by a direct deposit in a financial institution designated by the commission. On those days when the fifth day is a holiday or a weekend day, the payment must be made by the succeeding business day. At the close of each month in which racing is conducted, the licensee must report to the commission all deposits of taxes and breeders' funds for that month.

9. On each day that deposits are made by the licensee, a report must be filed with the commission containing the following recapitulation: total retainage, pari-mutuel tax; state and local admissions taxes; purse moneys; total breakage; and breeders' fund taxes.

10. Each licensee shall provide areas within the enclosure where publications, other informational materials, and tip sheets, may be sold to the public. All persons holding a tip sheet concession at the facility must possess a permit from the commission as vendors. Such vendor shall post in a conspicuous place the previous day's tip sheet and the outcome of the races. Such vendor shall deliver one copy of the tip sheet to a commission representative at least one hour before post time.

11. Each licensee shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who are licensed and have access to the stabling area. No licensee by virtue of this regulation shall attempt to control or monopolize proper selling to owners, trainers, or stable employees; nor shall a licensee grant a sole concession to any vendor of feed, racing supplies, or racing services.

12. Each licensee shall provide to the commission copies of all subordinate contracts, in the amount of $15,000 annual gross and above, entered into by the owner, owner-operator, or operator, and such contracts shall be subject to approval of the commission.

13. Each licensee shall submit to the commission each calendar year a request for live racing days for the next calendar year as provided in 11VAC10-20-200. The holder of an unlimited license shall schedule not less than 150 days live racing days in the Commonwealth each calendar year; however, the commission may alter the number of live racing days based on what it deems to be in the best interest of the Virginia horse industry.

14. Each licensee shall post in a conspicuous place in every place where pari-mutuel wagering is conducted a sign that bears a toll-free telephone number for "Gamblers Anonymous" or other organization that provides assistance to compulsive gamblers.

B. Facilities. Each unlimited licensee shall provide all of the facilities for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, or dishonest practices and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall provide for flat racing a main racing surface of at least one mile in circumference; for flat or jump racing on the turf a racing surface of at least seven-eighths of a mile in circumference; for harness racing a main racing surface of at least five-eighths of a mile in circumference; and for other types of racing a racing surface of generally accepted standards.

a. Prior to the first race meeting at a facility owned or operated by the holder of an unlimited license, the licensee shall provide to the commission a certified report of a qualified surveyor, certifying the grade and measurement of the distances to be run.

b. Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.

c. The surveyor's report must be approved by the commission's executive secretary prior to the first race day of the meeting.

2. Turf course requirements include the following:

a. The licensee shall maintain an adequate stockpile of growing medium, and shall provide an irrigation system or other means of adequately watering the entire turf course evenly.

b. All turf course paths from inside rails to turf courses shall resemble the rest of the terrain, with no rails leading from the main course to the turf courses.

c. A portable rail shall be secure to absorb the impact of a horse.

3. Main track requirements include the following:

a. Each licensee shall provide a safety rail on the inside of each racing surface and such other fencing that is appropriate to safely enclose the racing surface for horses and riders.

b. The rail height shall be from 38 inches to 42 inches from the top of the cushion to the top of the rail. All top rails shall be bolted to poles and shall be smooth with no jagged edges. Rail posts shall be of a gooseneck type design and shall have no less than a 24-inch overhang with a continuous smooth elevated cover over posts.

c. All rails shall be constructed of materials designed to withstand the impact of a horse running at racing speed.

d. All rail posts shall be set in concrete at least six inches below the surface and 24 inches deep. A portable turf rail shall be secure to absorb the impact of a horse. No rail or post shall be used that will not take the impact of a horse or will break away, such as fiberglass, PVC, wood or hedges.

e. The design and construction of rails shall be approved by the commission prior to the first race meeting at the racetrack.

4. Each licensee shall provide distance poles marking off the racing surface and the poles shall be painted in the following colors: quarter poles, red and white; eighth poles, green and white; and sixteenth poles, black and white. All distance poles, including photofinish mirror imaging equipment and any other equipment, shall be set back a minimum of 10 feet from the back of the inside rail.

5. Each licensee shall provide racing surfaces whose construction, elevation, and surfaces have received scientific approval as safe and humane, adequate and proper equipment to maintain the racing surface, and sufficient trained personnel to properly operate the equipment. Daily records of maintenance shall be open for inspection.

6. Each licensee shall provide stabling in a sufficient amount to conduct a successful horse race meeting. The horses shall be quartered in individual stalls with separate feeding and watering facilities. Each barn, including the receiving barn, shall have a hot and cold water supply available, be well-ventilated, have proper drainage to prevent standing water and be constructed to be comfortable in all seasons during which racing is conducted.

7. Each licensee shall provide a stabling area that is maintained in approved sanitary condition with satisfactory drainage, manure, and other refuse kept in separate boxes or containers distant from living quarters, and the boxes or containers promptly and properly removed.

8. Each licensee shall provide a systematic and effective insect control program and programs to eliminate hazards to public health and comfort in the stabling area and throughout the enclosure.

9. Each licensee shall provide satisfactory living quarters for persons employed in the stabling area as well as satisfactory commissary, recreation, and lavatory facilities, and maintain the facilities in a clean and sanitary manner. No employee shall be permitted to sleep in any stall or barn loft.

10. Each licensee shall provide on every racing day satisfactory sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business within the enclosure.

11. Each licensee shall provide a paddock where the horses are assembled prior to the post parade. Each licensee shall provide a public viewing area where patrons may watch the activities in the paddock. Each licensee shall also provide a sufficient number of roofed stalls so that horses may be housed during inclement weather.

12. Each licensee shall provide satisfactory facilities for jockeys or drivers who are participating in the day's program. The facilities shall include accommodations for rest and recreation, showers, toilets, wash basins, reducing facilities (sauna or steam room), arrangements for safe keeping of apparel and personal effects, and snack bar during horse race meetings.

13. Each licensee shall maintain an information desk where the public may make complaints regarding the facilities, operations of the licensee, or rulings of the commission. The licensee shall respond promptly to complaints, and inform the commission regarding any alleged violation of its regulations.

14. Each licensee shall maintain a test barn for use by commission employees in securing from horses that have run a race, samples of urine, saliva, blood, or other bodily substances for chemical analysis. The test barn shall include a wash rack, commission veterinarian office, a walking ring, and a sufficient number of stalls each equipped with a window sufficiently large to allow the taking of samples to be witnessed from outside the stall. The test barn shall be located convenient to the racing surface and shall be enclosed by a fence so that unauthorized persons shall be excluded. Space shall be provided for signing in and signing out of permittees whose attendance is required in the test barn.

15. Each licensee shall maintain a receiving barn conveniently located for use by horses arriving for races that are not quartered in the stabling area. The licensee shall have a sufficient number of stalls to accommodate the anticipated number of horses, hot and cold running water, and stall bedding. The licensee shall maintain the receiving barn in a clean and sanitary manner.

16. Each licensee shall provide and maintain lights so as to ensure adequate illumination in the stabling area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

17. Each licensee shall provide and maintain stands commanding an uninterrupted view of the entire racing surface for the stewards with the location to be approved by the commission. The licensee shall provide patrol judge stands so that the floor shall be at least six feet higher than the track rail. For harness racing, each licensee shall provide space for a patrol judge in the mobile starting gate that will accompany the horses during the race.

18. Each licensee shall furnish office space, approved by the commission, for the commission's use within the enclosure and an appropriate number of parking spaces so that its members and staff may carry out their duties.

19. Each licensee shall submit to the commission, at least 30 days prior to the opening day of a meeting, a complete list of its racing officials, as set forth elsewhere in these regulations, and department heads. No person shall hold any appointment for a horse race meeting unless approved by the commission after determination that the appointee is qualified for his duties, not prohibited by any law of the Commonwealth of Virginia or regulation of the commission, and eligible to hold a permit issued by the commission.

20. Each licensee shall provide a condition book, or for harness racing, a condition sheet, listing the proposed races for the upcoming racing days and prepared by the racing secretary, to the commission at least one week prior to opening day. Additional condition books or condition sheets shall be provided to the commission as soon as published.

21. No licensee shall allow any person to ride in a race or exercise any horse within the enclosure unless that person is wearing a protective helmet with the chin strap buckled. For flat racing, the term "exercising" is defined to include breezing, galloping, or ponying horses.

22. Each licensee shall employ at least three outriders for flat and steeplechase racing and at least one outrider for harness racing, to escort starters to the post and to assist in the returning of all horses to the unsaddling area for flat races. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse that might cause injury to a jockey or driver or others. During racing hours, outriders will wear traditional attire. For flat race meetings, outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times when the track is open for exercising.

23. Each licensee shall employ for flat meets a sufficient number of valets to attend each jockey on a day's program. Valets will be under the immediate supervision and control of the clerk of

scales. Each licensee shall provide uniform attire for valets who shall wear the uniform attire at all times while performing their duties within public view.

24. No licensee shall allow any person to ride in a race or to exercise any horse within the enclosure unless that person is wearing a protective safety vest. The vest shall be designed to provide shock-absorbing protection to the upper body of at least a rating of five as defined by the British Equestrian Trade Association (BETA).

C. Equipment. Each unlimited licensee shall provide all of the equipment for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices, and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall maintain at least two operable starting gates for flat meetings and two operable mobile starting gates for harness racing. The licensee shall have in attendance one or more persons qualified to keep the starting gates in good working order and provide for periodic inspection. For flat meetings, the licensee shall also make at least one starting gate along with adequate personnel available for schooling for two hours each day during training hours, exclusive of nonrace days. For flat race meetings, the licensee shall have an adequate number of assistant starters to ensure the integrity of the start and to provide safe conditions for horse and rider. If a flat race is started at a place other than in a chute, the licensee shall maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure. For harness racing meetings, a mobile starting gate shall be made available for qualifying races and schooling.

2. Each licensee shall maintain photo-finish equipment to assist the stewards and placing judges, where employed for flat race meetings, in determining the order of finish of each race. The licensee shall provide two electronic photofinish devices with mirror images to photograph the finish of each race. The location and operation of the photofinish devices must be approved by the commission before its first use in a race. The licensee shall ensure that the photofinish devices are calibrated before the first day of each race meeting and at other times as required by the commission. The standards and operations of the photo-finish camera as well as the methodology of the personnel shall be subject to the approval of the stewards:

a. The photo-finish photographer shall promptly furnish the stewards and placing judges prints as they are requested, and the photographer will promptly inform the stewards and placing judges of any malfunction of his equipment;

b. A print of a photo finish where the placing of horse is a half of length or less shall be displayed either by posting copies of the print or video means to the public promptly after the race has been declared "official"; and

c. Each licensee shall be responsible for maintaining a file of photo finishes of all races for one year after the closing of the horse race meeting.

3. Each licensee shall provide color video tape recordings of the running of each race clearly showing the position and actions of the horse and jockeys or drivers at close range. Each licensee shall provide at least three cameras to record panoramic and head-on views of the race. One camera shall be located on the finish line:

a. Promptly after a race has been declared "official," video tape recordings shall be replayed for the benefit of the public. In those races where there was a disqualification, video tapes of the head-on views may also be shown with an explanation by the public address announcer.

b. The licensee shall safeguard the tapes of all videotapes for one year after the close of the horse race meeting and promptly deliver to the commission copies of videotapes of those races where there has been an objection, inquiry, protest, or disqualification.

c. The stewards may, in their discretion, direct a video camera operator to videotape the activities of any horses or persons handling horses prior to, during or following a race.

4. Each licensee shall provide an electronic timing system. The system shall have the capability of timing the leading horse in at least hundredths of a second. Each licensee shall also provide a qualified person to manually time each race, including splits of each quarter of a mile, in the event of a malfunction of the electronic system.

5. Each licensee shall provide an internal communication system which links the stewards' stand, racing secretary's office, pari-mutuel department, jockeys' or drivers' room, paddock, test barn, commission veterinarian's office, starting gate, film patrol office, ambulances, public address announcer, patrol judges, and any other personnel designated by the commission.

6. Each licensee shall provide a public address system whereby calls of the races and other pertinent information may be communicated to the public. This system shall be utilized by a qualified person, and the system shall have the capability of transmitting throughout the stabling area.

7. Each licensee shall provide a totalizator and employ qualified personnel to operate the system, provide maintenance of the hardware, software, and ancillary wagering devices, and be able to perform emergency repairs in case of emergencies. The licensee shall also provide a mutuel board in the infield where approximate odds, amounts wagered in the win, place, and show pools on each betting interest, and other pertinent information may be prominently displayed to the public:

a. The totalizator shall maintain at least two independent sets of pool totals and compare them at least once every 60 seconds. The totalizator shall record in a system log file any difference in the final pool totals;

b. The totalizator shall have the capability of calculating the mutuel pools, approximate odds, probable payoffs and display them to the public at intervals of not more than 60 seconds;

c. The totalizator shall have the capability of being locked and wagering terminated automatically at the command of a steward. Any failure of the system to lock at the start of the race shall be reported immediately by the mutuel manager to the stewards;

d. The totalizator shall have the capability of displaying the probable payouts on various combinations in the daily double, exacta, and quinella wagering, and displaying the payoffs to the public;

e. The totalizator shall have the capability of recording the wagering by individual wagers, including the amount wagered, the betting interest, and the mutuel window where the wager was placed. The records of the wagering shall be promptly made available to the commission upon request. The licensee shall preserve the records of the wagering for one year after closing of the horse race meeting. The records shall not be destroyed without permission of the commission;

f. The personnel operating the totalizator shall report immediately to the stewards any malfunction in the system, or what they perceive to be any unusual patterns in the wagering;

g. The totalizator personnel shall make available to the commission any special reports or requests that may assist the commission in carrying out its statutory duties and responsibilities for the conduct of horse racing; and

h. The commission may require an independent certified audit of the totalizator's software attesting to the accuracy of its calculations and the integrity of its accounting processes.

8. Each licensee shall provide at least one human ambulance and at least one equine ambulance within the enclosure at all times during those hours when the racing and training surface is open for racing and exercising. However, a human ambulance shall not be required to be present during the exercising of Standardbred horses. The ambulances shall be manned and equipped to render immediate assistance, and shall be stationed at a location approved by the stewards.

a. The equine ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The equine ambulance must be able to navigate on the racetrack during all weather conditions and transport a horse outside the enclosure.

b. The equine ambulance must be equipped with large portable screens to shield a horse from public view, ramps to facilitate loading a horse, adequate means of loading a horse that is down, a rear door and a door on each side, a padded interior, a movable partition to initially provide more room to load a horse and to later restrict a horse's movement, a shielded area for the person who is attending to the horse, and an adequate area for the storage of water and veterinary medicines and equipment.

c. A licensee shall not conduct a race unless an equine ambulance or a commission veterinarian-approved substitute is readily available.

d. The equine ambulance, its supplies and attendants, and the operating procedures for the vehicle must be approved by the commission veterinarian.

e. The licensee shall maintain a properly equipped human ambulance, staffed with certified paramedics at any time the racetrack is open for racing or exercising horses. However, a human ambulance shall not be required to be present during the exercising of Standardbred horses. If the ambulance is being used to transport an individual, horses may not be raced or exercised until the ambulance is replaced.

f. Unless otherwise approved by the stewards, a human ambulance shall follow the field at a safe distance during the running of races, or in the event of inclement weather, two ambulances shall be parked to render immediate service. The human ambulance must be parked at an entrance to the racing surface unless the ambulance is being used to transport a person or when it is following the field during the running of a race.

g. During a racing day, the licensee shall maintain a first aid room equipped with at least two beds and other appropriate equipment, and the services of at least one physician during flat race meetings.

9. Each licensee shall maintain lighting for the racetrack and the patron facilities that is adequate to ensure the safety and security of the patrons, participants and horses. Lighting to ensure the proper operation of the videotape and photofinish devices must be approved by the commission.

a. The licensee shall maintain adequate additional lighting in the stable area as required by the commission.

b. If racing is conducted at night, the licensee shall maintain a backup lighting system that is sufficient to ensure the safety of patrons, participants and horses.

D. Safety. Each unlimited licensee shall employ sufficient trained personnel to provide for the safety and security of the public and others who have business within the enclosure. Each licensee shall also take all measures to prevent the outbreak of fires within the enclosure and develop plans for the quick extinguishing of any fires that should occur.

1. Each licensee shall provide sufficient trained security personnel under the supervision of a qualified director of security. If the licensee contracts with a private security service, the security service must be bonded and meet all applicable licensing requirements. If the licensee establishes

its own security force, then director of security shall forward to the commission detailed plans for the screening, hiring, and training of its own personnel.

2. The director of security of each licensee shall cooperate fully with the commission and its staff, federal and state law enforcement agencies, local police and fire departments, and industry security services to enforce all laws and regulations to ensure that horse racing in the Commonwealth of Virginia is of the highest integrity.

3. Each licensee shall develop a detailed security plan describing the equipment, i.e., fences, locks, alarms, and monitoring devices; the procedures to admit persons to restricted areas, i.e., stabling area, paddock, jockeys' or drivers' room, vault, mutuel lines, totalizator room, and test barn; and the trained personnel in sufficient numbers to provide for the safety and security of all persons during racing and nonracing hours.

4. Each licensee may provide a perimeter fence around the entire enclosure, but shall fence off the stabling area. The entrance to the stabling area shall be guarded on a 24-hour basis by uniformed security personnel so that unauthorized persons shall be denied access to the restricted stabling area. The licensee shall also provide for routine patrolling by uniformed security personnel on a 24-hour basis within the stabling area.

5. During racing hours, the licensee shall provide uniformed security personnel to guard the entrances to the paddock, jockeys' or drivers' room, stewards' stand, and other restricted areas as may be deemed appropriate by the commission so that unauthorized persons shall be denied access to them.

6. The licensee's director of security shall submit to the commission and Virginia State Police a written report describing every arrest or completed incident of security investigation or rule violation including the person charged, the charges against the person, the present whereabouts of the person, and disposition of the charges, if any.

7. The licensee's director of security shall submit to the commission a detailed plan describing the procedures to be followed in case of fire or any other emergency within the enclosure. The plan shall contain the resources immediately available within the surrounding communities to cope with fire or other emergencies, route of evacuation for the public, controlling traffic, and those resources available from the surrounding communities for police, fire, ambulance, and rescue services.

8. Each licensee shall observe and enforce all state and local building codes and regulations pertaining to fire prevention, and shall prohibit the following:

a. Smoking in horse stalls, feed rooms, or under the shedrow;

b. Open fires and oil or gasoline burning lanterns or lamps in the stable area;

c. The unsafe use of electrical appliances or other devices which would pose a hazard to structures, horses, permittees, or the public; and

d. Keeping flammable materials including cleaning fluids or solvents in the stabling area.

11VAC10-20-200. Request for racing days.

A. Generally. A holder of an owner-operator's or operator's license has the privilege of conducting horse race meetings at facilities, licensed by the commission, with pari-mutuel wagering for a period of 20 years, subject to annual review by the commission. A holder of an owner-operator's or operator's license shall submit an annual request to the commission for racing days.

B. Where to file request. The licensee shall submit a request for racing days for the following calendar year in writing to the general business office of the commission at a time designated by the commission. The commission may, in its discretion, extend the deadline.

1. A request to be sent by certified mail shall be addressed to:

Executive Secretary

Virginia Racing Commission

Post Office Box 208

New Kent, VA 23124

2. A request to be hand-delivered shall be delivered to:

Executive Secretary

Virginia Racing Commission

1500 East Main Street

Suite 301

Richmond, VA 23219

3. A request delivered by hand or by certified mail will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed.

4. Delivery to other than the commission's main office or to commission personnel by hand or by mail is not acceptable.

5. The licensee assumes full responsibility for the method chosen to deliver the request.

C. Content of request. The licensee's request in writing shall include a statement of how the request will provide for the promotion, sustenance, and growth of a native industry, in a manner consistent with the health, safety and welfare of the people, except that the commission, in its discretion, may waive the foregoing. The request shall include the following:

1. A request, signed by an officer of the licensee, for assignment of racing days;

2. A statement of the precise nature and extent of the assignment requested including the total number of racing days requested, the dates within which the racing days are to be conducted and the 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 are to be conducted, the hours of racing, and the projected purse structure.

3. A detailed statement of how the request meets the criteria established in 11VAC10-20-220 C; and

4. Any other documentation the licensee deems material to ensure a complete understanding of the request.

D. Amendment of request. A licensee may at any time amend a properly submitted request for racing days for commission approval.

E. Rescission of racing days. The commission may in its discretion rescind one or more racing days assigned to a licensee, if the commission finds that the licensee has not or will not meet the terms of its license. Any days rescinded may be reassigned to another licensee.

11VAC10-20-210. Owner, owner-operator, or operator unlimited license application fee.

An applicant for an owner's, owner-operator's, or operator's license under § 59.1-375 of the Act must submit a nonrefundable application fee to the commission's designee at the time of application by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of $10,000 to cover the cost of the background investigations mandated by § 59.1-371 of the Code of Virginia. In the event the cost of the investigation exceeds the $10,000 application fee, the applicant must remit the amount of the difference by certified check or bank draft within 10 days after receipt of a bill from the commission.

11VAC10-20-220. 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 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 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 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 the assignment of racing days previously made.

3. The commission shall require a bond with surety or a letter of credit in an amount it determines to be sufficient to cover any indebtedness, including but not limited to purses, awards to horsemen and moneys 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.

11VAC10-20-230. Payment of owner and operator license fee.

An owner's or operator's license becomes effective upon the receipt by the commission of a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of license fees and is suspended if the license fee is not received on or before the specified dates:

1. Owner's license: A nonrefundable fee of $5,000 per year due and payable within 10 days of the original license being issued and on or before January 1 of each succeeding year.

2. Operator's license: A nonrefundable fee of $100 times the number of racing days awarded in the annual application for racing days due and payable on or before January 1 of each year.

11VAC10-20-240. Transfer or acquisition of interest in owner's, owner-operator's or operator's license.

A. Generally. A licensee already holding a limited or unlimited owner's, owner-operator's or operator's license may apply to the commission to transfer its race meet or meetings to that of another horse racing facility already licensed by the commission.

B. Requirements for transfer of racing days. The licensee shall apply to the commission in writing requesting the transfer of its racing days to that of another licensee stating:

1. The reason for the transfer;

2. Why the transfer will provide for the promotion, sustenance, and growth of horse racing and breeding, in a manner consistent with the health, safety, and welfare of the Commonwealth of Virginia;

3. Why the transfer will maintain horse racing in the Commonwealth of the highest quality, and free of any corrupt, incompetent, dishonest, or unprincipled practices and maintain complete honesty and integrity;

4. Why the transfer will not adversely affect the operation of any other horse racing facility licensed by the commission;

5. That the transfer has been expressly consented to by the licensee to which the transfer is to be made;

6. That all licensees agree to be bound by the regulations and requirements placed upon it by the commission before the application for the transfer was submitted; and

7. That all licensees to whom racing days are to be transferred, have paid all and any applicable license fees for the conduct of horse racing, with pari-mutuel wagering privileges, at the particular facility or place for holding races on which the racing is to be conducted.

C. Consideration by commission. The commission will take into account the statement submitted by the licensee and any other testimony or documentation that it deems material before approving or denying the request for transfer of a race meet or meetings. The commission shall act on the application within 60 days of receipt.

D. Acquiring an interest in a licensee. Any person desiring to become a partner, member or principal stockholder of any licensee, or to acquire actual control of a licensee, whether direct or indirect, individually or in concert with others, shall apply to the commission for approval.

1. The commission may demand such information of the applicant as it finds it necessary to consider and act on the application. The application shall include all applicable disclosures required by the commission for licensure as owners or operators, as specified in 11VAC10-20-20 through 11VAC10-20-180 of this chapter. The commission shall consider the application forthwith and shall approve or deny the application within 60 days of receipt. The commission shall deny any application if in its judgment the acquisition would be detrimental to the public interest, or to the honesty, integrity, and reputation of racing.

2. The commission shall approve an application to become a partner, member or principal stockholder if the application meets the criteria set forth in the Act and subdivision 1 of this subsection.

3. The commission shall approve an application to acquire actual control of a licensee only if it finds that the applicant meets the criteria set forth in the Act, the criteria set forth in subdivision 1 of this subsection for a partner, member or principal stockholder, and the criteria set forth in this subdivision.

a. If an applicant proposes to acquire actual control of a licensee, such person shall submit to the commission:

(1) The applicant's proposal for the future operation of any existing or planned racetrack, or satellite facility owned or operated by the licensee;

(2) Such additional information as the applicant desires; and

(3) Such information as may be required by the commission to assure the commission that the licensee, under the actual control of such person, will have the experience, expertise, financial responsibility and commitment to comply with:

(a) The provisions of the Act;

(b) Commission regulations and orders;

(c) The requirements for the continued operation of the licensee pursuant to the terms and conditions in effect on the date of the application of all licenses held by the licensee;

(d) Any existing contract with a recognized majority horsemen's group; and

(e) Any proposal submitted to the commission by such person.

b. Any such acquisition of control without prior approval of the commission shall be voidable by the commission and, in such instance, the commission may revoke any license it has issued to such licensee, order compliance with this subsection, or take such other action as may be appropriate within the authority of the commission.

Part III
Pari-Mutuel Wagering

11VAC10-20-260. Generally.

All permitted wagering shall be under a pari-mutuel wagering system whereby the holders of winning tickets divide the total amount wagered, less retainage, in proportion to the sums they

have wagered individually. All other systems of wagering other than pari-mutuel, e.g., bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be excluded from the enclosure or satellite facility.

A. Persons under the age of 18 are prohibited from wagering. No person under the age of 18 shall be permitted by any licensee to purchase or cash a pari-mutuel ticket. No employee of the licensee shall knowingly sell or cash any pari-mutuel ticket for a person under the age of 18.

B. Posted order of finish. Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as posted on the display devices and declared "official" by the stewards. Any subsequent change in the order of finish or award of purse money as may result from a ruling by the stewards or commission shall in no way affect the pari-mutuel payout.

C. Errors in payment. The licensee shall be responsible for the correctness of all payouts posted as "official" on the display devices. If an error is made in posting the payout figures on the display devices and discovered before any tickets are cashed, the error shall be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error on the display devices.

1. The licensee shall compare the two independent final pool totals and payouts calculated by the totalizator prior to posting them on the display devices. In the event of a discrepancy between the two sets of pool totals and payouts and the inability of the totalizator to determine which of the sets is correct, the highest pool total and payouts shall be used.

2. If an error is made in posting the payout figures on the display devices and discovered after tickets have been cashed, where the public is underpaid, the amount of the underpayment shall be added to the same pool immediately following. Where the public is overpaid, the amount of the overpayment shall be absorbed by the licensee.

3. If any underpayment is discovered after the close of the horse race meeting or an opportunity does not exist to add the amount of the underpayment to the same pool, the total underpayment shall be placed in an interest-bearing account and added to the same pool at the next race meeting of the same breed.

D. Minimum wagers. The minimum wager for straight wagering shall be $2.00. The licensee may determine the minimum wager for multiple wagering, which shall be no less than $ .10.

E. Minimum payouts. The licensee shall pay to the holder of any ticket entitling the holder to participate in the distribution of a pari-mutuel pool the amount wagered by the holder plus a minimum profit of 5.0% or $ .01, whichever is greater. If such a payout creates a deficiency in the pari-mutuel pool, the licensee shall make up the deficiency from its share of the pari-mutuel wagering.

The licensee, with the approval of the stewards, may bar wagering on a horse or entry in any or all pari-mutuel pools in a stakes race, handicap, futurity or other special event where the licensee has good and sufficient reason to believe that accepting wagers on the horse or entry may result in a deficiency or minus pool. The decision to bar wagering on a horse or entry shall be announced publicly before wagers are accepted on that race.

F. Posting of regulations. A general explanation of this chapter may be posted for the benefit of the public in the wagering areas of the enclosure and satellite facilities.

G. Identification of holder. The licensee shall require positive identification of a holder of a valid winning pari-mutuel ticket before the payment when, in the stewards' discretion, circumstances warrant this action.

H. Wagers placed in cash. The licensee shall only accept wagers placed in cash or vouchers and then only at the racetrack or satellite facilities. It shall be the responsibility of the licensee to instruct the mutuel clerks to accept wagers on a "cash only" basis.

11VAC10-20-270. Request for types of pari-mutuel pools.

A. Generally. Each licensee shall submit a request in writing to the commission for approval of the types of pari-mutuel wagering pools that are to be offered to the public during the horse race meeting. The request for approval of types of pari-mutuel wagering pools shall be submitted to the commission in writing no less than 30 days before the scheduled opening day of the horse race meeting.

B. Content of request. The licensee's request in writing shall include a statement of how the request will provide for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people, except that the commission, in its discretion, may waive the foregoing.

11VAC10-20-280. Approval of pools.

A. Generally. The commission shall promptly consider a request for types of pari-mutuel wagering pools.

B. Consideration of requests. Upon receipt of a request for approval or modification of types of pari-mutuel wagering pools, the commission shall consider the request at its next regularly scheduled meeting, and may, in its discretion, approve the types of pari-mutuel wagering pools as requested, modify the request, or deny the request.

C. Criteria for approval of pools. The commission, in making its determination, must consider the success and integrity of horse racing; the public health and safety, and welfare; and public interest, necessity, and convenience.

11VAC10-20-290. Pari-mutuel tickets.

A. Generally. A valid pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the licensee and is evidence of the obligation of the licensee to pay to the holder the portion of the distributable amount of the pari-mutuel pool as is represented by the ticket.

B. Valid pari-mutuel tickets. To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the licensee and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

1. The name of the licensee;

2. A unique identifying number or code;

3. The name of the track at which the wager is placed;

4. Identification of the terminal at which the ticket was issued;

5. A designation of the racing day for which the wagering transaction was issued;

6. The race number for which the pool was conducted;

7. The types or types of wagers represented;

8. The number or numbers representing the wagering interests for which the wager was made; and

9. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

C. Ticket cancellation. All tickets with a total value of $250 or less on live or simulcast races may be cancelled at any window at any time prior to post time for that race. All tickets exceeding $250 may also be cancelled at any time prior to post time for the race on which the wager was made. However, this cancellation requires the approval of the mutuel manager or his designee. It shall be the responsibility of the mutuel manager or his designee to determine if the approval of the cancellation will considerably alter or manipulate the pari-mutuel pool, and a written report must be submitted to the commission.

D. Invalid claims. There shall be no refunds or payouts for lost or destroyed tickets, or tickets which have been mutilated beyond identification.

E. Identification of tickets. The responsibility for identifying valid pari-mutuel tickets rests with the licensee.

F. Limits on cashing tickets. Payment on valid pari-mutuel tickets, including tickets where refunds are ordered, shall be made only upon presentation and surrender of valid pari-mutuel tickets to the licensee within 180 days after the purchase of the ticket. Failure to present any valid pari-mutuel ticket to the licensee within 180 days after the purchase of the ticket shall constitute a waiver of the right to payment.

11VAC10-20-300. Operations of the mutuel department.

A. Generally. Each licensee shall strive to keep the daily program of racing progressing as expeditiously as possible with due regard for the health, safety, and comfort of the public and participants. The licensee shall provide a sufficient number of mutuel windows and clerks so that the public will be conveniently accommodated.

B. Post time. Post time for the first race on each racing day shall be approved by the commission upon written request by the licensee. Post time for subsequent races on the same program shall be fixed by the mutuel manager. Where heat racing is utilized in harness racing, the time between separate heats of a single race shall not be less than 40 minutes.

C. Termination of wagering. The pari-mutuel machines shall be locked by a steward immediately upon the start of the race through an electrical control in the stewards' stand or before the start of a race through a method subject to the approval of the commission.

D. Unwarranted delays. If the start of the race is delayed two minutes or more beyond the official post time, as shown on the display devices, for no good reason, the stewards may, in their discretion, lock the ticket-issuing machines.

E. Commencement of wagering. Mutuel windows shall open no less than 30 minutes before the first race. Cashing of tickets shall begin, and selling shall resume, as soon as possible after the official results of a race have been posted on the display devices.

F. Interruptions of wagering. If, for any reason, including a malfunction of the totalizator, the ticket-issuing machines are locked during the wagering on a race before the start, they shall remain locked until after the race. Wagering shall cease on that race, and the payout for that race shall be computed on the sums then wagered in each pool. However, in the event the ticket-issuing machines are inadvertently locked through some human error or mechanical problem, the ticket-issuing machines shall be reopened only on the approval of the stewards, if the system balances when it is again operational.

G. Conclusion of wagering. No pari-mutuel tickets may be sold after the totalizator has been locked, and the licensee shall not be responsible for pari-mutuel ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

H. Designated windows. No pari-mutuel tickets shall be sold except by the licensee, and pari-mutuel tickets shall only be sold at regular windows properly designated by signs and freestanding self-service or ticket issuing devices.

I. Compliance with tax regulations. All payouts on winning tickets shall be subject to withholding of federal and state taxes when the amount of the payout exceeds the dollar threshold set by the U.S. Internal Revenue Service. In those cases where the payouts require identification and deduction of withholding taxes prior to cashing pari-mutuel tickets to holders, the licensee shall comply with the applicable regulations of the Internal Revenue Service and the statutes of the Commonwealth of Virginia requiring identification and deduction of withholding taxes.

J. Emergency situations. If any emergency arises in connection with the operation of the mutuel department at a racetrack or satellite facility and the emergency is not covered by these regulations and an immediate decision is necessary, the mutuel manager shall make the decision, and make a prompt report of the facts to the stewards and the commission.

K. Simulcast pools. When wagers are commingled at a racetrack in another jurisdiction, the licensee shall make payouts on winning wagers at the price posted at the racetrack where the live race took place. However, once wagering has commenced and circumstances prevent commingling some or all of the wagers to the racetrack in the other jurisdiction, the licensee, through a previously established written policy approved by the commission, shall:

1. Pay prices posted by the racetrack in the other jurisdiction;

2. Establish its own pools using the wagers that were not commingled with the racetrack in the other jurisdiction;

3. Refund all wagers, if an announcement is made not less than two minutes prior to the post time that commingling cannot be accomplished and the circumstances involve only one race; or

4. Refund all wagers, if the wager involves more than one race and an announcement that commingling cannot be accomplished by the start of the first race or not more than 10 minutes after the finish of the first race of the wager, unless there is a payout due a wager as a result of the first race.

11VAC10-20-310. Wagering interests.

A. Generally. The licensee shall be responsible for the coupling of horses for wagering purposes in accordance with these regulations and shall provide wagering opportunities in accordance with the success and integrity of horse racing as well as the public interest.

B. Coupled entries. When two or more horses run in a race and are coupled for wagering purposes, a wager on one of the horses shall be a wager on all of them. The horses so coupled are called "an entry."

C. Mutuel field. When the individual horses competing in a race exceed the numbering capacity of the display devices, the highest numbered horses within the capacity of the display devices and all horses of a higher number shall be grouped together and called the "mutuel field," and a wager on one of them shall be a wager on all of them.

D. Pools dependent upon wagering interests. Unless the commission otherwise provides, at the time the pools are opened for wagering, the licensee:

1. Shall offer win wagering on all contests with three or more betting interests.

2. Shall offer place wagering on all contests with four or more betting interests.

3. Shall offer show wagering on all contests with five or more betting interests.

4. May offer quinella wagering on all contests with three or more betting interests.

5. May offer quinella double wagering on all contests with three or more betting interests.

6. May offer exacta wagering on all contests with two or more betting interests.

7. May offer trifecta wagering on all contests with three or more betting interests.

8. May offer superfecta wagering on all contests with four or more betting interests.

9. Shall not offer twin trifecta wagering on any contests with six or less betting interests.

E. Steward's approval. Once pools are opened for wagering, no changes to or cancellations of the betting pools shall be made without prior approval of the stewards.

F. Extraordinary circumstances. In extraordinary circumstances, discretion is vested in the stewards to cancel any trifecta, exacta, quinella, or any other multiple wager pool, and assign multiple wagering pools to other races when the stewards believe it would best maintain in horse racing complete honesty and integrity.

G. Stake races and special events. In the case of stake races, handicaps, futurities, and other special events, the licensee may offer any straight and multiple wagering pools regardless of the number of wagering interest upon submission of a request in writing to the commission and approval from the commission or its executive secretary.

11VAC10-20-320. Straight wagering.

A. Generally. Win, place, and show pari-mutuel wagering pools shall be considered "straight wagering." In any race, the win, place, and show pools are treated separately, and the distribution of the profits are calculated independently of each other. The "net pool" to be distributed as profit shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere in these rules.

B. Win pools. The amount wagered to win on the horse or wagering interest which finished first is deducted from the net pool and the balance which remains is profit. The profit is divided by the amount wagered on the horse or wagering interest finishing first, this quotient being the profit per dollar wagered to win. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to win pools:

1. If there is a dead heat for first involving two horses of two different wagering interests, the net win pool shall be distributed as if it were a place pool. If the dead heat involves horses of three wagering interests, the net win pool is distributed as if it were a show pool; and

2. If no win ticket is sold on the horse which finishes first, then the net win pool is distributed to the holders of win tickets on the horse or wagering interest finishing second. If no such ticket is sold, then the licensee shall make a prompt refund.

C. Place pools. The amounts wagered to place on the first two horses to finish are deducted from the net place pool and the balance which remains is profit. The profit is divided into two equal amounts; one-half of the profit is divided by the amount wagered to place on the first finisher, this quotient being the profit per dollar wagered to place on the first finisher; and one-half of the profit is divided by the amount wagered to place on the second finisher, this quotient being the profit per dollar wagered to place on the second finisher. The return to the holder includes the amount wagered and the profit.

1. If there is a dead heat for first between horses representing the same wagering interest, the net place pool is distributed as if it were a win pool. If the dead heat is between horses representing two different wagering interests, the place pool is distributed as if one wagering interest finished first and the other finished second. If the dead heat is among horses representing three different wagering interests, the net place pool is distributed as if it were a show pool.

2. If there is a dead heat for second between horses representing the same wagering interest, the net place pool is distributed as if no dead heat occurred. If the dead heat for second is between horses representing two or more wagering interests, the net place pool is divided in half, with one-half allocated to the horse finishing first and the other one-half divided equally so as to allocate one-fourth of the net place pool for wagers to place on each of the two horses finishing in a dead heat for second, or one-sixth of the net place pool for wagers to place on each of three horses finishing in a dead heat for second.

3. If the first and second finishers comprise a single wagering interest, the net place pool is distributed as if it were a win pool.

4. If no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace that horse in the distribution of wagers in the net place pool. If no such ticket is sold, then the licensee shall make a prompt refund.

D. Show pools. The amounts wagered to show on the first three horses to finish are deducted from the net pool to determine the profit. The profit is divided into three equal amounts. One-third of the net show pool is divided by the amount wagered to show on the first finisher, the quotient being the profit per dollar wagered to show on the first finisher; one-third of the net show pool is divided by the amount wagered to show on the second finisher, the quotient being the profit per dollar wagered to show on the second finisher; and one-third of the profit is divided by the amount wagered to show on the third finisher, the quotient being the profit per dollar wagered to show on the third finisher. The return to the holder includes the amount wagered and the profit.

1. If there is a dead heat for first between two horses involving different wagering interests, or three horses involving three different wagering interests, the show pool is distributed as if no dead heat occurred. If the dead heat for first is between two horses including the same wagering interest, two-thirds of the profit is allocated to wagers to show on the coupled wagering interest and one-third of the profit is allocated to wagers to show on the other horse among the first three finishers. If the dead heat for first is among three horses including one wagering interest, the show pool is distributed as if it were a win pool.

2. If there is a dead heat for second between two horses including different wagering interests, the show pool is distributed as if no dead heat occurred. If the dead heat for second is between horses including the same wagering interest, two-thirds of the net show pool shall be allocated to wagers to show on the coupled wagering interest and one-third of the profit shall be allocated to wagers to show on the horse finishing first. If the dead heat for second is among three horses involving two or three wagering interests, one-third of the net show pool is allocated to wagers to show on the horse finishing first and the remaining two-thirds of the net show pool is divided equally by the number of wagering interests finishing in a dead heat for second for proportionate distribution on wagers to show for each wagering interest finishing in a dead heat for second.

3. If there is a dead heat for third between horses involving the same wagering interests, the net show pool is distributed as if no dead heat occurred. If the dead heat for third is among horses involving two or more wagering interests, two-thirds of the net show pool shall be allocated to wagers to show on the first two finishers and the remaining one-third of the net show pool is divided equally by the number of wagering interests finishing in a dead heat for third for

proportionate distribution on wagers to show for each wagering interest finishing in a dead heat for third.

4. If the first three horses to finish comprise one wagering interest, the net show pool shall be distributed as if it were a win pool. If two horses coupled as a single wagering interest finish first and second, or first and third, or second and third, two-thirds of the net show pool shall be allocated to wagers to show on the single wagering interest and one-third of the net show pool shall be allocated to wagers on the other horse among the first three finishers.

5. In the event one horse coupled in the wagering by reason of being in the mutuel field or part of a mutuel entry finishes first or second and another horse included in the same wagering interest finishes in a dead heat for third, the allocation of the net show pool shall be:

One-half of the net show pool shall be allocated to the wagers on the field or entry, one-third of the net show pool shall be allocated to the horse finishing first or second, and one-sixth of the net show pool allocated for the horse finishing in a dead heat for third. The remaining one-sixth of the net show pool shall be allocated to wagers on the horse, which was not a part of the mutuel field or entry, finishing in a dead heat for third.

6. In the event only two horses finish, the net show pool, if any, shall be distributed as if it were a place pool. If only one horse finishes, the net show and place pools, if any, shall be distributed as if it were a win pool.

7. If, in the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wagers in the show pool. If no such ticket is sold, then the licensee shall make a prompt refund.

11VAC10-20-330. Multiple wagering.

A. Generally. Daily double, quinella, exacta, trifecta, quinella double, pick (n), twin trifecta, and superfecta pari-mutuel wagering pools shall be considered "multiple wagering." In any race or races, the daily double, quinella, exacta, trifecta, quinella double, pick (n), twin trifecta, and superfecta pools are treated separately and the distribution of the pools are calculated independently of each other. The "net pool" to be distributed shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere.

B. Daily double pools. The daily double wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first in the two races specified as the daily double. If either of the selections fails to win, the pari-mutuel ticket is void, except as otherwise provided. The amount wagered on the winning combination, the horse or wagering interest which finishes first in the first race coupled with the horse or wagering interest finishing first in the second race of the daily double, is deducted from the net pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning daily double. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to daily double pools:

1. If there is a dead heat for first including two different wagering interests in one of the two daily double races, the daily double pool is distributed as if it were a place pool, with one-half of the net pool allocated to wagers combining the single winner of one daily double race and one of the wagering interests involved in the dead heat in the other daily double race, and with the other one-half of the net pool allocated to the wagers combining the single winner of one daily double race and the other wagering interest involved in the dead heat in the other daily double race.

2. If there are dead heats for first involving different wagering interests in each of the daily double races which result in winning combinations, the net pool shall be allocated equally to the

winning combinations after first deducting from the net pool the amount wagered on all winning combinations for proportionate allocation to the winning daily double combinations.

3. If no daily double ticket is sold combining the horse or wagering interest which finishes first in one of the daily double races, the daily double pool is distributed as if it were a win pool, with the net pool allocated to wagering combinations which include the horse or wagering interest which finished first in one of the daily double races.

4. If no daily double ticket is sold combining the horses or wagering interests which finish first in both the first and second race of the daily double, then the winning combinations for distribution of the daily double profit shall be that combining the horses or wagering interests which finished second in each of the daily double races.

5. If, after daily double wagering has begun, a horse not coupled with another as a wagering interest in the first race of the daily double is excused by the stewards or is prevented from obtaining a fair start, then daily double wagers combining the horse shall be deducted from the daily double pool and shall be promptly refunded.

6. If, after the first race of the daily double has been run, a horse not coupled with another as a wagering interest in the second race of the daily double is excused by the stewards or prevented from obtaining a fair start, then daily double wagers combining the winner of the first daily double race with the horse, which was excused or was prevented from obtaining a fair start, shall be allocated a consolation daily double.

7. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or wagering interest scheduled to start in the second daily double race, the quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with the horse prevented from racing in the second daily double race. The return to the holder includes the amount wagered and the profit. The consolation payoff shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

8. If for any reason the first race of the daily double is cancelled and declared "no contest" a full and complete refund shall be promptly made of the daily double pool.

9. If for any reason the second race of the daily double is cancelled and declared "no contest," the net daily double pool shall be paid to the holders of daily double tickets which include the winner of the first race. If no such ticket is sold, then the net daily double pool shall be paid to the holders of daily double tickets which include the second place horse. If no daily double tickets were sold on the second place horse, then the licensee shall make a prompt refund.

C. Quinella pools. The quinella wager is the purchase of a pari-mutuel ticket to select the first two horses to finish in the race. The order in which the horses finish is immaterial. The amount wagered on the winning combination, the first two finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit. The net pool is divided by the amount wagered on the winning combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the quinella pools:

1. If there is a dead heat for first between horses including two different wagering interests, the net quinella pool is distributed as if no dead heat occurred. If there is a dead heat among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and the pool is allocated to wagers combining any of the three horses finishing in the dead heat for first.

2. If there is a dead heat for second between horses including two different wagering interests, the net quinella pool is distributed as if it were a place pool and it is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second. If the dead heat is among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining the first horse with each of the three horses finishing in a dead heat for second.

3. If horses representing a single wagering interest finish first and second, the net quinella pool shall be allocated to wagers combining the single wagering interest with the horse or wagering interest with the horses or wagering interest which finishes third.

4. If no quinella ticket is sold combining the first finisher with one of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second.

5. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two horses which finished in the dead heat for second.

6. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, or combining the two horses which finished in a dead heat for second, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining any of the first three finishers with any other horses.

7. If no quinella ticket is sold combining the first two finishers, then the net quinella pool shall be distributed as if it were a place pool and it is allocated to wagers combining the first finisher with any other horses and to wagers combining the second finisher with any other horse.

8. If no quinella ticket is sold combining horses or wagering interests as would require distribution, a full and complete refund shall be made of the entire quinella pool.

9. If a horse is excused by the stewards, no further quinella tickets shall be issued designating that horse, and all quinella tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

D. Exacta pools. The exacta wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first and second in a race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first and the horse finishing second, in exact order, is the amount to be deducted from the net exacta pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning exacta combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the exacta pool:

1. If no ticket is sold on the winning combination of an exacta pool, the net exacta pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

2. If there is a dead heat between two horses for first place, the net exacta pool shall be calculated and distributed as a place pool, one-half of the net exacta pool being distributed to holders of tickets selecting each of the horses in the dead heat to finish first with the other horse to finish second.

In case of a dead heat between two horses for second place, the net exacta pool shall be calculated as a place pool, one-half of the net exacta pool being distributed to holders of tickets selecting the horse to finish first and one horse in the dead heat, and the other one-half being distributed to holders selecting the horse to finish first and the other horse in the dead heat.

3. If there is a dead heat for second place and if no ticket is sold on one of the two winning combinations, the entire net exacta pool shall be calculated as a win pool and distributed to holders of the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

4. If an entry finishes first and second, or mutuel field horses finish first and second, the net pool shall be distributed to holders of tickets selecting the entry to win combined with the horses having finished third.

5. If no ticket is sold that would require distribution of an exacta pool, the licensee shall make a complete and full refund of the exacta pool.

6. If a horse is excused by the stewards, no further exacta tickets shall be issued designating that horse, and all exacta tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

E. Trifecta pools. The trifecta wager is purchase of a pari-mutuel ticket to select the three horses that will finish first, second, and third in a race. Payment of the ticket shall be made only to the holder who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first, the horse finishing second, and the horse finishing third, in exact order, is deducted from the pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning combination. The return to the holder includes the amount wagered and the profit.

1. If no ticket is sold on the winning combination, the net trifecta pool shall be distributed equally among holders of tickets designating the first two horses in order.

2. If no ticket is sold designating, in order, the first two horses, the net trifecta pool shall be distributed equally among holders of tickets designating the horse to finish first.

3. If no ticket is sold designating the first horse to win, the net trifecta pool shall be distributed equally among holders of tickets designating the second and third horses in order. If no such ticket is sold, then the licensee shall make a prompt refund.

4. If less than three horses finish, the payout shall be made on tickets selecting the actual finishing horses, in order, ignoring the balance of the selection.

5. If there is a dead heat, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position involved in the dead heat, shall be winning tickets. The net trifecta pool shall be calculated as a place pool.

6. If a horse is excused by the stewards, no further trifecta tickets shall be issued designating that horse, and all trifecta tickets previously issued designating the horse shall be refunded and deducted from the gross pool.

F. Quinella double pools. The quinella double requires selection of the first two finishers, irrespective of order, in each of two specified races.

1. The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

a. If a coupled entry or mutuel field finishes as the first two contestants in either race, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race, as well as the first two finishers in the alternate quinella double race; otherwise

b. As a single price pool to those who selected the first two finishers in each of the two quinella double races; but if there are no such wagers, then

c. As a profit split to those who selected the first two finishers in either of the two quinella double races; but if there are no such wagers on one of those races, then

d. As a single price pool to those who selected the first two finishers in the one covered quinella double race; but if there were no such wagers, then

e. The entire pool shall be refunded on quinella double wagers for those races.

2. If there is a dead heat for first in either of the two quinella double races involving:

a. Horses representing the same wagering interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race.

b. Horses representing two wagering interests, the quinella double pool shall be distributed as if no dead heat occurred.

c. Horses representing three or more wagering interests, the quinella double pool shall be distributed as a profit split.

3. If there is a dead heat for second in either of the quinella double races involving horses representing the same wagering interest, the quinella double pool shall be distributed as if no dead heat occurred.

4. If there is a dead heat for second in either of the quinella double races involving horses representing two or more wagering interests, the quinella double pool shall be distributed as profit split.

5. Should a wagering interest in the first half of the quinella double be scratched prior to the first quinella pool race being declared official, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

6. Should a wagering interest in the second half of the quinella double be scratched prior to the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

7. Should a wagering interest in the second half of the quinella double be scratched after the close of wagering on the first quinella double race, all wagers combining the winning combination in the first race with a combination including the scratched wagering interest in the second race shall be allocated a consolation payout. In calculating the consolation payout, the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first race and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first race combined with a combination including the scratched wagering interest in the second race to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net quinella double pool before calculation and distribution of the winning quinella double payout. In the event of a dead heat involving separate wagering interests, the net quinella double pool shall be distributed as a profit split.

8. If either of the quinella double races is cancelled prior to the first quinella double race or the first quinella double race is declared "no contest," the entire quinella double pool shall be refunded on quinella double wagers for those races.

9. If the second quinella double race is cancelled or declared "no contest" after the conclusion of the first quinella double race, the net quinella double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first quinella double race. If there are no wagers selecting the winning combination in the first quinella double race, the entire quinella double pool shall be refunded on quinella double wagers for those races.

G. Pick (n) pools. The pick (n) pool requires selection of the first-place finisher in each of a designated number of races. The licensee must obtain approval from the commission or its executive secretary concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in subdivision 1 of this subsection and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission or its executive secretary.

1. The pick (n) pool shall be apportioned under one of the following methods:

a. Method 1, pick (n) with carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder shall be added to the carryover.

b. Method 2, pick (n) with minor pool and carryover. The major share of the net pick (n) pool and carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share shall be added to the carryover.

c. Method 3, pick (n) with no minor pool and no carryover. The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

d. Method 4, pick (n) with minor pool and no carryover. The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

e. Method 5, pick (n) with minor pool and no carryover. The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based on the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the

first-place finisher in a second greatest number of pick (n) races, the minor share of the pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

f. Method 6, pick (n) with minor pool, jackpot, major carryover and jackpot carryover. Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool, and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) races, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool shall be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races, the jackpot net pool shall be added to the jackpot carryover. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

2. If there is a dead heat for first in any of the pick (n) races involving:

a. Horses representing the same wagering interest, the pick (n) pool shall be distributed as if no dead heat occurred.

b. Horses representing two or more wagering interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

3. Should a wagering interest in any of the pick (n) races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host track for the race at the close of wagering on that race, shall be substituted for the scratched wagering interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the wagering interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted wagering interests which became winners as a result of the substitution, in addition to the normal winning combination. When the condition of the racecourse warrants a change of racing surface in any of the legs of a pick (n) with four or more races included, and such change has not been known to the public prior to the close of wagering for the pick (n) pool, the stewards shall declare the changed leg(s) an "all win" race(s) for pick (n) wagering purposes only. An "all win" race(s) will assign the winner of that race(s) to each pick (n) ticket holder as their selection for that race.

4. The pick (n) pool shall be cancelled and pick (n) wagers for the individual performance shall be refunded if:

a. At least two races included as part of a pick three are cancelled or declared "no contest."

b. At least three races included as part of a pick four, pick five or pick six are cancelled or declared "no contest."

c. At least four races included as part of a pick seven, pick eight or pick nine are cancelled or declared "no contest."

d. At least five races included as part of a pick 10 are cancelled or declared "no contest."

5. If at least one race included as part of a pick (n) is cancelled or declared "no contest," but not more than the number specified in subdivision 4 of this subsection, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that program. The distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

6. The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this chapter. After the pick (n) carryover is frozen, 100% of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) races for that program.

7. A licensee may request permission from the commission to distribute the pick (n) carryover on a specific program. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

8. Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon approval from the commission as provided in subdivision 7 of this subsection;

b. Upon approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

c. On the closing program of a race meeting.

9. If, for any reason, the pick (n) carryover must be held to the corresponding pick (n) pool to a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool on a date and program of the race meeting designated by the commission.

10. With the approval of the commission, a licensee may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

11. Providing information to any person regarding the covered combinations, amounts wagered on specific combinations, number of tickets sold or number of live tickets remaining is strictly prohibited. This chapter shall not prohibit necessary communication between totalizator and mutuel employees for processing of pool data.

12. The licensee may suspend previously approved pick (n) wagering with the approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. The licensee may request approval of a pick (n) wager or separate wagering pool for specific programs.

H. Superfecta pools. The superfecta pool requires selection of the first four finishers, in their exact order, for a single race.

1. The net superfecta pool shall be distributed to winning wagers in the following precedence based upon the official order of finish:

a. As a single price pool to those whose combination finished in correct sequence as the first four wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first three wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

d. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

e. The entire pool shall be refunded on superfecta wagers for that race.

2. If less than four wagering interests finish and the race is declared official, payouts will be made based upon the order of finish of those wagering interests completing the race. The balance of any selection beyond the number of wagering interests completing the race shall be ignored.

3. If there is a dead heat for first involving:

a. Horses representing four or more wagering interests, all of the wagering combinations selecting four wagering interests which correspond with any of the wagering interests involved in the dead heat shall share in a profit split.

b. Horses representing three wagering interests, all of the wagering combinations selecting the three dead-heated wagering interests, irrespective of order, along with the fourth-place wagering interest shall share in a profit split.

c. Horses representing two wagering interests, both of the wagering combinations selecting the two dead-heated wagering interests, irrespective of order, along with the third and fourth-place wagering interests shall share in a profit split.

4. If there is a dead heat for second involving:

a. Horses representing three or more wagering interests, all of the wagering combinations correctly selecting the winner combined with any of the three wagering interests involved in the dead heat for second shall share in a profit split.

b. Horses representing two wagering interests, all of the wagering combinations correctly selecting the winner, the two dead-heated wagering interests, irrespective of order, and the fourth-place wagering interest shall share in a profit split.

5. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the wagering interests involved in the dead heat for fourth shall share in a profit split.

6. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the wagering interests involved in the dead heat for fourth shall share in a profit split.

I. Twin trifecta pools. The twin trifecta pool requires selection of the first three finishers in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. The tickets may be exchanged only at attended windows prior to the second twin trifecta race. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

1. After wagering closes for the first-half of the twin trifecta and retainage has been deducted from the pool, the net pool shall then be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

2. In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there is no winning wager, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there is no winning wager, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there is no winning wager, then

d. The entire twin trifecta pool shall be refunded to twin trifecta wagers for that race and the second-half race shall be cancelled.

3. If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In this case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

4. Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

a. As a single price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first three wagering interests; but if there are no winning tickets, then

b. The entire second-half twin trifecta pool for that race shall be added to any existing carryover moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive program.

5. If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

6. Should a wagering interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched wagering shall be refunded.

7. Should a wagering interest in the second-half of the twin trifecta be scratched, announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched wagering interest. If tickets have not been exchanged prior to the close of wagering of the second twin trifecta race, the ticket holder forfeits all rights to the second-half twin trifecta pool. However, if the scratch in the second-half of the twin trifecta occurs five minutes or less prior to post time, then the licensee shall have discretion to cancel all twin trifecta wagers and make a prompt refund.

8. If, due to a late scratch, the number of wagering interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin trifecta carryover.

9. If there is a dead heat or multiple dead heats in either the first or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a wagering interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

a. The first-half of the twin trifecta, the payout shall be calculated as a profit split; and

b. The second-half of the twin trifecta, the payout shall be calculated as a single price pool.

10. If either of the twin trifecta races are cancelled prior to the first twin trifecta race or the first twin trifecta race is declared "no contest," the entire twin trifecta pool shall be refunded in twin trifecta wagers for that race and the second-half shall be cancelled.

11. If the second-half twin trifecta race is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subdivision 3 of this subsection.

12. The twin trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this chapter. After the twin trifecta carryover is frozen, 100% of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

13. A written request for permission to distribute the twin trifecta carryover on a specific program may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

14. Should the twin trifecta carryover be designated for distribution on a specified date and program, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

d. As a single price pool to holders of valid exchange tickets.

e. As a single price pool to holders of outstanding first-half winning tickets.

15. During a program designated by the commission to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of wagering interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first, second or third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place wagering interests. If there are no wagers correctly selecting the first and second place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place wagering interest only. If there are no wagers selecting the first-place wagering interest only in the first-half of the twin trifecta, all first-half tickets will become winners and will receive 100% of that day's net twin trifecta pool and any existing twin trifecta carryover.

16. The twin trifecta carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon written approval from the commission as provided in subdivision 14 of this subsection.

b. Upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued.

c. On the closing program of the race meeting.

17. If, for any reason, the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover plus accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and program so designated by the commission.

18. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

19. The licensee must obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the commission.

11VAC10-20-340. Refunds.

A. Generally. For all wagers other than the daily double, pick three or pick six, a refund at face value shall be made to all holders of pari-mutuel tickets on horses that have been excused by the stewards, participated in a race where no horse finished, or a race, where in the discretion of the stewards, was declared "no contest" for wagering purposes. Unless otherwise provided for in this chapter, no refund shall be made if the horse excused by the stewards is part of a coupled entry or the field.

B. Nonstarters. If any horse is prevented from obtaining a fair start by failure of the starting gate or other untoward events, the stewards, in their discretion, may order a prompt refund in any pool on that horse.

C. Cancelling pools due to nonstarters. If any horse or horses are prevented from obtaining a fair start so that it would reduce the total number of starters below six, the following shall apply:

1. If horses representing five wagering interests obtain a fair start, the licensee may refund the entire amount wagered in the show pool;

2. If horses representing four or fewer wagering interests obtain a fair start, the licensee may refund the entire amount wagered in the show pool as well as place pool; and

3. If horses representing fewer than two interests obtain a fair start, the race may be declared "no contest" and the entire amount wagered in the win, place and show pools shall be promptly refunded.

D. Cancelling pools due to late scratches. After wagering has commenced on a race and prior to the race being run, should a horse or horses be excused by the stewards resulting in a field of less than six different wagering interests, the following apply:

1. If horses representing five wagering interests will start, the licensee may refund the entire amount wagered in the show pool;

2. If horses representing five or fewer wagering interests will start, the licensee may refund the entire amount wagered in the show pool as well as place pool;

3. If horses representing fewer than two interests will start, the race may be cancelled and the entire amount wagered in the win, place and show pools shall be promptly refunded. However, the horse or horses shall race for the purse as nonwagering event.

E. No refunds. If a horse is left at the post at the start, or the rider or driver is unseated, there shall be no refund.

F. Scratches in entries. If two or more horses in a race are coupled as a wagering interest or the field, there shall be no refund unless all of the horses so coupled are excused by the stewards or all of the horses so coupled are prevented from obtaining a fair start. Discretion, however, is vested in the stewards to order a refund where a part of an entry is excused by the stewards or prevented from obtaining a fair start, where it is in the public interest to do so. In this instance, the remaining part of the entry may race for the purse only.

G. Postponed races. In the case of a race postponed beyond the day originally scheduled, all money wagered on the race shall be refunded.

H. Cancelling turf races. In the event conditions require a race to be moved from the turf to the main racing surface, any advance wager shall be refunded at the request of the holder of the pari-mutuel ticket up until post time of the race. This regulation does not apply to pick (n) wagering.

I. Announcement of refunds. In those cases where a refund is due the public or a pari-mutuel pool is cancelled, the licensee shall promptly inform the public through the public address system and other appropriate means of communication.

Part IV
Distribution of Purse Money

11VAC10-20-350. Purse amounts.

Pursuant to § 59.1-392 of the Code of Virginia, 8.0% of the pari-mutuel pools for straight wagering, and 9.0% of the pari-mutuel pools for multiple wagers shall be allocated for purse money to participants by the licensee. In making the distribution of purse money, the licensee shall, to the extent possible, maintain purse amounts in proper relationship to actual pari-mutuel handles.

11VAC10-20-360. Adjustments to purses.

Should levels of pari-mutuel handle create overpayment or underpayment of purses paid during the course of the race meeting, the licensee shall make adjustments in each publication of its condition book to attempt to keep purses consistent with mutuel handles.

11VAC10-20-370. Overpayments carried over.

If, at the end of the horse race meeting, an overpayment of purses has occurred, the overpayment shall be carried over to the next horse race meeting of the same breed and the overpayment may be recovered by the licensee. The licensee shall recover the overpayment on an even basis over the course of the horse race meeting to prevent serious inconsistencies in purse levels during the horse race meeting.

11VAC10-20-380. Underpayments carried over.

If, at the end of a horse race meeting, an underpayment of purses has occurred, the underpayment shall be carried over to the next horse race meeting of the same breed. The underpayment must be paid to the horse owners by adding the underpayment to the purses. The licensee shall repay the underpayment on an even basis over the course of the horse race meeting to prevent serious inconsistencies in purse levels during the horse race meeting.

11VAC10-20-390. Willful underpayment.

Should the commission determine that a licensee willfully failed to adjust purse levels in violation of these regulations for the purposes of retaining purse underpayments from one race meeting to the next, the licensee will be the subject of disciplinary action of the commission.

11VAC10-20-400. Escrow accounts.

All money received by a licensee for races that require nominating, sustaining, entry, or starting fees must be placed in interest bearing escrow accounts, and all accrued interest must be added to these races if: (i) the total fees received for the race exceed $15,000; or (ii) fees are due and payable for the race more than 180 days in advance of the advertised date of the running of the race.

CHAPTER 30

LIMITED LICENSES

11VAC10-30-10. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Virginia Racing Commission.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with any calendar year.

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Person" includes a natural person, partnership, joint venture, association or corporation.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

11VAC10-30-20. Generally.

The commission is authorized to issue limited licenses for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The horse racing, with pari-mutuel wagering privileges, shall be conducted by limited licensees so as to maintain horse racing in the Commonwealth of Virginia of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in horse racing complete honesty and integrity.

A. Number of racing days. The commission may issue limited licenses to conduct horse race meetings, with pari-mutuel wagering privileges on races held at the site, for a period not to exceed 14 days in any calendar year.

B. Local referendum. The commission shall not grant a limited license to conduct a horse race meeting, with pari-mutuel wagering privileges, until a referendum approving the question is held in the county or city in which the race meeting is to be conducted.

C. Observance of regulations. The holder of a limited license shall be charged with the same duties and responsibilities as are the holders of unlimited licenses with respect to the observance and enforcement of the Act and the regulations of the commission.

D. Racing surfaces. The holders of limited licenses shall utilize racing surfaces which are safe and humane for participants and meet generally accepted standards for the type of racing, but any dirt surface for flat racing shall be at least one mile in circumference, any turf surface for flat or

jump racing shall be at least seven-eighths of a mile in circumference, and any dirt surface for Standardbred or Quarter Horse racing shall be at least five-eighths of a mile.

E. Renewal of limited licenses. Limited licenses are valid for one calendar year during which the licensee may conduct as many as 14 days of horse racing with pari-mutuel wagering privileges. A licensee may apply for a renewal of a limited license by submitting an application to the commission as set forth in 11VAC10-30-30 of this chapter. An applicant for a renewal of a limited license may incorporate by reference any information submitted in previous applications.

11VAC10-30-30. Application for a limited license.

A. Where to file application. An applicant for a limited license shall submit an application on a form, prepared by the commission, to the main office of the commission no later than September 1, excluding Saturdays, Sundays or holidays, for the following calendar year. The commission may, in its discretion, extend the deadline to receive applications.

1. An application to be sent by certified mail shall be addressed to:

Executive Secretary

Virginia Racing Commission

Post Office Box 1123

Richmond, VA 23218

2. An application to be hand-delivered shall be delivered to the Executive Secretary, Virginia Racing Commission at the Commission's office in Richmond, Virginia.

3. An application delivered by hand or by certified mail will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed or the extended deadline.

4. Delivery to other than the commission's main office is not acceptable.

5. The licensee assumes full responsibility for the method chosen to deliver the request.

B. Identification of applicant for limited license. An application for a limited license shall include the name, address and telephone number of the applicant, and the name, position, address, telephone number and authorized signature of an individual to whom the commission may make inquiry.

C. Applicant's affidavit. An application for a limited license shall include an affidavit from the chief executive officer, director, officer or other participant in the applicant setting forth:

1. That application is made for a limited license to conduct a horse race meeting, with pari-mutuel wagering privileges, for a period not to exceed 14 days in any calendar year;

2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers and personnel, and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached (Identify attached exhibit number;)

3. That the applicant seeks a grant of privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;

4. That the applicant consents to inquiries by the Commonwealth of Virginia, its employees, commission members, staff and agents, into the financial, character and other qualifications of the applicant by contacting individuals and organizations;

5. That the applicant, its owners, partners, members, directors, officers and personnel accept any risk of adverse public notice, embarrassment, criticism or other circumstance, including financial

loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, and its staff or agents;

6. That the affiant has read the application and knows the contents; the contents are true to the affiant's own knowledge, except matters therein stated as information and belief, and that as to those matters, the affiant believes them to be true;

7. That the applicant recognizes all representations in the application are binding, and false or misleading information in the application, omission of required information, or substantial deviation from representations in the application may result in denial, revocation, suspension or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable state and federal statutes and regulations, all regulations of the commission and all other local ordinances;

9. The affiant's signature, name, organization, position, address and telephone number; and

10. The date.

D. Disclosure of ownership and control. An applicant for a limited license must disclose the type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association or other.

1. If the applicant is an individual, the applicant shall disclose his legal name, whether the applicant is a United States citizen, and any aliases and business or trade names currently or previously used.

2. If the applicant is a corporation, the applicant shall disclose the applicant's full corporate name, any trade names currently or previously used; jurisdiction of incorporation, date of incorporation, and the date the applicant began doing business in the Commonwealth of Virginia. In addition, the applicant shall include:

a. A copy of the applicant's certificate of authority to do business in Virginia;

b. A copy of the applicant's articles of incorporation;

c. A description of the general nature of the applicant's business; and

d. A list of the names, in alphabetical order, and addresses of the directors, and in a separate list, the names and addresses, in alphabetical order, of the officers of the applicant.

3. If the applicant is an organization other than a corporation, the applicant shall disclose the applicant's full name, any aliases, business or trade names currently or previously used; the jurisdiction of organization; the date the applicant began doing business in Virginia; and the general nature of the applicant's business. In addition, the applicant shall include:

a. Copies of any agreements creating or governing the applicant's organization; and

b. The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policymaking authority.

4. If the applicant is a tax exempt organization, the applicant shall submit copies of documentation from the Internal Revenue Service granting tax exempt status.

E. Disclosure of character information. An applicant for a limited license shall disclose and furnish particulars as follows whether the applicant or any individual identified in subsection D of this section has:

1. Been charged in any criminal proceeding other than a traffic violation. If so, the applicant shall disclose the nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant shall disclose the date of commencement, circumstances and disposition; and

3. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant shall disclose the date of commencement, forum, circumstances and disposition.

F. Disclosure of site and facilities. An applicant for a limited license shall disclose the following concerning the site and facilities where horse racing will be conducted with pari-mutuel wagering privileges:

1. The location of the horse racing facility including street address, municipality where the facility is located and the county in which the facility is located;

2. The present ownership of the horse racing facility;

3. If the applicant leases the site of the horse racing facility, the applicant shall submit copies of any leasing agreement, and any other arrangements for the use of the facility between the applicant and the owner of the facility;

4. The type or types of racing to be offered, the number of races to be run each day, the post time of the first race each day, type of pari-mutuel pools to be offered, and any organization that is sanctioning the races;

5. A description of the post-race detention facilities and sample collection arrangements;

6. A description of the totalizator, including vendor and manufacturer, if known;

7. A description of starting, timing, photo finish and photo patrol or video equipment, including vendor and manufacturer, if known; and

8. A description of the work areas for stewards and patrol judges.

G. Disclosure of governmental actions. An applicant for a limited license shall disclose whether the applicant is in compliance with all state statutes, local charter provisions, local ordinances, and street and local regulations pertaining to the development, ownership and operation of its horse racing facility. If the applicant is not in compliance, the applicant shall disclose the reasons why the applicant is not in compliance and summarize plans to obtain compliance.

H. Disclosure of management. An applicant for a limited license shall disclose its management personnel by listing the names of the personnel and their titles.

I. Disclosure of safety and security plan. An applicant for a limited license shall describe the safety and security plan for the horse racing facility in regards to the procedures for accepting and cashing wagers, detention facility and participants.

J. Effects on competition. An applicant for a limited license shall make a brief statement indicating why its racing days will not be harmful to other limited or unlimited licenses issued by the Virginia Racing Commission.

K. Personal information and authorization for release. An applicant for a limited license shall include the following with respect to each individual identified as an applicant, partner, director, officer, policymaker or management personnel in subsection D or subsection H of this section:

1. Full name, business and residence addresses and telephone numbers, date of birth, place of birth, social security number, if the individual is willing to provide it;

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he:

a. Authorizes a review by, and full disclosure to, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia, its employees, the commission, members, staff and agents to determine the signer's qualifications for a license; and

c. Release authorized providers and users of the information from any liability under state or federal data privacy statutes.

L. Additional information. Upon receipt of a properly completed application for a limited license, the commission may, in its discretion, require any further information from the applicant that it deems necessary for a full understanding and evaluation of the application.

M. Amendment of application. An applicant for a limited license may amend a properly completed and properly submitted application to the commission.

N. Application fee. An applicant for a limited license as provided for in § 59.1-376 of the Code of Virginia shall submit a nonrefundable application fee to the commission's designee at the time of application by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of $100 per number of racing days requested. The applicant also shall pay the costs of background investigations conducted by the Virginia State Police of the persons enumerated in subsections D and H of this section.

11VAC10-30-40. License criteria.

A. Determination by commission. The commission may issue a limited license if it determines on the basis of all the facts before it that:

1. Issuance of a license will not adversely affect the horse racing industry in the Commonwealth of Virginia or the public interest;

2. The horse racing facility will be operated in accordance with all applicable state and federal statutes and regulations, regulations of the commission and all local ordinances; and

3. The issuance of a limited license to the applicant will not adversely affect the public health, safety and welfare.

B. Consideration of application. The commission, in determining whether the issuance of a limited license is in the public interest, shall consider the following factors:

1. The integrity of the applicant, including:

a. Criminal record;

b. Involvement in proceedings in which government regulation of horse racing or gambling was an issue; and

c. Any other factors related to integrity which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants.

2. The quality of physical improvements and equipment in the applicant's facility, including:

a. Detention facility;

b. Totalizator;

c. Starting, timing, photo finish, photo patrol or video equipment; and

d. Any other factors related to quality which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants.

3. Status of governmental actions required for the applicant's facility, including:

a. Required governmental approvals for the operation of the horse racing facility; and

b. Any other factors related to status of governmental actions which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

4. The qualifications of the applicant's managers and any other factors related to management ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

5. Compliance with applicable statutes, charters, ordinances or regulations.

6. Efforts to promote an orderly growth of horse racing in Virginia and educate the public with respect to horse racing and pari-mutuel wagering.

7. Effects on competition, including:

a. Number, nature and relative location of other licensees;

b. Minimum and optimum number of racing days sought by the applicant; and

c. Any other factors of the impact of competition which the commission deems crucial to decision making as long as the same factors are considered with regard to all applicants.

8. The commission shall also consider any other information that the applicant discloses or that is relevant and helpful to a proper determination.

C. Issuance of limited license. In issuing a limited license to an applicant, the commission shall designate in writing the location of the facility where the horse racing, with pari-mutuel wagering privileges, shall take place, 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, and the hours of racing.

D. Denial of request final. The denial of a request by the commission shall be final unless appealed by the applicant or licensee.

E. Transfer or acquisition of an interest in a limited license. A holder of a limited license may apply to the commission to transfer its race meet or meetings to that of another horse racing facility already licensed by the commission under the provisions of 11VAC10-20-240.

11VAC10-30-50. Limited license criteria.

A. The holder of a limited license shall conduct horse racing at a facility for the promotion, sustenance and growth of a native industry in a manner consistent with health, safety and welfare.

B. The adequacy and sufficiency with which the licensee meets the following criteria shall rest with the commission:

1. Each licensee shall accept, observe and enforce all federal and state laws, regulations of the commission and local ordinances;

2. Each licensee shall ensure that its grounds and facility are neat and clean, painted and in good repair, with special consideration for the comfort and safety of the public, employees, other persons whose business requires their attendance, and for the health and safety of the horses there stabled;

3. Each licensee shall honor commission exclusions from the horse racing facility and shall eject immediately any person found in the facility who has been excluded by the commission. The licensee shall make a report to the commission of each person who is ejected from the facility;

4. Each licensee shall provide uniformed security personnel in the areas where pari-mutuel wagering is conducted so that money and pari-mutuel tickets may be safeguarded, decorum maintained and public safety protected;

5. Each licensee shall provide a starting gate or starting apparatus that is appropriate to the type of racing being offered, sufficient, trained outriders, and timing devices or trained personnel to manually time the races and provide fractional times as deemed appropriate;

6. Each licensee shall provide a photo-finish camera and an area where photo-finish prints may be displayed to the public. The photo-finish camera and the personnel operating the camera shall be under the supervision of the stewards;

7. Each licensee shall provide a totalizator where wagers are recorded, pools calculated, approximate odds displayed visibly to the general public in the infield at periodic intervals during the wagering and with the payouts on winning tickets are displayed;

8. Each licensee shall provide an adequate number of ambulances and emergency medical services for participants and public during those hours when horse racing is conducted. At no time will horse racing be permitted unless there is at least one ambulance at the facility;

9. Each licensee shall provide at least one veterinarian to administer and provide emergency service to any horse participating in the racing program;

10. Each licensee shall provide a detention facility where samples of blood, saliva, urine and other substances can be collected from horses following racing. The commission may, in its discretion, authorize the commission veterinarian and his assistants to collect samples from horses following racing in their stalls; and

11. Each licensee shall coordinate its fire, safety and security plans with local fire and police agencies so that the public health and safety may be protected.

C. The following limited license application, regulations and guidelines are developed to implement the filing of applications pursuant to § 59.1-376 of the Code of Virginia. The applicant or its designated representative shall execute all sections of this application unless otherwise provided.

1. False or misleading information in a license application, omission of required information or substantial deviation from representation in the application is cause for denial, revocation or suspension of a license or imposition of a fine.

2. The applicant shall provide all information required to be disclosed.

3. The applicant shall provide only information relevant to disclosures required by the Virginia Racing Commission.

4. Upon filing the application, the applicant shall provide the following:

a. A letter of transmittal to the Virginia Racing Commission;

b. An original and six copies of the application, in sealed envelopes; and

c. Any exhibits and attachments to the application.

5. The applicant shall file with the application a disclosure statement on the form attached hereto (original and six copies) for itself and for each officer, director, partner, policymaker and owner or holder of 5.0% or more of the legal or beneficial ownership interest in the applicant. If 25% or

more of the applicant is owned by another entity, disclosure statements shall be filed by the officers, directors, partners and policymakers of the other entity and the owner or holders of 10% or more of the legal or beneficial ownership interest in the other entity. This disclosure shall continue through as many tiers as necessary to disclose the ultimate owners or holders of 5.0% or more of the legal or beneficial ownership interest in the applicant. A person having an interest subject to disclosure in more than one applicant shall file one set of disclosure statements for each application. Each disclosure statement shall be attached to the application as an exhibit.

6. Upon request of the Virginia Racing Commission, the applicant shall provide copies of any documents used in the preparation of its application or any other documents the commission requests.

7. Each disclosure required in the application shall be provided in printed or typewritten form on 8½ by 11 inch paper.

8. Each page shall be sequentially numbered including exhibits and attachments.

9. All disclosures shall be submitted in the order that they are presented in the application.

10. If the applicant elects not to utilize this application form, then the applicant shall restate the question and the question number, immediately preceding each response.

11. All documents which are part of the application shall be submitted as a bound single assemblage (unless multiple volumes are necessary) with each disclosure section, exhibit or other attachment identified and separated by tabs.

12. An applicant shall provide photographs of any three-dimensional exhibits.

13. If a question is inappropriate or not applicable, indicate "N.A." on the application.

14. If additional forms are required, the applicant may detach the form and make as many copies as necessary.

CHAPTER 40

SATELLITE FACILITIES

11VAC10-40-10. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Virginia Racing Commission.

"Licensee" includes any person holding an owner's, operator's, or limited license under §§ 59.1-375 through 59.1-386 of the Code of Virginia. The licensee under a limited license shall not be deemed an owner for the purposes of owning or operating a satellite facility.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the commission.

"Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering.

11VAC10-40-20. Generally.

The commission is authorized to issue licenses for satellite facilities for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The operation of satellite facilities shall be conducted so as to maintain horse racing in the Commonwealth of Virginia of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in horse racing complete honesty and integrity.

11VAC10-40-30. Local referendum.

The commission shall not grant a license to own or operate a satellite facility until a referendum approving the question is held in the county or city in which the satellite facility is to be located.

11VAC10-40-40. Observance of regulations.

The holder of a license to own or operate a satellite facility shall be charged with the same duties and responsibilities as are the holders of unlimited licenses with respect to the observance and enforcement of the act and the regulations of the commission.

11VAC10-40-50. Interstate Horse Racing Act.

The conduct of simulcast horse racing must comply with the provisions of the Interstate Horse Racing Act of 1978 (15 USC § 3001 et seq.).

11VAC10-40-60. Majority ownership.

The commission shall require that the majority ownership of satellite facilities be restricted to an entity licensed by the commission which owns a horse racetrack in the Commonwealth. Nothing in these regulations shall be deemed to preclude private local ownership or participation in any satellite facility.

11VAC10-40-70. Approval of simulcasting contracts.

Any contractual agreement between a licensee and other entities concerning simulcast horse racing is subject to the approval of the commission.

11VAC10-40-80. Disclosure of contracts.

Each licensee upon request shall provide to the commission copies of all contracts entered into by the licensee relating to the operation of a satellite facility.

11VAC10-40-90. Restrictions on wagering.

Wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

11VAC10-40-100. Permits required.

All racing officials employed in a satellite facility shall apply for permits under the provisions of 11VAC10-50-10 et seq. All participants employed in a satellite facility shall apply for permits under the provisions of 11VAC10-60-10 et seq.

Part II
Application for a License

11VAC10-40-110. Where to file application.

An applicant for a license to own or operate a satellite facility shall submit an application on a form, prepared by the commission, to the main office of the commission. The application shall be submitted either by certified mail or hand delivered.

1. An application to be sent by certified mail shall be addressed to:

Executive Secretary

Virginia Racing Commission

Post Office Box 1123

Richmond, VA 23218

2. An application to be hand delivered shall be delivered to the Executive Secretary, Virginia Racing Commission at the commission's office in Richmond, Virginia.

3. Delivery to other than the commission's main office is not acceptable.

4. The applicant assumes full responsibility for the method chosen to deliver the application.

11VAC10-40-120. Application fee.

An applicant for a license to own or operate a satellite facility must submit a nonrefundable application fee to the commission's designee at the time of application by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of $500. In the event the cost of the background investigation exceeds the application fee, the applicant must remit the amount of the difference by certified check or bank draft within 10 days after receipt of a bill from the commission.

11VAC10-40-130. Identification of applicant for a license.

An application for a license to own or operate a satellite facility shall include the name, address and telephone number of the applicant, and the name, position, address, telephone number and authorized signature of an individual to whom the commission may make inquiry.

11VAC10-40-140. Applicant's affidavit.

An application for a license shall include an affidavit from the chief executive officer, director, officer or other participant in the applicant setting forth:

1. That the application is made for a license to own or operate a satellite wagering facility at which pari-mutuel wagering on horse racing is conducted;

2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers and personnel, and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached;

3. That the applicant seeks a grant of privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;

4. That the applicant consents to inquiries by the Commonwealth of Virginia and the commission into the financial, character and other qualifications of the applicant by contacting individuals and organizations;

5. That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, staff or agents;

6. That the affiant has read the application and knows the contents; the contents are true to the affiant's own knowledge, except matters therein stated as information and belief; as to those matters, the affiant believes them to be true;

7. That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or substantial deviation from representations in the application may result in denial, revocation or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable local, state and federal statutes, regulations and ordinances;

9. The affiant's signature, name, organization, position, address, and telephone number; and

10. The date.

11VAC10-40-150. Disclosure of ownership and control.

An applicant must disclose, if not already a licensee of the commission:

1. The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other;

2. If the applicant is an individual, the applicant's legal name, whether the applicant is a United States citizen, any aliases and business or trade names currently or previously used by the applicant, and copies of all state and federal tax returns for the past five years;

3. If the applicant is a corporation:

a. The applicant's full corporate name and any trade names currently or previously used by the applicant;

b. The jurisdiction and date of incorporation;

c. The date the applicant began doing business in Virginia and a copy of the applicant's certificate of authority to do business in Virginia;

d. Copies of the applicant's articles of incorporation, bylaws, and all state and federal corporate tax returns for the past five years;

e. The general nature of the applicant's business;

f. Whether the applicant is publicly held as defined by the rules and regulations of the Securities and Exchange Commission;

g. The classes of stock of the applicant. As to each class, the number of shares authorized, number of shares subscribed to, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed;

h. Whether the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted;

i. The names, in alphabetical order, and addresses of the directors and, in a separate list, officers of the applicant. The number of shares held of record directly or indirectly by each director and officer as of the application date of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed;

j. The names, in alphabetical order, and addresses of each recordholder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units must be disclosed;

k. Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and Securities and Exchange Commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of the most recent registration statement and annual report filed with the Securities and Exchange Commission;

l. Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of the most recent registration statement filed with the securities regulator in that jurisdiction; and

m. Whether the securities registration and filing requirements of the Commonwealth of Virginia have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filings with Virginia's State Corporation Commission during the past five years;

4. If the applicant is an organization other than a corporation:

a. The applicant's full name and any aliases, business, or trade names currently or previously used by the applicant;

b. The jurisdiction of organization of the applicant;

c. The date the applicant began doing business in Virginia;

d. Copies of any agreements creating or governing the applicant's organization and all of the applicant's state and federal tax returns for the past five years;

e. The general nature of the applicant's business;

f. The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policymaking authority. As to each, the applicant must disclose the nature and extent of any ownership interest, direct or indirect, including options, or other voting interest, whether absolute or contingent, in the applicant; and

g. The names, in alphabetical order, and addresses of any individual or other entity holding a record or beneficial ownership interest, direct or indirect, including options, as of the date of the application, or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest;

5. If a nonindividual record or nonindividual beneficial holder of an ownership or other voting interest of 5.0% or more in the applicant is identified pursuant to subdivision 3 i or j, or subdivision 4 f and g, the applicant shall disclose the information required by those subdivisions as to record or beneficial holders of an ownership or voting interest of 5.0% or more in that nonindividual holder. The commission shall have the right to inquire for further disclosure of the applicant as it deems necessary. When an applicant is unable to provide the information required, it shall explain fully and document its inability to do so;

6. Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control;

7. Any agreements or understandings which the applicant or any individual or entity identified pursuant to this section has entered into regarding ownership or operation of the applicant's satellite facility, and copies of any such agreements in writing;

8. Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation concerning the proposed satellite facility by the applicant, and copies of any such agreements in writing; and

9. Whether the applicant, any partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more has held or holds a license or permit issued by any governmental authority to own or operate a horse racing facility, pari-mutuel wagering facility or any other form of gambling or has a financial interest in such an enterprise or conducts any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

11VAC10-40-160. Disclosure of character information.

Unless the applicant for a license is already a licensee or holder of a permit from the commission, the applicant shall disclose and furnish particulars regarding whether the applicant or any individual or other entity identified pursuant to 11VAC10-40-150 or 11VAC10-40-220 of this chapter or a lease holder of the site of the facility has:

1. Been charged in any criminal proceeding other than in connection with a traffic violation. If so, the applicant must disclose the nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional, or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, circumstances and disposition;

3. Been accused in an administrative or judicial proceeding of violating a statute or regulation relating to horse racing or gambling;

4. Been charged in an administrative or judicial proceeding of violating a statute or regulation relating to unfair labor practices or discrimination;

5. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances and disposition;

6. Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision and disposition;

7. Failed to satisfy any judgment, decree or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances; and

8. Been delinquent in filing a tax return required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

11VAC10-40-170. Disclosure of site and facilities.

An applicant for a license must disclose with respect to the satellite facility:

1. The address of the facility, ownership of the site for the last three years, legal description, mortgagors, proof of title insurance, its size and geographical location, including reference to county and municipal boundaries;

2. A site map showing parking facilities, highways and streets adjacent to the facility, and separately showing any proposed highways and streets adjacent to the facility that are under construction, including their scheduled completion dates;

3. A description of the satellite facility, including portions of the facility not used for pari-mutuel wagering, giving:

a. Total capacity;

b. Total number of square feet;

c. Dimensions of the facility;

d. Configuration of the viewing, dining and concession facilities with the facility;

e. Approximate location of mutuel windows and cash security areas;

f. Description of the wagering equipment, including vendor and manufacturer, if known; and

g. Preliminary architectural plans of the interior and exterior of the facility, if the proposed facility is to be constructed by the licensee.

11VAC10-40-180. Disclosure of development process.

An applicant for a license may propose to lease, acquire or construct premises for each satellite facility. Such premises may be adjacent to or located within other businesses including but not limited to hotels and restaurants. Further, an applicant for a license must disclose with regard to the development of the satellite facility:

1. If the facility is to be constructed, the total cost of construction of the facility distinguishing between known costs and projected cost;

2. Separate identification of the following costs:

a. Facility design;

b. Site acquisition or rental costs;

c. Satellite reception and video equipment; and

d. Organizational, administrative, accounting and legal.

3. Documentation of the nature of interim financing, if any, and the nature of permanent financing, if any;

4. Documentation of fixed costs;

5. The schedule for construction, acquisition or leasing of the facility, giving, as the case may be:

a. Acquiring or leasing the site;

b. Soliciting bids;

c. Zoning and construction permit approval;

d. Awarding construction contracts;

e. Beginning construction;

f. Completing construction;

g. Training staff; and

h. Beginning of operation;

6. Schematic drawings;

7. Copies of contracts, if any, with performance bonds from the:

a. Architect or other design professional;

b. Project engineer;

c. Construction engineer;

d. Contractors and subcontractors; and

e. Equipment procurement personnel;

8. Whether the site has been acquired or leased by the applicant; and

9. Whether present planning envisions future expansion of the facility.

11VAC10-40-190. Disclosure of financial resources.

An applicant for a license must provide the following with regard to financial resources:

1. Unless the applicant is already the holder of a license from the commission, the applicant shall submit the most recently audited financial statement showing:

a. The applicant's current assets, including investments in affiliated entities, loans and accounts receivable;

b. Fixed assets;

c. Current liabilities, including loans and accounts payable;

d. Long-term debt and equity;

e. Contingent tax liability; and

f. Statement of income and expenses, and statement of cash flow.

2. Equity and debt sources of funds to develop, own and operate a satellite facility:

a. With respect to each source of equity:

(1) Identification of the source;

(2) Amount;

(3) Form;

(4) Method of payment;

(5) Nature and amount of present commitment; and

(6) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts.

b. With respect to each source of debt:

(1) Identification of the source;

(2) Amount;

(3) Terms of debt;

(4) Collateral;

(5) Identity of guarantors;

(6) Nature and amount of commitments; and

(7) Documentation, copies of agreements and actions the applicant will take to obtain commitments for additional amounts.

3. Identification and description of sources of additional funds needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

11VAC10-40-200. Disclosure of financial plan.

An applicant for a license shall submit detailed financial projections for the operation of the satellite facility at the location that includes financing and income, expenses, profits or losses. The applicant shall include projections for purse money, the Virginia Breeders Fund, revenue to the Commonwealth and localities. The applicant shall also include the basis for the projections.

11VAC10-40-210. Disclosure of governmental actions.

An applicant for a license must disclose whether it is in compliance with all state statutes, local charter provisions, local ordinances, and state and local regulations pertaining to the development, ownership and operation of the satellite facility. If the applicant is not in compliance, the applicant must disclose the reasons why the applicant is not in compliance and summarize plans to obtain compliance.

11VAC10-40-220. Disclosure of management.

An applicant for a license must disclose with regard to the management of the satellite facility:

1. A description of the applicant's management plan, with budget and identification of management personnel by function, job description and qualifications for each management position, and a copy of the organization chart;

2. Management personnel to the extent known and with respect to each:

a. Legal name, alias or aliases and previous name or names;

b. Current residence and business addresses and telephone numbers;

c. Qualifications and experience in the following areas:

(1) General business;

(2) Marketing, promotion and advertising;

(3) Finance and accounting;

(4) Horse racing;

(5) Pari-mutuel wagering;

(6) Security; and

(7) Operation of satellite wagering facilities;

d. Description of the terms and conditions of employment and each applicant upon request shall provide to the commission a copy of each form of agreement;

3. Consultants and other contractors who have provided or will provide management-related services to the applicant and with respect to each:

a. Full name;

b. Current address and telephone number;

c. Nature of services;

d. Qualifications and experience; and

e. Description of terms and conditions of each contractor's agreement and a copy of the agreement;

4. Memberships of the applicant, management personnel and consultants in horse racing organizations;

5. Description of the applicant's marketing, promotion and advertising plans;

6. A description of the applicant's plan for concessions, including whether the licensee will operate the concessions and, if not who will; and

7. A description of training of the applicant's personnel.

11VAC10-40-230. Disclosure of affirmative action plan.

An applicant for a license shall develop and disclose a plan to be in compliance with all laws pertaining to discrimination, equal employment and affirmative action; policies regarding recruitment, use and advancement of minorities; policies with respect to minority contracting; and a copy of the Equal Employment Opportunity statement. Such disclosure shall include, but not be limited to, a general policy statement, goals, objectives and strategies for ensuring that the licensee is in compliance with all relevant laws.

11VAC10-40-240. Disclosure of lease.

If the applicant leases the site of the satellite facility, the applicant shall submit copies of any leasing agreement, and any other arrangements for the use of the facility between the applicant and the owner of the facility.

11VAC10-40-250. Disclosure of safety and security plans.

An applicant for a license must disclose with regard to the development of the satellite facility the emergency services available; the fire, safety and security equipment and procedures; the security

personnel to be employed; and a plan for uniform identification of employees, enabling customers to generally identify the function of each except undercover security personnel who shall carry a badge cleared with its local police jurisdiction. The disclosure shall include a description of the internal accounting controls to create cross checks and balances in order to safeguard assets and detect fraud and embezzlement.

11VAC10-40-260. Disclosure of impact of the satellite facility.

An applicant for a license must disclose and document the projected impact of satellite facility, including:

1. Economic impact, giving:

a. Number of jobs created, permanent or temporary, type of work, compensation, employer, gender, and race;

b. Purchases of goods and services, types of purchases, and projected expenditures;

c. Public investment and private investment; and

d. State tax revenues generated and local tax revenues generated;

2. Environmental impact;

3. Impact on energy conservation and development of alternative energy sources; and

4. Social impact on the community in which the facility would be located.

11VAC10-40-270. Disclosure of assistance in preparation of application.

An applicant must disclose the name, addresses and telephone numbers of individuals and businesses who assisted the applicant in the completion of its application and supply copies of all studies completed for the applicant.

11VAC10-40-280. Personal information and authorization for release.

In an application for a license, the applicant shall include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more in the applicant, any lease holder of a site of satellite facility, and each individual identified pursuant to subdivisions 2 and 3 of 11VAC10- 40-220.

1. Full name, business and residence addresses, and telephone numbers, residence addresses for the past five years, date of birth, place of birth, social security number if the individual is willing to provide it, and two references; and

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual providing that he:

a. Authorizes a review by, and full disclosure to the Federal Bureau of Investigation, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia and the commission to determine the individual's qualifications for a license; and

c. Releases authorized providers and users of the information from any liability under state or federal data privacy statutes.

11VAC10-40-290. Submission of a simulcasting schedule.

Upon the award of a license, the licensee shall submit to the main office of the commission, not later than 15 days after the award of the license, the proposed simulcasting schedule for each

satellite facility for the current year, and if such award is made after the first business day of September, for the next calendar year as well.

Thereafter, the licensee shall submit to the main office of the commission, no later than the first business day of September, the simulcasting schedule for the satellite facility for the following calendar year. The commission may, in its discretion, extend the deadline for submission of such simulcasting schedule.

The commission may grant the licensee leave to amend such simulcasting schedule at such times as the commission deems necessary or appropriate to reflect the broadcast of additional or fewer races.

11VAC10-40-300. Intrastate simulcasting schedule.

The licensee shall disclose the proposed simulcasting schedule of races, if any, emanating from the licensee's racetrack including:

1. The calendar dates;

2. The days of the week and hours of operation;

3. The total number of races per date;

4. The reason certain dates are sought; and

5. Any other information the licensee deems appropriate in assisting the commission in evaluating the disclosure.

11VAC10-40-310. Interstate simulcasting schedule.

If the simulcasting dates are requested from a location other than those emanating from the licensee's racetrack, the licensee shall disclose, to the extent known, the simulcast schedule including:

1. The specific dates;

2. The breed of horse;

3. The host track or tracks;

4. The number of races;

5. The number of races per date; and

6. Any other information the licensee deems appropriate in assisting the commission in evaluating the disclosure.

11VAC10-40-320. Special events.

The licensee may make a request to the commission at any time during the calendar year to include any special events that are not included in the disclosure of the simulcasting schedules.

11VAC10-40-330. Commission approval.

Within 15 days of receipt of the simulcasting schedules provided for herein, the commission shall accept, reject or modify any request made by a licensee in its interstate simulcasting schedule, intrastate simulcasting schedule or special events. In the absence of commission approval, the executive secretary of the commission may grant temporary approval of the simulcasting schedule or any changes therein, pending ratification by the commission, at its next regularly scheduled meeting.

11VAC10-40-340. Interruption of simulcast signal.

A. If there is a problem in the transmission of data or the simulcast signal between the racetrack and the satellite facility, it shall be within the discretion of the stewards to:

1. Order the race to be run on schedule;

2. Delay the race until the matter is resolved, if this is possible; or

3. After having delayed the race, if problem is not resolved and further delay is not possible, order the race to be run.

B. If a race is run before the resolution of a problem in the transmission of data or signal between the racetrack and the satellite facility, the stewards shall cause an announcement to be made that any pari-mutuel ticket issued before the running of the race is a valid ticket regardless of the nontransmission of data or the signal.

11VAC10-40-350. Locking wagering machines.

The mutuel manager shall designate a person at the satellite facility to lock the ticket issuing machines at the start of the race in the event of a failure in the system or through the inadvertence of the stewards.

11VAC10-40-360. Digital display.

Unless otherwise permitted by the commission, every simulcast will contain in its video content a digital display of actual time of day, the name of the racetrack from where the race emanates, the number of the race being displayed, and any other relevant information available to patrons at the racetrack.

11VAC10-40-370. Encryption.

The licensee shall maintain security controls over its uplink and communication systems, including encryption of signals unless this requirement is specifically waived by the commission.

CHAPTER 45

ADVANCE DEPOSIT ACCOUNT WAGERING

11VAC10-45-10. Definitions.

The following definitions and interpretations shall apply to these rules unless otherwise indicated or the text otherwise requires:

"Account" means an account for account wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the account-wagering licensee.

"Account holder" means an individual who successfully completed an application and for whom the account-wagering licensee has opened an account.

"Account wagering center" means an actual location, equipment, and staff of an account wagering licensee or agents of the account wagering licensee involved in the management, servicing and operation of account wagering.

"Account wagering licensee" means an entity licensed by the commission to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts.

"Advance deposit account wagering" (hereafter account wagering) means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act (15 USC § 3001 et seq.) and in which an individual may establish an account with an entity, licensed by the commission, to place pari-mutuel wagers in person or electronically.

"Applicant" means an individual who has submitted an application to establish an account with either (i) an account wagering licensee or (ii) a company applying for an account wagering license from the commission.

"Commission" means the Virginia Racing Commission.

"Confidential information" means:

1. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

2. The amount of money wagered by a particular account holder on any race or series of races;

3. The account number and secure personal identification code of a particular account holder;

4. The identities of particular entries on which the account holder is wagering or has wagered; and

5. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the account wagering center and race meet licensee that would identify the account holder to anyone other than the commission or the account wagering licensee.

"Credits" means all inflow of money to an account.

"Debits" means all outflow of money from an account.

"Deposit" means a payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Individual" means any natural person at least 18 years of age, but does not include any corporation, partnership, limited liability company, trust, estate or other legal entity.

"Other electronic media" means any electronic communication device or combination of devices including but not limited to personal computers, the Internet, private networks, interactive televisions and wireless communication technologies or other technologies approved by the commission.

"Principal residence address" means the street address identified by an applicant or a current account holder as that individual's residential address, as such address may be verified by the account wagering licensee.

"Proper identification" means a form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

"Racetrack licensee" means any person holding a current unlimited license to own or operate a horse racetrack or satellite facility where pari-mutuel wagering is permitted.

"Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee to the commission and localities, (ii) the unlimited license, (iii) purse money for the participants, (iv) the Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law, regulation or contract approved by the commission.

"Secure personal identification code" means either a numeric or an alpha-numeric character code chosen by an account holder as a means by which the account wagering licensee may verify a wager or account transaction as authorized by the account holder.

"Source market fee" means the fee payable by the account wagering licensee pursuant to the terms and provisions of the contractual agreement among the prospective account wagering licensee, the racetrack licensee and the recognized majority horsemen's organizations.

"Source market fee area" means the Commonwealth of Virginia.

"Terms of agreement" means the agreement, approved by the commission, between an account wagering licensee and an account holder that includes but is not limited to the deposits, credits, debits, withdrawals and the opening and closing of accounts.

"Withdrawal" means a payment of money from an account by the account wagering licensee to the account holder when properly requested by the account holder.

"Withdrawal slip" means a form provided by the account wagering licensee for use by an account holder in withdrawing funds from an account.

11VAC10-45-20. Authorization to conduct account wagering.

A. No person shall conduct account wagering in the Commonwealth unless he has applied for and has been granted an account wagering license by the commission. No account wagering license shall be granted by the commission unless the applicant meets the criteria specified in § 59.1-369 of the Code of Virginia and these regulations.

B. An account wagering license shall be valid for the calendar year in which it is issued.

C. An application shall include, on a form prescribed by the commission, the names, addresses and telephone numbers of all officers and directors. It shall solicit the same information for an

account wagering license, to the extent relevant, as required for an unlimited license as specified in 11VAC10-20-30 (Applicant's affidavit), 11VAC10-20-40 (Disclosure of ownership and control), 11VAC10-20-50 (Disclosure of character information), and subdivision 1 of 11VAC10-20-80 (Disclosure of financial resources) of the commission's regulations with the following modifications:

1. The first paragraph of the applicant's affidavit shall state that the application is made for a license to conduct account wagering in the Commonwealth;

2. The applicant must disclose any agreements or understandings that the applicant or any individual or entity identified pursuant to 11VAC10-20-40 has entered into with a person or persons other than the applicant regarding ownership or operation of the applicant and must provide copies of any such agreements or understandings with the application; and

3. The disclosure of character information that is required by 11VAC10-20-50 must be made if the applicant, any individual or entity that owns a 5.0% or greater equity interest in the applicant, or any person or entity that will exercise any degree of management or control of the applicant has committed any of the acts or otherwise meets any of the criteria listed in 11VAC10-20-50. Nothing in this subsection shall require an applicant to include with its application copies of employment agreements unless requested by the commission.

D. As part of the application process, the license applicant also shall submit a detailed plan, including a detailed budget of the cost of implementation, of how its proposed account wagering system would operate including internal controls procedures. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent material changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

E. As part of the application process, the license applicant must provide a copy of the contractual agreement among the prospective account wagering licensee, the racetrack licensee, and representatives of the recognized majority horsemen's organizations. Included in such agreement shall be the agreed upon terms between the racetrack licensee and the recognized majority horsemen's organizations that details the distribution of retainage generated by account wagering within the source market fee area for each breed after the license fee to the commission has been paid.

F. The commission may conduct investigations or inspections or request additional information from the applicant for a license and its officers, directors, managers and equity holders, as applicable, holding 5.0% or more of the applicant's equity interest as it deems appropriate in determining if the applicant has the financial resources to conduct account wagering, and whether to allow the applicant to conduct account wagering.

G. Before being granted its original account wagering license, and every six months thereafter, the account wagering licensee shall furnish the commission with proof that the account holders will be guaranteed the full value of their accounts regardless of the acts of the account wagering licensee or any other entity. If the proof offered to the commission is not acceptable to the commission, the commission may require the account wagering licensee to purchase a bond or other form of insurance guaranteeing that the account holders receive the full value of their accounts.

H. An application to renew an account wagering license for each succeeding calendar year is due in the offices of the commission by 5 p.m. on December 1 on a form prescribed by the commission.

11VAC10-45-25. Temporary licenses to conduct account wagering.

A. If an applicant for a license to operate account wagering has not been able to reach an agreement with an unlimited licensee and representatives of the recognized majority horsemen's organizations concerning the distribution of the retainage after good faith negotiations, the license applicant may submit its application together with an affidavit specifying and certifying its offer to an unlimited licensee and the recognized horsemen's groups, attesting that it has entered into good faith negotiations with both, that it has offered the terms specified and certified in its affidavit, and that its offer has been rejected, stating with particularity the basis given to it for rejection of its offer and by whom it was rejected. In such event, the commission shall (i) consider the applicant's request for a temporary license as provided in subsection B of this section and (ii) be authorized to appoint an impartial third party to mediate the negotiations regarding the contractual agreement between the applicant and an unlimited licensee and representatives of the recognized majority horsemen's groups concerning the distribution of the remaining portion of the retainage. If during the term of the temporary license, the parties are unable to reach agreement through mediation, the commission shall specify the percentage of the total gross handle of wagers placed with the account wagering applicant from within the Commonwealth to be paid by the applicant to an unlimited licensee and representatives of the recognized majority horsemen's groups. In doing so, the commission shall consider among other factors, the contractual agreements that other account wagering licensees have with an unlimited licensee and representatives of the recognized majority horsemen's groups. The percentage specified by the commission shall be the best offer made by either (a) the account wagering applicant or (b) the unlimited licensee and the representatives of the recognized majority horsemen's groups. The percentage specified by the commission shall be effective for one year from the one-year term of the applicant's temporary license.

B. Upon receipt of the application and affidavit described in subsection A of this section, the commission may grant a temporary license to operate account wagering to any applicant for a license to conduct account wagering whose application is complete except for a contractual agreement, approved by the commission, between such entity and an unlimited licensee and representatives of the recognized majority horsemen's groups concerning the distribution of the portion of the retainage remaining after the license fee has been paid to the commission and that is otherwise deemed by the commission to be fully qualified to conduct deposit wagering in the Commonwealth. Such license shall expire at the end of six months and shall be subject to one renewal. If a temporary license is not granted, the applicant is entitled to a hearing on the issue of qualifications.

C. If a temporary license is granted, the temporary licensee shall pay to the commission one-half percent of the gross total handle of wagers placed with the temporary licensee from within the Commonwealth on the tenth day of the month following the month in which the temporary licensee receives wagers from within the Commonwealth. Each month the temporary licensee shall also pay an amount equal to the average of all account wagering licensees in the Commonwealth, as calculated by the commission, into an escrow account in the name of the commission no later than the tenth of the month following the month in which such wagers are placed. Such escrow account shall be in a financial institution approved by the commission and shall be distributed within three business days by the commission in equal amounts to any unlimited licensee and representatives of the recognized majority horsemen's groups, until such time as the unlimited licensee, representatives of the recognized horsemen's groups, and the temporary account wagering licensee reach an agreement regarding the retainage that is acceptable to the commission and the commission has granted a license to operate account wagering replacing the temporary license.

D. A temporary license may be revoked summarily by the commission for any cause set forth in this chapter without complying with subsection A of this section. Revocation of a temporary license shall be effective upon service of the order of revocation upon the licensee or upon the expiration of three business days after the order of the revocation has been mailed to the licensee either at his residence or the address given for the business in the license application. No further notice shall be required.

11VAC10-45-30. Operations by account wagering licensee.

A. Before beginning operations in Virginia, the account wagering licensee must be qualified to do business in Virginia.

B. Any action that suspends or otherwise prohibits an account wagering licensee of the commission from operating in another state may be used as grounds for a suspension of its account wagering license in Virginia pursuant to § 59.1-385 C of the Code of Virginia.

C. All employees working on behalf of the account wagering licensee's account wagering center must either have a Virginia commission permit or be licensed, permitted or otherwise authorized by the state where the account wagering center is located.

D. Within 45 days following the end of each quarter, the account wagering licensee shall provide to the racetrack licensee a summary report detailing wagering processed through the account wagering system by Virginia residents wagering on both in-state and out-of-state races and non-Virginia residents wagering on Virginia races. The reports shall be subject to review by the commission.

E. Only individuals who have established accounts with an account wagering company licensed by the commission may wager through an account and that account must be with an account wagering company licensed in Virginia.

F. Opening an account.

1. An account wagering licensee shall require from an applicant the following information including, but not limited to:

a. Name;

b. Principal residence address;

c. Telephone number;

d. Social security number;

e. Age; and

f. Other information necessary for the account administration.

2. The information obtained from the applicant shall be verified by the account wagering licensee using means acceptable to the commission.

G. Administration of an account.

1. Each account holder's wagering account shall be administered in accordance with the terms of agreement, which have been approved by the commission, including but not limited to:

a. Deposits;

b. Credits to accounts;

c. Debits to accounts;

d. Withdrawals;

e. Minimum deposit; and

f. Fees, if any, per wager.

2. A person may not directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. A person may not place a wager on behalf of an account holder. Only an account holder may place an account wager. Direct or indirect involvement as an intermediary, transmitter or agent in the placing of wagers includes a system, known as a transfer account or master account, whereby funds are deposited to one account from another account. This section does not prohibit use of credit or debit cards specifically approved by the account wagering center or the use of checks, money orders or negotiable orders of withdrawal.

3. An account wagering licensee shall maintain for at least one year all records of the opening and closing of accounts, wagers, earnings and withdrawals;

4. An account wagering licensee may close accounts for violation of its terms of agreement or other appropriate reasons;

5. An account wagering licensee may close wagering on any particular race or racetrack;

6. An account wagering licensee shall provide the account holder with appropriate identification materials and the terms of agreement; and

7. The principal residence address provided in writing by the account holder at the time of application is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

11VAC10-45-40. Account wagering licensee requirements.

A. An account wagering licensee shall conduct its operations with account holders in accordance with the terms of agreement, previously approved by the commission;

B. No employee or agent of the account wagering licensee shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the account wagering center except:

1. To the account holder as required by these rules;

2. To the commission;

3. To the account wagering licensee and its affiliates;

4. To the racetrack licensee as required by the agreement between the account wagering licensee and the racetrack licensee; and

5. As otherwise required by state or federal law.

C. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications shall be kept by the account wagering center for a period of one year. These tapes and other records shall be made available to commissioners, employees and designees of the commission on request.

D. The recording of the confirmation of the transaction, as reflected in the voice or data recording records, shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system;

E. An account wagering licensee shall not accept wagers if its transcribing system is not operable;

F. An account wagering license shall be administered in accordance with its terms of licensure and the previously approved terms of agreement; and

G. The commission may review and monitor the equipment, staff and records of an account wagering licensee and any of the transactions conducted by the account wagering licensee in regards to wagers made by account holders.

11VAC10-45-50. Fees.

A. Application for account wagering license.

1. A nonrefundable application fee of $5,000 must be submitted with the application.

2. The applicant will be billed and shall be responsible for any costs involved in the background checks and review of the application in excess of $5,000.

B. Annual fees.

1. An annual fee of $1,000 shall be payable to the commission on issuance of the original license and thereafter on or before January 1 of each year. The licensee will be billed and shall be responsible for any costs in excess of $1,000 associated with the review of the annual renewal application.

2. One-half percent (0.5%) of the gross total handle from the source market area shall be payable to the commission on the tenth day of each month for the previous month.

C. Distribution for source market fees—single racetrack licensee.

1. The account wagering licensee shall distribute source market fees, and host fees if applicable, to the racetrack licensee on the tenth of each month for the previous month.

2. The racetrack licensee shall distribute the horsemen's shares to the respective partners accounts within 48 hours after receipt from the account wagering licensee.

D. Distribution of source market fees—more than one racetrack licensee. If more than one racetrack licensee operates in Virginia, then the source market fees shall be distributed as follows:

1. All source market fees derived from account wagers placed by account holders with a principal residence address located within a 50-mile radius (the "50-mile radius") of any track or satellite wagering facility operated by a racetrack licensee shall be distributed to each such licensee;

2. All source market fees derived from account wagers placed by account holders with a principal residence address located outside any 50-mile radius shall be shared among the racetrack licensees in proportion to each licensee's respective capital expenditures on such licensee's track and satellite wagering facilities in Virginia; and

3. If an overlap exists between two 50-mile radii, the racetrack licensee to first operate a track or satellite wagering facility in such area shall receive the source market fees from account wagers placed within the overlapping area.

11VAC10-45-60. Enforcement and penalties.

A. The commission shall have all of the rights, powers and remedies provided for in the Act to ensure compliance with these regulations, including, but not limited to, injunctive relief and the imposition of fines and suspensions.

B. Additionally, with respect to any entity that engages in account wagering in Virginia without a license issued by the commission, the commission may take such measures as it deems necessary, including referral to the appropriate regulatory and law-enforcement authorities for civil action or criminal prosecution.

11VAC10-45-70. Use of certain Commonwealth computers prohibited.

No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school, or any public college or university.

CHAPTER 50

RACING OFFICIALS

11VAC10-50-10. Generally.

No racing official shall participate in any horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting or pari-mutuel wagering of the race meeting unless the person possesses a permit from the commission and complies with the provisions of the Act of the General Assembly creating Horse Racing and Pari-Mutuel Betting and the regulations of the commission. Permits issued by the commission are not transferable.

A. Application for permit. A person desiring to obtain a permit as a racing official shall make an application for a permit on a form prescribed by the commission. The application shall be accompanied by a fee prescribed by the commission and shall include the cost of fingerprinting and a background investigation. The applicant shall be fingerprinted upon making his initial application in the Commonwealth and at least once every five years thereafter. The application shall be verified by the oath or affirmation of the applicant. In addition, the applicant shall demonstrate that he:

1. Is of good moral character and reputation;

2. Is experienced in horse racing;

3. Is familiar with the duties the applicant is applying to do and with the regulations of the commission;

4. Possesses the mental and physical capacity to perform the duties of the position; and

5. An applicant whose vision is essential to the performance of his duties shall take and satisfactorily pass an optical examination every two years. The eye examination results must show natural or corrected 20-20 vision and an ability to distinguish colors correctly.

B. Fee schedule. Before submitting an application for a permit as a racing official, the applicant shall consult the fee schedule of the Virginia Racing Commission to ascertain the applicable fee, make out a check or money order payable to the Virginia Racing Commission or pay in cash the full amount of the fee, and submit the fee with the application.

C. Consideration by commission. The commission shall promptly consider an application and shall issue or deny the permit based on information in the application and all other information before it, including any investigation it deems appropriate. If an application is approved, the commission shall issue a permit and the permit shall be valid for one year.

D. Denial of application. The commission shall deny the application, if it finds that the issuance of a permit to a person as a racing official would not be in the interests of the people of the Commonwealth, or the horse racing industry of the Commonwealth or would reflect adversely on the honesty and integrity of the horse racing industry in the Commonwealth. The commission shall also deny the application, if it finds that the applicant:

1. Has knowingly made a false statement of a material fact in the application, or has deliberately failed to disclose any information requested by the commission;

2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with any horse race meeting in this or any other state;

3. Has knowingly failed to comply with the provisions of the Act or the regulations of the commission;

4. Has had a permit to engage in activity related to horse racing denied for just cause, suspended or revoked in any other jurisdiction, and such denial, suspension or revocation is still in effect;

5. Is unqualified to perform the duties required for the permit sought; or

6. Has been convicted of a misdemeanor or felony involving unlawful conduct or wagering, fraudulent use of a credential, unlawful transmission of information, touting, bribery, administration or possession of drugs or any felony considered by the commission to reflect adversely on the horse racing industry in the Commonwealth.

E. Denial is final. The denial of an application by a person as a racing official shall be final unless an appeal is made by the applicant under the provisions of these regulations.

F. Prohibited activities for racing officials. No racing official or any assistant of a racing official, while serving at any race meeting licensed by the commission, shall engage in any of the following activities:

1. Participating in the sale, purchase or ownership of any horse which is racing at a meeting where the racing official is serving;

2. Being involved in any way in the purchase or sale of any contract on any jockey racing at the meeting;

3. Wagering at race meetings licensed by the commission;

4. Accepting any gratuity or payment, other than regular wages or salary, directly or indirectly; or

5. Engaging in any activity that would impair a racing official's judgment or to function in his assigned capacity.

G. Reporting violations. Every racing official, and any assistant, is responsible to report immediately to the stewards every observed violation of these regulations as well as all violations of state and federal laws during the race meeting.

H. Single appointment. No racing official may hold more than one official position, unless at the request of the licensee or on its own motion the commission determines that, the holding of more than one appointment would not subject the official to a conflict of his interests and duties in the two official positions.

I. Emergency appointment. Any racing official who desires to leave his position or is unable to fulfill his responsibilities must first obtain permission from the commission. The licensee shall promptly appoint a successor, subject to the issuance of the appropriate permit by the commission. In the event of an emergency and the licensee is unable to appoint a successor in time to permit the orderly conduct of racing, the stewards shall immediately appoint a temporary successor.

J. Notification of commission. The list of racing officials to be employed by the licensee shall be submitted to the commission no later than 30 days prior to the opening of the race meeting. The licensee shall be responsible for submitting an application for each racing official who has not been previously issued a permit by the commission no later than 60 days prior to the opening of the race meeting.

K. Fine, suspension and revocation. A racing official may be fined, suspended or have his permit revoked at any time by the commission for incompetence, failure to follow or enforce the commission's regulations, or any conduct detrimental to horse racing. The disciplinary action of the commission shall be final unless the racing official appeals the action under the provisions of this chapter.

L. Attendance at proceedings. A racing official shall attend, when requested by the stewards or commission, any hearing, appeal or proceeding where his testimony may be material in arriving at a determination of the matter.

M. Interference with other officials. A racing official shall not interfere with the deliberations or the decision-making of other racing officials.

Part II
Personnel

11VAC10-50-20. General manager.

The licensee shall appoint a qualified person to act as the general manager for any unlimited race meeting. The general manager, and his assistant, if one is appointed, shall oversee the conduct of the race meeting and cooperate with the commission in implementing these regulations. In addition, the general manager's duties include but are not limited to:

1. Providing the procedures, facilities and equipment as set forth in 11VAC10-10-10 et seq. that the race meeting shall be free of any incompetent or unprincipled practices;

2. Ensuring the pari-mutuel wagering at the race meeting is conducted in accordance with the provisions as set forth in 11VAC10-20-260 et seq.

3. Developing, with the assistance of the licensee's marketing and promotional staff, plans for the education of the public concerning horse racing and the growth of the horse industry in the Commonwealth; and

4. Properly supervising the licensee's employees to assure that they are present in sufficient numbers to provide for the public health, safety and welfare as well as to protect the integrity of horse racing.

11VAC10-50-30. Racing secretary.

The licensee shall appoint a qualified person to act as racing secretary for the race meeting. The racing secretary shall be responsible for the conduct of the racing office and all of the licensee's employees who are assigned to the racing office. The racing secretary, and his assistant, if one is appointed, shall also be responsible for the programming of races during the race meeting and all of the duties pertaining to the programming of races. Among the duties of the racing secretary are:

1. Recruiting the highest possible quality of horses for the race meeting and assigning stall space to horses. The racing secretary shall submit the procedures and stall application forms to achieve a quality horse population no later than 60 days before the opening of the race meeting;

2. Receiving and keeping safe, with the assistance of the clerk of the course, registration or eligibility certificates of horses stabled within the enclosure or horses to be entered into races, and returning upon request the certificates to the horse owner or his representative;

3. Publishing at least 30 days prior to the opening of the race meeting and at intervals thereafter acceptable to the commission a condition book or sheet that sets forth the conditions and

eligibility for horses to be entered into races for the meeting and distributing the book or sheet among owners, trainers and the commission;

4. Supervising the taking of entries for each day's races, verifying the eligibility, the accuracy of the information submitted with the entry and the weights claimed for the horses, where appropriate;

5. Coupling of entries for wagering purposes, as provided for in these regulations, and assigning horses to the mutuel field for wagering purposes in a manner approved by the stewards;

6. Maintaining a list of horses which were entered but denied an opportunity to race because they were excluded from a race programmed in the condition book or sheet either by overfilling or failure to fill the race. The racing secretary shall submit to the commission for approval, at least 30 days prior to the opening of the race meeting, a detailed description of the manner in which preference will be allocated to those horses excluded;

7. Posting a list of entries or an overnight sheet in a conspicuous location in the racing secretary's office, upon the closing of entries each day, and making available copies of the list of entries or overnight sheet to other racing officials, commission personnel, horsemen, members of the media and the public;

8. Maintaining, with the assistance of the clerk of the course, a permanent record of all stakes, entrance moneys and arrears paid or due, and depositing the moneys in an escrow account as provided in 11VAC10-20;

9. Publishing, with the assistance of the program director, a daily racing program accurately containing all of the information that is deemed appropriate to the type of racing being offered and any other information the commission may deem appropriate;

10. Assigning weights to be carried by each horse in a handicap race, and when weights are not specified by the conditions of the race, the scale of weights of either The Jockey Club or the National Steeplechase Association shall apply, as they are appropriate;

11. Keeping, with the assistance of the clerk of the course, permanent records of the results of each race of the meeting, and updating the registration or eligibility certificate with information deemed appropriate by the commission or the appropriate breed registry;

12. Informing the horsemen's bookkeeper of the results of each race as well as the amounts of purse moneys due and the parties to whom the purse moneys are due and, in general, supervising the account;

13. Posting a list in a conspicuous place in the racing secretary's office of those horses that have been nerved and those horses that have been gelded or spayed;

14. Maintaining, with the assistance of the stall superintendent, a list of the horses stabled within the enclosure, and maintaining a record of arrival and departure of all horses stabled within the enclosure;

15. Supervising the claims clerk in determining the eligibility of owners to claim other horses at the race meeting and whether sufficient funds exist in the horsemen's account or proper funding is available to make a valid claim; and

16. Withdrawing, cancelling or changing any race which has not closed. In the event the cancelled race is a stakes race, all subscriptions and fees paid in connection with the race shall be refunded.

11VAC10-50-40. Licensee's veterinarian.

The licensee shall appoint a qualified person to act as the licensee's veterinarian for the race meeting. The licensee's veterinarian shall possess a full and unrestricted license to practice veterinary medicine from the Virginia Board of Veterinary Medicine and shall be present within the enclosure on racing days to perform his duties. The licensee's veterinarian shall be approved by the commission and shall be designated to work under the authority and direction of the commission veterinarian. The duties of the licensee's veterinarian include, but are not limited, to:

1. Performing prerace examinations of horses entered to race on that day's program and recommending to the stewards that horses found to be unfit for racing be scratched;

2. Observing horses in the paddock and being present at the starting gate, where he can recommend to the stewards scratching any horse that he deems to be unfit for racing;

3. Observing horses after the finish of a race and upon their leaving the racing surface for injuries or lameness;

4. Rendering emergency care to horses injured either in workouts or racing when a practicing veterinarian is not readily available to perform these services;

5. Assisting the commission veterinarian in determining horses that are bleeders, either through observing the horse bleed from the nostrils after a workout or a race, by observing a private practitioner's endoscopic examination of a horse following a workout or race, or by retrieving information from other racing jurisdictions;

6. Assisting the commission veterinarian in the supervision and collection of samples in the test barn;

7. Placing horses on the veterinarian's list and observing workouts as needed to remove horses from the veterinarian's list; and

8. Being authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act.

11VAC10-50-50. Paddock judge.

The licensee shall appoint a qualified person to act as the paddock judge for the race meeting. The paddock judge shall have general supervision of the paddock and among the duties of the paddock judge are:

1. Assuring that horses are in the paddock at the time appointed by the stewards and reporting to the stewards those horses which are late to the paddock;

2. Assembling the horses and jockeys in the paddock no later than 15 minutes before the scheduled post time for each race;

3. Keeping a record of all equipment carried by all horses in all races and permitting no change in equipment unless authorized by the stewards;

4. Inspecting the leg bandages worn by horses and ordering the bandages removed or replaced as deemed appropriate;

5. Supervising the schooling of horses in the paddock with the prior permission of the stewards;

6. Supervising the farrier assigned to the paddock to ensure that the plating of each horse in each race is examined, determining whether the horse is properly shod, and making changes deemed necessary;

7. Excluding from the paddock all those persons who have no immediate business with the horses entered in a race and reporting rule violations in the paddock area to the stewards;

8. Taking all measures to ensure that the saddling of all horses is orderly, open to public view, free from interference, and further assuring that the horses are mounted at the same time, and leave the paddock for the post parade in the proper sequence;

9. Permitting a horse to be excused from parading and instead permitting that the horse be led to the post, with the approval of the stewards;

10. Assuring that the horse displays the proper saddle cloth number and the jockey wears the proper number before leaving the paddock for the post parade;

11. Keeping a record of those horses accompanied to the post by pony riders; and

12. Checking out horses and drivers as they leave the paddock for warmups prior to racing and checking in their return to the paddock after the warmups for Standardbred race meetings.

11VAC10-50-60. Patrol judge.

The licensee shall appoint a sufficient number of qualified persons to act as patrol judges for the race meeting. For flat and jump race meetings, the licensee shall appoint a sufficient number of patrol judges as approved by the commission, and for Standardbred race meetings, a single patrol judge shall ride in the mobile starting gate. Among the duties of the patrol judge are:

1. Reporting, particularly as to any suspected violation of these regulations, during the running of each race to the stewards through radio or telephone communication;

2. Writing a report of their observations of every race, and documenting all violations of these regulations that they observed during the running of the race. These reports shall be delivered to the stewards at the conclusion of each day of racing;

3. Assisting the stewards in making a determination of an objection, inquiry or protest of the running of a race;

4. Assisting the stewards in making up a list of participants in each race to review the films before the commencement of the next succeeding day of racing; and

5. Notifying the stewards of any objection lodged by a driver after a Standardbred race, and the mobile starting gate shall be positioned so that drivers can promptly lodge objections with the patrol judge.

11VAC10-50-70. Horse identifier.

The licensee shall appoint a qualified person to act as horse identifier for the race meeting. The horse identifier shall be responsible for the proper identification of all horses entered to race. Among the duties of the horse identifier are:

1. Accompanying the commission's or licensee's veterinarian during the prerace examination of all horses entered to race so as to ascertain their identity;

2. Examining every horse entered to race in the paddock for sex, age, color, markings, lip-tattoo number and name for comparison with the information contained on the certificate of registration;

3. Using photographs, if they exist, as an aid in identifying horses entered to race, during the prerace examination and in the paddock prior to racing;

4. Notifying both the stewards and paddock judge of any doubts he has concerning the identity of any horse entered to race; and

5. Assisting the racing secretary in the safekeeping of certificates of registration, eligibility certificates and racing permits, and recording any information required to be entered on these documents.

11VAC10-50-80. Clerk of scales.

The licensee shall appoint a qualified person to act as clerk of scales for the race meeting. The clerk of scales shall be responsible for the security, regulation and control of the jockeys' room, equipment in the jockeys' room and personnel permitted access to the jockeys' room. Among the duties of the clerk of scales are:

1. Securing the jockeys' room and excluding unauthorized persons, and ensuring that no jockey, valet or other person leaves the jockeys' room or paddock until their participation in the racing day is concluded;

2. Supervising the custodian of the jockeys' room and ensuring that the jockeys' room is properly equipped as provided for in 11VAC10-20-190 and informing the stewards and licensee of any deficiencies;

3. Ascertaining that all of the jockeys, who are programmed to ride on that racing day, are in the jockeys' room at the time appointed by the stewards and are in possession of the proper permit from the commission;

4. Weighing out every jockey no later than 15 minutes prior to the race that the jockey is scheduled to ride and recording all overweights which shall immediately be posted and announced to the public;

5. Weighing in every jockey immediately after the finish of each race and promptly notifying the stewards whether any jockey weighed in more than two pounds underweight or overweight;

6. Providing the horsemen's bookkeeper with an accounting of riding fees due each jockey at the end of each racing day;

7. Safekeeping of all racing colors;

8. Reporting all color changes or jockey changes from that listed in the daily racing program and causing any changes to be immediately posted and announced to the public;

9. Supervising the valets and the issuance of numbered saddle cloths and equipment for each horse;

10. Testing the accuracy of the scales at the beginning of the race meeting and conducting periodic tests of the scales thereafter;

11. Submitting to the racing secretary at the close of each racing day a statement of weight carried in each race by each jockey, noting overweight, if any; and

12. Notifying the stewards immediately of all complaints, protests, objections or disputes submitted to the clerk of scales, and if the stewards are not available, then to the commission.

11VAC10-50-90. Placing judge.

The licensee shall appoint three qualified persons to act as placing judges for a flat race meeting. The judges shall occupy a stand directly above the finish line during the running of each race. Among the duties of the placing judges are:

1. Placing horses at the finish of race. The placing judges shall only consider the position of the horses' noses and not any other part of the body;

2. Placing the horses in the order of finish and displaying the result on the infield results board;

3. Calling for a photograph from the photo-finish camera when the finish indicates a close finish or when the judges are not in unanimous agreement as to the correct order of finish;

4. Referring photo-finish photographs to the stewards for concurrence before the order of finish is displayed on the infield results board, when the placing judges are not in unanimous agreement or there is an apparent dead heat following the examination of the photograph;

5. Submitting to the stewards and the horsemen's bookkeeper at the conclusion of each racing day a list of the placings of those in each race and those horses which did not finish;

6. Correcting errors in the displaying of the order of finish on the infield results board, with the permission of the stewards, before the race is declared "official" by the stewards; and

7. For Standardbred race meetings, the stewards may act as placing judges; however, all three stewards shall inspect any photo-finish and be in unanimous agreement before posting the order of finish.

11VAC10-50-100. Starter.

A. Flat races. The licensee shall appoint a qualified person to act as starter for a flat race meeting. The starter shall be responsible for the fair and equal start of all horses at the scheduled starting time by means of a starting gate and bell. Among the duties of the starter are:

1. Ensuring that two operable starting gates are available at all times during racing days and that the starting gates are clean, neat and in good repair;

2. Permitting no horses to be entered in a race unless approved by the starter;

3. Maintaining a starter's list of the horses' names and posting the list in the racing secretary's office of those ineligible to start because lack of training or bad behavior at entering or leaving the starting gate;

4. Schooling those horses which are on the starter's list by being present with an adequate number of assistant starters during hours approved by the stewards, and approving those horses for entry which are making their first lifetime starts;

5. Appointing assistant starters who shall not handle or take charge of a horse in the starting gate without the express instructions from the starter;

6. Changing daily the gate position of each assistant starter without notice to the assistant starters until the field for the first race comes upon the racing surface;

7. Taking all necessary measures to ensure a fair and equal start;

8. Overseeing the post parade of the horses, jockeys, outriders and pony riders from the time they arrive on the track until the start is effected;

9. Ensuring that no jockey dismounts without the permission of the starter. A jockey may dismount only due to accident or injury to horse or jockey or equipment adjustment; in that case the starter may permit all jockeys to dismount. The starter shall delay the start until all jockeys have remounted their horses;

10. Ensuring that no other person than the jockey shall help in effecting a start by striking a horse or shouting at it or otherwise assisting;

11. Causing all horses, so far as is practical, to be loaded in order of post position, but the starter may, in his discretion, load an unruly or fractious horse out of order;

12. Reporting to the stewards any disobedience of his orders or attempts to take unfair advantage at the starting gate and recommending penalties for offenders;

13. Maintaining a written record showing the names of all starters during the racing day and the names of the assistant starters who handled each horse, and making the record available to stewards upon request;

14. Notifying the stewards immediately of any significant failure of the starting gate, or any defect in the starting process if any horse is not in the starting gate when the field is dispatched, or for any other reason a horse does not receive a fair start; and

15. Keeping in constant radio or telephone communication with the stewards from the time the horses leave the paddock until the horses leave the starting gate.

B. Jump races. In jump races, where the horses are started by other than a starting gate, the licensee shall appoint qualified persons to act as a starter and assistant starter. The starter shall be responsible for securing a fair and equal start for all horses at the scheduled time by means of a flag. Among the duties of the starter are:

1. Ensuring that there shall be no start until, and no recall after, the assistant starter has dropped the flag in answer to the flag of the starter;

2. Starting the horses as far as possible in a line, but the horses may be started at a reasonable distance behind the starting post as the starter deems necessary;

3. Cancelling a race unless at least one horse and jockey returns to the starter after the recall flag has been raised for a false start;

4. Declaring a race a walkover if only one horse and jockey returns and satisfies the starter of obeying the recall flag;

5. Restarting the race, when the racing surface is clear, if more than one horse and jockey obeys the recall flag;

6. Ensuring that no jockey dismounts without the permission of the starter. A jockey may dismount only because of an accident or injury to horse or jockey or equipment adjustment; in that case the starter permits all jockeys to dismount. The starter shall delay the start until all jockeys have remounted their horses;

7. Ensuring that no other person than the jockey shall help in effecting a start by striking a horse or shouting at it or otherwise assisting;

8. Reporting to the stewards any disobedience of his orders or attempts to take unfair advantage at the start and recommending penalties for offenders; and

9. Keeping in constant radio or telephone communication with the stewards from the time the horses leave the paddock until the horses start.

C. Standardbred races. In Standardbred races, where horses are started by means of a mobile starting gate, the licensee shall appoint a person qualified to act as starter for the race meeting. Among the duties of the starter are:

1. Maintaining two operable mobile starting gates and ensuring that both mobile starting gates are clean, neat and in good repair;

2. Providing a mobile starting gate with a screen or shield in front of the position for each horse, and the arms of the starting gate shall be perpendicular to the rail;

3. Appointing a qualified person to be the driver of the mobile starting gate;

4. Ensuring that the driver of the mobile starting gate knows and practices emergency procedures in the event there is a malfunction of the starting gate;

5. Maintaining a starter's list of the horses' names and posting the list in the racing secretary's office of those ineligible for entry because lack of training or bad behavior at the starting gate;

6. Schooling those horses which are on the starter's list by being present with a mobile starting gate during nonracing hours, approved by the stewards, and approving those horses coming off the starter's list and those making their first start;

7. Starting qualifying races by being present with a mobile starting gate as directed by the licensee and approved by the stewards;

8. Having control of the horses from the formation of the post parade until the starter gives the word "go";

9. Notifying the drivers during or before the post parade of the number of preliminary warming up scores and calling the horses to the starting gate no nearer than an eighth of a mile from the starting point;

10. Allowing sufficient time so that the speed of the starting gate can be gradually increased, and so that the following minimum speeds will be maintained:

a. For the first eighth of a mile, not less than 11 miles per hour;

b. For the next sixteenth of a mile, not less than 18 miles per hour; and

c. From that point to the starting point, the speed will be gradually increased to maximum speed.

11. Ensuring that the starting point is marked on the inside rail and not less than 200 feet from the first turn, and at the starting point the starter shall give the word "go";

12. Sounding for a recall by flashing a plainly visible light and sounding a recall signal to the drivers, when:

a. A horse scores ahead of the starting gate;

b. There is interference;

c. A horse has broken equipment;

d. There is a malfunction of the starting gate; or

e. A horse falls before the word "go" is given.

However, there shall be no recall after the word "go" has been given and any horse, regardless of its position or an accident, shall be deemed a starter. While the starter shall endeavor to get all horses away in position and on gait, there shall be no recall for a horse that breaks its gait.

13. Recommending to the stewards penalties to drivers for the following actions:

a. Delaying the start;

b. Failing to obey the starter's instructions;

c. Rushing ahead of the inside or outside wing of the gate;

d. Coming to the starting gate out of position;

e. Crossing over before reaching the starting point;

f. Interfering with another horse during the start; or

g. Failing to come up into position.

14. Using a loudspeaker for any other purpose other than to give instructions to drivers is prohibited and the volume of the loudspeaker shall be no higher than necessary to carry the voice of the starter to the drivers; and

15. Notifying the stewards of an unmanageable or bad acting horse or a horse liable to cause accidents or injury to any other horse or driver and recommending to the stewards that unmanageable horses be excused.

11VAC10-50-110. Outriders.

The licensee shall appoint a sufficient number of qualified people to act as outriders for the race meeting. The outriders shall accompany the field of horses from the paddock to the post, assist jockeys with unruly horses, render assistance when requested by the jockey, and be present during morning workouts at flat and jump race meetings to assist exercise riders as required by these regulations.

11VAC10-50-120. Entry clerk.

The licensee shall appoint a sufficient number of qualified people to act as entry clerks for the race meeting. The entry clerks shall assist the racing secretary in the taking of entries for each day's races, verifying the eligibility of the entrants, the accuracy of the information submitted with the entry, the weights claimed for the horses, where appropriate, and assisting the draw for post position. Entry clerks may also serve in other capacities during the race meeting with the approval of the stewards.

11VAC10-50-130. Clocker.

The licensee shall appoint a sufficient number of qualified people to act as clockers for flat race meetings. The clockers shall be present at their assigned locations at the opening of training hours each morning and remain there until training hours are concluded. The clockers shall keep a listing of the name of each horse working out, distance, time, manner in which the workout was accomplished, condition of the racing surface, and any other information deemed appropriate. At the conclusion of training hours, the clocker shall submit the listing to the stewards, racing secretary, media and any other personnel deemed appropriate.

11VAC10-50-140. Gap attendant.

The licensee shall appoint a sufficient number of qualified people to act as gap attendants for flat race meetings. The gap attendants shall be present at their assigned locations at the opening of training hours each morning and remain there until training hours are concluded. The gap attendant shall obtain the name of each horse working out, distance, and the starting and finishing points of the workout, and report this information to the clocker. The gap attendants shall report to the stewards any exercise rider or trainer who refuses to supply this information.

11VAC10-50-150. Timer.

The licensee shall appoint a sufficient number of qualified people to act as timers for race meetings. The timers shall be present at their assigned locations and equipped with stopwatches or other timing devices to record the time of each race, along with appropriate fractional times, in the event of a failure of the electronic timing system or limitations to the electronic system. The timer shall keep record of his time for each race along with the appropriate fractional times.

11VAC10-50-160. Custodian of jockeys' room.

The licensee shall appoint a qualified person to act as custodian of the jockeys' room for flat race meetings or custodian of the drivers' room for Standardbred race meetings. The custodian shall assist the clerk of scales in performing his duties and supervise the valets. Among the duties of the custodian are:

1. Maintaining order, decorum and cleanliness in the jockeys' room and scale rooms;

2. Assisting the clerk of scales as required;

3. Ensuring that no unauthorized persons are admitted to the jockeys' room;

4. Supervising the care and storage of racing colors;

5. Supervising the valets, and arranging with the stewards and clerk of scales a rotation among the valets for the weighing out of jockeys;

6. Ensuring that no valet converses with the public after reporting to the jockeys' room or leaves the confines of the area where they perform their duties which includes the jockeys' room, paddock and winners' circle;

7. Ensuring that jockeys are neat in appearance and properly attired when they leave the jockeys' room to ride in a race;

8. Reporting to the stewards any violation of a regulation occurring within the jockeys' room; and

9. Assigning to each jockey a locker capable of being locked for the use of storing clothing, equipment and personal effects.

11VAC10-50-170. Valets.

The licensee shall appoint a sufficient number of qualified persons to act as valets for flat race meetings. The valets shall attend the weighing out of jockeys prior to riding in races and the weighing in of jockeys after riding in races under the supervision of the clerk of scales and custodian of the jockeys' room. Among the duties of valets are:

1. Reporting to the jockeys' room at the time appointed by the stewards and clerk of scales, and not leaving the confines of the area where they perform their duties which includes the jockeys' room, paddock and winners' circle;

2. Conversing with the public while performing their duties is forbidden;

3. Attending the weighing out of jockey, the saddling of the jockeys' mount prior to racing, and attending the weighing in of jockeys in a rotation approved by the stewards and clerk of scales; and

4. Returning to the confines where they perform their duties is forbidden, once valets have completed their participation in the racing day and left the confines.

11VAC10-50-180. Claims clerk.

The licensee shall appoint a qualified person to act as claims clerk for the race meeting. The claims clerk shall assist the stewards and racing secretary in processing claims filed for horses entered in claiming races. Among the duties of the claims clerk are:

1. Ensuring there is an adequate supply of claiming forms and envelopes provided by the licensee, and the forms and envelopes are in a form approved by the commission;

2. Ensuring that the claims box is locked at the time appointed by the stewards and only opened when the horses for the race enter the racing surface on their way from the paddock to the post;

3. Informing no one except the stewards of any claims filed for a horse in the claiming race and of any multiple claims on a horse entered in the race;

4. Ascertaining that the claiming form and envelopes are properly complete;

5. Ascertaining that the person filing a claim is eligible to claim horses at the race meeting and informing the stewards immediately of any doubts of the person's eligibility to make a claim;

6. Ascertaining that sufficient funds have been deposited with the licensee or exist in the horsemen's account to cover the cost of the claim and informing the stewards immediately of any insufficiency in funds; and

7. Being present when the stewards draw for the successful claimant in those cases where multiple claims are made on a single horse.

11VAC10-50-190. Clerk of the course.

The licensee shall appoint a qualified person to act as clerk of the course for the race meeting. The clerk of the course shall assist the racing secretary in performing his duties. Among the duties of the clerk of the course are:

1. Safekeeping of registration or eligibility certificates and making any notation upon them required by recognized breed registries;

2. Returning registration or eligibility certificates to the owners of the horses or their representative upon request;

3. Publishing conditions and entry forms for stakes and futurities to be run at the race meeting;

4. Receiving nominations for stakes races and futurities, and depositing any fees associated with these races in an escrow account as provided for in 11VAC10-20-10 et seq.; and

5. Maintaining accurate records of race results from each racing day.

11VAC10-50-200. Director of security.

The licensee shall appoint a qualified person to act as director of security for the race meeting. The director of security shall be responsible for the safety and security of the public, participants and physical plant of the horse racing facility. Among the duties of the director of security are:

1. Developing a comprehensive security plan for the horse racing facility encompassing local emergency services available; including fire fighting, law enforcement and medical emergency;

2. Inspecting on a periodic basis the security equipment, such as fences, locks, alarms and monitoring equipment for the horse racing facility;

3. Developing procedures whereby unauthorized persons may be excluded from restricted areas, securing areas where money and mutuel tickets are vaulted, and discovery and expulsion of persons who are a threat to the integrity of racing in Virginia;

4. Supervising the security officers employed by the licensee so that the safety and welfare of the public and participants may be protected and to protect the integrity of racing in Virginia;

5. Developing evacuation procedures in case of a fire or other emergency, and training the licensee's security personnel and other employees in their responsibilities in emergency situations;

6. Inspecting the licensee's first aid and medical facilities and ensuring the personnel are trained, equipped and ready to render emergency assistance to the public and participants when required;

7. Reporting to the commission's director of security any actual, suspected or indicated violation of these regulations or of any criminal offense coming to his attention;

8. Cooperating with commission personnel, Virginia State Police and industry security services in the performance of their duties; and

9. Informing the commission of the licensee's internal accounting controls to safeguard assets, and detect fraud and embezzlement.

11VAC10-50-210. Security officer.

The licensee shall appoint a sufficient number of qualified persons to act as security officers for the race meeting. The security officers shall assist the licensee's director of security in carrying out his responsibilities. The security officers shall conduct themselves so as to protect the safety and welfare of the public and participants and protect the integrity of horse racing in Virginia.

11VAC10-50-220. Mutuel manager.

The licensee shall appoint a qualified person to act as mutuel manager for the race meeting. The mutuel manager shall supervise the operations of the mutuel department and the licensee's personnel employed in the mutuel department so that the public interest and the integrity of horse racing in Virginia may be protected. Among the duties of the mutuel manager are:

1. Inspecting on a periodic basis the operation of the totalizator for the accuracy of its calculations;

2. Assigning a sufficient number of mutuel clerks so that the wagering may be conducted efficiently and without undue delay or inconvenience to the public;

3. Observing the progression of the wagering and informing the stewards immediately of any malfunction in the totalizator or suspected unusual patterns in the wagering;

4. Locking the ticket-issuing machines at the start of the race in the event of a failure in the system or through the inadvertence of the stewards;

5. Making any emergency decisions when there is not sufficient time for consultation with the stewards, but submitting a written report to the stewards and the commission of the action taken and the reason for taking the action;

6. Comparing two independent sets of pool totals at periodic intervals and verifying any discrepancies;

7. Ascertaining the accuracy of the approximate odds and payouts posted on the infield results board;

8. Preparing, at the request of the stewards or commission, special reports on any of the wagering activity during the race meeting; and

9. Safekeeping the records of the wagering activity for a period of at least 30 days following the conclusion of the race meeting and not destroying the records without the permission of the commission.

11VAC10-50-230. Photo-finish camera operator.

The licensee shall appoint a qualified person to act as photo-finish camera operator for the race meeting. The photo-finish camera operator shall be responsible for the operation of the photo-finish camera equipment and for producing prints of photo-finishes of a quality required by the placing judges and stewards. Among the duties of the photo-finish camera operator are:

1. Being in his assigned location in sufficient time prior to the first race to ensure that the photo-finish cameras are operable and sufficient supplies are on hand;

2. Taking clear photo-finish photographs of all horses passing the finish line on two separate cameras;

3. Producing prints of the finishes of any races as requested either by the placing judges or stewards;

4. Notifying the stewards and placing judges immediately of any malfunction in either camera or the inability to produce prints;

5. Supplying the media and other appropriate personnel with the number of beaten lengths of any horses finishing in the race; and

6. Keeping safe films of the finishes of all races for one year after the closing of the race meeting, and not destroying any films without the permission of the commission.

11VAC10-50-240. Video patrol personnel.

The licensee shall appoint a sufficient number of qualified persons to operate the film or video patrol camera for the race meeting. The video patrol camera personnel shall be responsible for the recording of each race during meeting as provided for in 11VAC10-20-10 et seq. Among the duties of the video patrol camera personnel are:

1. Being in their assigned location in sufficient time prior to the first race to ensure that the video patrol cameras and equipment are in operable condition;

2. Making recording of the running of each race clearly showing the position and actions of the horses and jockeys or drivers at close range;

3. Replaying for the benefit of the stewards of any portion of the race requested by the stewards;

4. Notifying the stewards immediately of any malfunction in either the cameras or equipment or the inability to replay any portion of a race;

5. Replaying the running of each race for the benefit of the public and showing the public any riding fouls that resulted in a disqualification; and

6. Safekeeping the records of all races for one year after the closing of the race meeting, and not destroying any of the records without the permission of the commission.

11VAC10-50-250. Program director.

The licensee shall appoint a qualified person to act as program director for the race meeting. The program director shall perform his duties under the supervision of the racing secretary, ensure that all of the information contained in the daily racing program is accurate, and provide all of the information in the daily racing program that is deemed appropriate to the type of racing.

11VAC10-50-260. Track superintendent.

The licensee shall appoint a qualified person to act as track superintendent for the race meeting. The track superintendent shall (i) be responsible for the maintenance of the racing and training surfaces in a safe and humane condition, (ii) keep written records of the maintenance done on the racing and training surfaces and present records for inspection upon request of the stewards or commission, and (iii) keep the necessary equipment and personnel to maintain the racing and training surfaces in proper condition.

11VAC10-50-270. Stall superintendent.

The licensee shall appoint a qualified person to act as stall superintendent for the race meeting. The stall superintendent shall assist the racing secretary in seeing that the horses are in their assigned stalls, establishing a system where horses may not leave or enter the stabling area without the racing secretary's permission, and seeing that the stabling area is maintained in a clean, neat and sanitary condition.

11VAC10-50-280. Horsemen's bookkeeper.

The licensee shall appoint a qualified person to act as the horsemen's bookkeeper during the race meeting. The horsemen's bookkeeper shall assist the racing secretary in maintaining the separate bank account known as the horsemen's account. Among the duties of the horsemen's bookkeeper are:

1. Ensuring the purse money statutorily mandated is deposited in the account within 48 hours after the running of the race and informing the commission immediately of any deficiencies;

2. Making all portions of purse money available when the stewards have authorized payment to the earners;

3. Ensuring that no portion of the purse money, other than jockey fees, is deducted without proper authorization;

4. Ensuring that proper authorization is on file prior to making deductions from the purse money other than jockey fees;

5. Mailing to each owner a duplicate record of a deposit, withdrawal or transfer of funds affecting the owner's racing at the close of the race meeting; and

6. Assisting the claims clerk in determining whether there are sufficient funds available for an owner or authorized agent to claim another horse.

11VAC10-50-290. Other persons qualified to assist racing officials.

The licensee may appoint qualified persons to assist the racing officials for the race meeting. No person shall act as an assistant in any capacity or serve under the supervision of a racing official unless the person has been issued a permit by the commission as provided for elsewhere in these regulations.

CHAPTER 60

PARTICIPANTS

11VAC10-60-10. Generally.

No person shall participate in any horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting or pari-mutuel wagering of the race meeting unless the person possesses a permit from the commission and complies with the provisions of the Act and the regulations of the commission. Permits issued by the commission are not transferable.

A. Application for permit. A person desiring to obtain a permit to participate in horse racing with pari-mutuel wagering shall make an application for a permit on a form prescribed by the commission. The application shall be accompanied by a fee prescribed by the commission and the cost of fingerprinting. The applicant shall be photographed. The application shall be verified by the oath or affirmation of the applicant.

B. Fee schedule. Before submitting an application for a permit as a participant, the applicant shall consult the fee schedule (11VAC10-60-15) of the Virginia Racing Commission to ascertain the applicable fee, make out a check or money order payable to the Virginia Racing Commission or pay in cash the full amount of the fee, and submit the fee with the application.

C. Reciprocity. The commission shall conduct a review of the statutes of other jurisdictions pertaining to horse racing with pari-mutuel wagering to ascertain which jurisdictions have substantially the same standards as those of Virginia. Upon submission of an application and payment of the prescribed fee by a holder of a permit, license or other similar document from those jurisdictions whose standards for permits, licenses or similar documents are substantially the same, the commission may, in its discretion, grant reciprocity to the applicant provided that the applicant has not been convicted of a misdemeanor or felony.

D. Fingerprinting. The applicant shall be fingerprinted upon making his initial application in the Commonwealth and at least once every five years thereafter. The commission may waive this requirement in connection with an application for a permit by reciprocity with another jurisdiction provided that the applicant was fingerprinted and was subjected to a criminal history record information check in a jurisdiction whose laws governing fingerprinting and background investigations are substantially the same as required by Virginia and that he has not been convicted of a misdemeanor or a felony. However, the commission, in its discretion, may require fingerprints from any applicant or holder of a permit at any time.

E. Consideration of application. The commission, acting through its executive secretary or other designee, shall promptly consider any application for a permit and issue the permit based on the information contained in the application and all other information before it, including any investigation it deems appropriate. If an application for a permit is approved, the commission shall issue the permit.

F. Denial of application. If from the face of the application, an applicant appears ineligible because of the requirements specified in § 59.1-389 B of the Code of Virginia, his application shall be denied by the commission, acting through its executive secretary or other designee. The commission may deny an application for a permit for the reason specified in § 59.1-389 C of the Code of Virginia. Absent mitigating circumstances, the application for a permit shall be denied if the applicant has three or more misdemeanor convictions, regardless of offense, within five years

preceding the application date. If the applicant has multiple convictions of the same offense on the same day, it shall not constitute three or more misdemeanor convictions for purposes of this regulation. The applicant may withdraw his application prior to denial.

G. Ineligible applicant. If it appears that the applicant may be ineligible because he has committed a felony or misdemeanor that may be detrimental to horse racing in the Commonwealth, he shall be afforded the opportunity to withdraw his application or request a hearing before a steward regarding his application. However, the commission, in its discretion, may issue a permit to an applicant providing the felony or misdemeanor is not one of those listed in § 59.1-389 C 6 of the Code of Virginia.

H. Felonies considered detrimental. In the absence of mitigating circumstances, the following felonies are considered detrimental to horse racing in Virginia and the commission, acting through its executive secretary or other designee, shall deny the application and refuse to issue the permit if the applicant has been convicted of any of them:

1. For horsemen participants:

a. Serious violent offenses, including but not limited to murder, rape, forcible sodomy, crimes against nature, and aggravated assault/maiming;

b. Burglary offenses; and

c. Arson offenses.

2. For employees of a licensee:

a. Larceny/theft offenses, including but not limited to robbery, embezzlement, and credit card theft;

b. Fraud offenses, including but not limited to forgery, uttering, and credit card fraud;

c. Arson offenses; and

d. Serious violent offenses, including but not limited to murder, rape, forcible sodomy, crimes against nature, and aggravated assault/maiming.

I. Renewal of permit. A holder of a currently valid permit may renew the permit annually by making application for a renewal on a form prescribed by the commission. The application for a renewal of a permit shall be accompanied by a fee prescribed by the commission. The applicant may be photographed with each application for a renewal.

J. Knowledge of regulations. A holder of a permit shall be familiar with and knowledgeable of the regulations of the commission. Every holder of a permit is presumed to know the regulations.

K. Reporting violations. A holder of a permit shall report immediately to the commission every observed violation of these regulations as well as all violations of state and federal laws during the race meeting.

L. Multiple participation. A holder of a permit may participate in horse racing in more than one capacity, with the exception of those capacities specifically prohibited by these regulations. A holder of a permit shall submit, in writing on a form prescribed by the commission, a request for approval of his multiple participation in horse racing. The stewards shall deny a request for multiple participation where it would, in their discretion, pose a potential conflict of interest. Where approval is granted to a holder of a valid permit, all applicable fees shall be paid by the participant.

M. Employment of unauthorized participants. A holder of a permit shall not employ for participation within the enclosure any person who does not possess the appropriate permit issued by the commission or has not made application for the appropriate permit.

N. Financial responsibility. A holder of a permit who obtains food, shelter, medicine, transportation, veterinary services or other goods and services for himself or for others shall be responsible for paying for those goods and services. The stewards shall neither be obligated to collect debts nor intervene where there is a dispute over a debt, unless in receipt of a judgment from a duly constituted court in the Commonwealth.

O. Possession of permit. A holder of a permit shall have in his possession at all times his permit issued by the commission and shall be responsible for its safekeeping. The holder shall display his permit to gain entry to the enclosure or upon the request of appropriate racing officials, commission personnel or security personnel.

P. Duplicate permit. A holder of a permit shall report immediately to the stewards the loss of his permit and immediately make application for a duplicate. The stewards shall notify the appropriate security personnel of the loss of the permit.

Q. Misuse of permit. A holder of a permit shall not allow another person to use his permit for the purpose of obtaining any benefits or privileges pertaining to the permit.

R. Search and seizure. A holder of a permit shall consent upon application and for the duration of the permit to personal inspections (searches) of the holder, inspections (searches) of the holder's personal property, and inspections (searches) of the premises and property located within the enclosure of the racetrack related to his participation in a race meeting by persons authorized by the commission, and to seizure of such property as is determined by the commission's designee conducting the search to be in violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia or this chapter. The following provisions shall apply to searches and seizures:

1. Any drug, stimulant, narcotic, controlled substance, drug paraphernalia, hypodermic needle, hypodermic syringe, battery or other electrical or mechanical appliance or any other device or substance which could be used to affect the speed or action of a horse, or any other device prohibited by this chapter that is in the possession of a holder of a permit may be seized.

2. Commission personnel have the right to enter into or upon buildings, stables, rooms (other than residences), private vehicles or other places within the enclosure, and may examine them, and inspect and examine personal property and effects of a holder of a permit for the purpose of determining that the items listed in subdivision 1 of this subsection are not in the possession of a permit holder unless authorized by Chapter 29 of Title 59.1 of the Code of Virginia or this chapter.

3. In addition, commission personnel shall visit, investigate, and have free access to the office, track, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of satisfying themselves that Chapter 29 of Title 59.1 of the Code of Virginia and this chapter are being strictly complied with.

4. Failure to submit to any inspection or search described above or to any production of documents or seizure of property resulting therefrom may subject a licensee or a holder of a permit to disciplinary action. In the event that such licensee or permit holder refuses to submit, the following procedure shall apply:

Such refusal shall be immediately reported to the stewards by the person attempting to conduct the search. Such refusal, and the basis therefor, shall be provided in writing to the stewards by the permit holder and shall state the date, time and circumstances of the attempted search and his

reason(s) for refusing to submit to it. Upon receipt of such report, the stewards may take appropriate disciplinary action, which may include the revocation or suspension of the permit or referral to the appropriate law-enforcement authorities, but neither the search nor any seizure of the property shall proceed.

5. The foregoing shall not preclude commission personnel from conducting searches and seizures when they have reasonable suspicion that a permit holder is in the act of violating a regulation or evidence of a violation of a regulation may be destroyed, in which event the provisions of these regulations dealing with consent, refusal to consent, scope of search and disciplinary action shall apply.

S. Workers' compensation. An applicant for a permit who is subject to the compensation provisions of the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia) shall comply with the provisions of the Virginia Workers' Compensation Act regarding insurance and self-insurance and shall submit proof of his compliance with his application for a permit. Failure to remain in compliance with the insurance and self-insurance provisions of the Virginia Workers' Compensation Act throughout the duration of the permit shall constitute grounds for its revocation or suspension.

T. Supervision of employees. A holder of a permit who is an employer shall supervise his employees so that their participation in horse racing is in accordance with these regulations, and shall be held jointly responsible for the actions of his employees as they relate to racing matters.

U. Human drug testing. The use, possession or transportation of any controlled substance or drug as those terms are defined in the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) is prohibited within the enclosure of the racetrack unless the controlled substance or drug was obtained pursuant to a valid prescription or order from a duly licensed physician who is acting in the course of his professional practice or is otherwise authorized by these regulations. It shall be the responsibility of the holder of a permit to provide proof that he is using, possessing or transporting the controlled substance or drug pursuant to a valid prescription or order from a duly licensed physician or that such use, possession or transportation is otherwise authorized by these regulations.

In addition, the following provisions shall apply to the use or possession of controlled substances or drugs:

1. Any apprentice jockey, assistant starter, assistant trainer, clerk of scales, driver of Standardbreds, driver of starting gate, exercise rider, farrier, groom, hotwalker, identifier, jockey, outrider, paddock judge, patrol judge, placing judge, pony rider, starter, steward, trainer, valet, veterinarian or veterinarian's assistant at any horse racing facility licensed by the commission may be subjected by the commission or its designee to a urine test or other fluid test, including a blood test, for the purpose of detection of the presence of controlled substances, in the following manner:

a. At least once per week during the course of every unlimited race meeting, the executive secretary of the commission, or his designee, may direct that the above-described testing be conducted. The day of each such testing shall be selected by the executive secretary or his designee at random and shall not be announced to the persons affected until the day so selected shall have arrived; and

b. Each sample shall be provided in the presence of the licensee's physician or other representative appointed by the executive secretary or his designee and in sufficient quantity to provide a split sample whenever possible. Such sample(s) shall be immediately sealed and tagged. Evidence of such sealing shall be indicated by the signature of the tested permit holder, but the portion of the form which is provided to the laboratory for analysis shall not identify the

individual permit holder by name. Only laboratories approved by the commission may be used in obtaining analysis reports or urine or other specimens. The commission and the stewards shall receive reports directly from the laboratory. If the permit holder so requests in writing to the stewards within 48 hours of notice of a positive lab report on the test sample submitted, the second portion shall be sent for further testing to a drug testing laboratory designated and approved by the commission. All costs for the transportation and testing of the second sample portion shall be the financial responsibility of the requesting permit holder, and payment shall be due from the requesting permit holder within 30 days of receipt of notice of the costs. The licensee's physician or other representative appointed by the executive secretary or his designee shall have overall responsibility for the preservation, storage and safeguarding of the second sample portion.

2. Notwithstanding the foregoing, any steward, acting with reasonable suspicion, may direct any holder of a permit, whether or not listed in the categories above, to submit a specimen of urine, or to submit to any other fluid test including a blood test for the detection of controlled substances or drugs, in which event the provisions of these regulations dealing with collection of sample(s), failure to provide a sample, positive sample test(s), and disciplinary action shall apply.

3. The presence in a sample of metabolites of opioid, barbiturate, cannabis, cocaine, amphetamine, hallucinogen, phencyclidine-type drugs, volatile solvents or volatile nitrates, or other mood-altering or dependency-causing controlled substances or drugs will be considered a positive test. A positive test result shall be reported, in writing, to the executive secretary or his designee, who shall notify the permit holder involved in writing as quickly as possible.

4. In the event of a positive test, the following shall also apply:

a. For an initial positive test, a holder of a permit shall undergo a professional evaluation, at his own expense, by a physician approved by the stewards. If the evaluation indicates that the person's condition is nonaddictive and not detrimental to the best interests of horse racing, the person shall be allowed to participate in horse racing after producing a negative test and agreeing to undergo random testing for a period of not greater than six months at the discretion of the stewards;

b. If the evaluation indicates the person's condition is addictive or detrimental to the best interests of horse racing, the person shall not be allowed to participate in horse racing until he can produce a negative test, has successfully completed a drug rehabilitation program acceptable to the commission, and agrees to undergo random testing for a period of not greater than six months at the discretion of the stewards; and

c. For a second positive test, a holder of a permit shall be suspended indefinitely by the stewards and may only apply for reinstatement after having successfully completed a drug rehabilitation program acceptable to the commission and agreeing to undergo random testing for a period of not greater than one year at the discretion of the stewards.

5. Notwithstanding the foregoing, a holder of a permit whose sample is positive may be subject to disciplinary action including but not limited to revocation or suspension of his permit.

V. Human alcohol testing. On any racing day, any holder of a permit may not have present within his system an amount of alcohol which would constitute being under the influence of alcohol, defined as .08% alcohol content or more, or being impaired, defined as between .079% and .04% alcohol content. In addition, the following provisions shall apply to the consumption of alcoholic beverages:

1. The commission hereby adopts breath testing as its approved method of testing for the presence of alcohol in humans and adopts the following procedure for such testing:

a. Any apprentice jockey, assistant starter, assistant trainer, clerk of scales, driver of Standardbreds, driver of a starting gate, exercise rider, farrier, groom, hotwalker, identifier, jockey, outrider, paddock judge, patrol judge, placing judge, pony rider, starter, steward, trainer, valet, veterinarian or veterinarian's assistant at any horse racing facility licensed by the commission may be required to take a breath alcohol test prior to his participation in horse racing;

b. Testing devices shall be selected by the commission from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA), United States Department of Transportation;

c. Each device shall be properly maintained and shall be calibrated by the use of calibrating unit listed on the NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers (as amended) with sufficient frequency to ensure the accuracy of the device (within plus or minus.01%), but not less frequently than provided in the manufacturer's instructions;

d. Tests shall be conducted by a trained and qualified operator. The operator shall have received training on the operational principles of the particular instrument employed and practical experience in the operation of the device and use of the breath alcohol calibrating unit; and

e. Tests shall be conducted in accordance with procedures specified by the manufacturer of the testing device, consistent with sound technical judgment, and shall include appropriate restrictions on ambient air temperature.

2. Notwithstanding the foregoing, any steward, acting with reasonable suspicion, may direct any holder of a permit, whether or not listed in the categories above, to submit to a breath alcohol test, in which event the provisions of subdivision 4 of this subsection shall apply.

3. A holder of a permit listed in subdivision 1 a of this subsection who is impaired shall not participate in horse racing on that day, but for the first occurrence, shall not be subject to further disciplinary action; a second or subsequent occurrence shall subject such permit holder to disciplinary action.

4. A holder of a permit who is under the influence of alcohol or refuses to take a breath alcohol test at the direction of the stewards is subject to disciplinary action.

W. Reciprocity of rulings. Any holder of a permit whose permit or license to engage in any activity related to horse racing in any other jurisdiction has been denied, suspended or revoked for just cause in that jurisdiction shall not be permitted to participate in horse racing with pari-mutuel wagering in the Commonwealth of Virginia if such denial, suspension or revocation is still in effect.

X. Official address. All notices required by law and by regulations of the commission to be mailed by the commission to any holder of a permit shall be validly given when mailed to the latest address on file with the commission. Each holder of a permit shall maintain a record of his current mailing address with the commission. Any change of address by a holder of a permit shall be submitted in writing to the commission within 30 days of such change.

Y. Disorderly conduct. A holder of a permit shall not engage in disorderly conduct, which shall include but not be limited to using profane, abusive or insulting language, or assaulting or threatening to assault other participants, racing officials, commission employees or the public.

Z. Unwarranted objection. A holder of a permit may be subject to disciplinary action by the stewards if they determine that an objection or protest is unwarranted and without merit.

11VAC10-60-15. Fee schedule for permit holders.

Type of Permit	Fee
Apprentice Jockey	$50
Assistant General Manager	$25
Assistant Racing Secretary	$25
Assistant Starter	$25
Assistant Trainer	$50
Authorized Agent	$50
Claims Clerk	$25
Clerk of Scales	$25
Clerk of the Course	$25
Clocker	$25
Concessionaire/Vendor	$25
Concessionaire/Vendor Employee	$25
Custodian of Jockeys' Room	$25
Director of Security	$25
Driver	$50
Entry Clerk	$25
Exercise Rider	$25
Farrier	$50
Foreman	$50
Gap Attendant	$25
General Manager	$25
Groom/Hotwalker	$25
Horse Identifier	$25
Horsemen's Bookkeeper	$25
Horse Owner	$50
Jockey	$50
Jockey Agent	$50
Licensee-Administrative Employee	$25
Licensee-Marketing Employee	$25
Licensee-Medical Employee	$25
Licensee-Operations Employee	$25

Licensee-Plant Employee	$25
Licensee-Staff Employee	$25
Mutuel Clerk	$25
Mutuel Manager	$25
Outrider	$25
Paddock Judge	$25
Patrol Judge	$25
Photo-Finish Camera Operator	$25
Placing Judge	$25
Pony Rider	$25
Program Director	$25
Racing Secretary	$25
Security Officer	$25
Stable Name	$25
Stall Superintendent	$25
Starter	$25
Timer	$25
Track Superintendent	$25
Trainer	$50
Trainer/Driver (Harness Racing)	$50
Valet	$25
Veterinarian (Licensee)	$25
Veterinarian (Private Practice)	$50
Video Patrol Personnel	$25

11VAC10-60-20. Practicing veterinarian.

A. Qualifications. A holder of a permit allowing the person to participate as a practicing veterinarian in Virginia shall possess a full and unrestricted license from the Virginia Board of Veterinary Medicine.

B. Prohibitions. A practicing veterinarian shall be prohibited from engaging in the following activities:

1. Owning, directly or indirectly, entirely or a portion of any horse racing at the race meeting where he is practicing veterinary medicine. For purposes of this section, ownership shall be based on being named on the certificate of registration or eligibility paper, or named in a syndicate, corporation, lease, partnership, or other joint venture owning or managing the racehorse and shall not be based solely on community property laws relating to marriage;

2. Wagering on the outcome of any race, either directly or indirectly, at the race meeting where he is practicing veterinary medicine;

3. Furnishing any injection device, injectable substance, or any other medication intended for use by injection to another permit holder without the written permission of the stewards; and

4. Treating any other horses entered to race in the same race as a horse owned or trained by the veterinarian's spouse after entries have closed for that race.

C. Duties. In the exercise of his duties, the practicing veterinarian shall:

1. Treat all horses under his care in a humane manner and report all instances of animal abuse or neglect immediately to the stewards and commission veterinarian;

2. Report immediately to the commission veterinarian and stewards any illness in a horse presenting unusual or unknown symptoms;

3. Maintain complete medical records consistent with the statutes and regulations of the Virginia Board of Veterinary Medicine, and retain duplicate copies of bills or statements issued to trainers or owners for at least one year;

4. Make available to the commission veterinarian, stewards or other commission personnel, upon request, copies of any written or electronic records or billing statements to trainers or owners; and

5. Use only single-use disposable syringes, needles, and infusion tubes and dispose of the syringes, needles, and infusion tubes as directed by the commission veterinarian.

11VAC10-60-40. Horse owner.

A. Generally. No horse may start in a race at a race meeting licensed by the commission unless the owner, or part owner who has an interest of 5.0% or more in the horse, has been issued a permit by the commission, or unless an application has been submitted by the owner or part owner, or by their trainer, assistant trainer, or authorized agent, and the approval of the stewards has been obtained. If the trainer or authorized agent submits a partially completed application on behalf of an owner, the applicant shall complete the application within 30 days. The applicant shall be subject to disciplinary action for failure to complete the application. In any event, all purse moneys earned shall be held until the application is completed.

B. Husband and wife. For the purposes of these regulations, a husband and wife who enter their horse or horses as a single entity shall not be considered a partnership but shall make separate applications for permits as owners.

C. Registration of ownership. Every certificate of registration or eligibility paper shall reflect the true ownership of the horse, and the ownership of the horse printed in the daily program shall conform to the ownership listed on the certificate of registration or eligibility paper.

1. Before a horse can start in a race, the trainer must list its ownership with the racing secretary;

2. In the event ownership of a horse is a syndicate, corporation, partnership or other joint venture, the name of the managing owner shall be printed in the daily program; and

3. In the event of a change in ownership of a horse, it shall be the responsibility of the new owner to record the change in ownership with the racing secretary.

D. Qualifications of owners. In addition to all of the qualifications applying to all applicants in these regulations, applicants for permits as horse owners shall meet the following additional requirements:

1. Shall present a copy of a declaration page or certificate of insurance for workers' compensation as required by these regulations; and

2. Shall own or have under lease a horse eligible to race and shall be able to prove ownership of a horse eligible to race to the satisfaction of the stewards.

E. Disclosure of ownership. Trainers shall be responsible for the full disclosure of ownership of all horses under their care to the racing secretary. This disclosure shall be in writing and include:

1. All persons, who directly or indirectly, through lien, lease, partnership, corporate stockholding, syndication, or other joint venture, hold any present or reversionary right, title, or interest in the horse; and

2. All persons who by virtue of any form of ownership interest might exercise control over the horse or derive benefit from the racing of the horse as well as the degree and type of ownership held in the horse.

The full disclosure shall be made to the racing secretary, with a copy submitted to the stewards, upon the horse's arrival within the enclosure or at the time of entry, whichever event occurs first, and the racing secretary shall be notified immediately upon any subsequent change in ownership.

F. Joint ownership. No more than five persons may be listed as owners of a single horse. In the event more than five persons own interests in a single horse, through partnership, corporation, syndication or other joint venture, the owners shall designate, in writing, a member of the partnership, corporation, syndication or joint venture to represent the entire ownership and be responsible for the horse as the managing owner. Before the horse may be entered to race, the following requirements must be met:

1. A written designation of a managing owner to represent the entire joint venture must be submitted to the racing secretary and signed by every person having an interest of 5.0% or more in any horse entered to race, the chief executive officer of any corporation involved, and the general partner of any limited partnership;

2. Each person having an interest of 5.0% or more in a horse shall apply for a permit as an owner;

3. Each person having an interest of less than 5.0% need not apply for a permit as an owner, unless he intends to participate at the race meeting; however, a complete list of names and addresses of persons having an interest of less than 5.0% shall be provided to the stewards for their approval; and

4. A horse shall not be entered where a person who has any ownership interest in the horse would be ineligible for a permit under these regulations.

G. Estates, partnerships, corporations and other legal entities. Every estate, partnership, corporation and other legal entity shall make application for a permit to the commission and all persons having a 5.0% or more ownership interest in the estate, partnership, corporation or legal entity shall also make application to the commission for permits as owners.

1. A written designation of a managing owner to represent the estate, partnership, corporation or other legal entity must be submitted to the stewards and signed by every person having an interest of 5.0% or more in any horse entered to race, by the chief executive officer of any corporation involved, and by the general partner of any limited partnership;

2. The managing owner shall be responsible for submitting to the stewards a copy of the partnership papers or articles of incorporation which shall include the following information:

a. The name or names of the horse or horses involved in the estate, partnership, corporation or other legal entity;

b. The name and address of every person having any interest in the horse or horses involved in the estate, partnership, corporation or other legal entity;

c. The relative proportions of such interests;

d. In whose name the horse or horses shall run, and whose name shall be printed in the daily program;

e. The person who may enter the horse in races if other than the trainer;

f. The terms of any contingency, lease or any other arrangement; and

g. All partnership papers, articles of incorporation or other appropriate documents must be signed by all parties to the estate, partnership, corporation or other legal entity.

3. All parties in the estate, partnership, corporation or other legal entity shall be jointly and severally liable for all stakes, fees and other obligations.

H. Leases. When a horse is held under a lease, the lease agreement must be submitted to the stewards for their approval, and when approved by the stewards, the lease shall be attached to the certificate of foal registration or eligibility certificate. Before the stewards may approve a lease agreement, the following conditions must be fulfilled:

1. The lessee is a permit holder as an owner;

2. The lessor is eligible for a permit;

3. The signatures of the lessors and lessees on the lease agreement are subscribed and sworn to before a notary public;

4. The conditions of the lease specify whether the horse can be entered in a claiming race, and if so, the minimum price for which the horse can be entered, and the name of the payee in the event the horse is claimed;

5. The conditions of the lease specify that upon the horse being claimed, the lease shall terminate and all rights to the horse shall pass to the claimant as a bona fide purchaser;

6. The conditions of the lease divest lessors or sublessors of control or direction of the racing performance of the horse while held under the lease agreement; and

7. The program listing of the lessee would not mislead the public by reason of the absence in the daily program of the name of a person or persons possessing a beneficial interest in the horse.

I. Stable names. A holder of a permit as an owner may register a "stable name" with the commission. All names that do not reveal the actual identity or identities of the owner or owners of the horse or horses shall be considered stable names. The following conditions shall apply to stable names:

1. In making an application for a stable name, the applicant shall make a full disclosure of all of the parties to the stable name regardless of the proportion of their interest;

2. All parties who have an interest of 5.0% or more in the stable name must be holders of permits as owners;

3. If a partnership or corporation is involved in the stable name, then all of the provisions of these regulations applicable to partnerships or corporation must be complied with as well;

4. Any changes in the parties to the stable name must be reported to the racing secretary and the stewards prior to the horse being entered;

5. Any person who has been a party to a stable name may cancel his participation in the stable name upon giving a written statement to the stewards and racing secretary, and the notice must be received before time of entry;

6. A stable name shall not be used that is identical to one registered with the commission or with The Jockey Club, the National Steeplechase Association, the United States Trotting Association or the American Quarter Horse Association;

7. A stable name shall not be used which is the name of another owner of horses or the name of another prominent person;

8. A trainer may use a stable name only if he is a party to the stable name and trains all of the horses racing under the stable name;

9. The stable name must be clearly distinguishable from other stable names. If the stable name has more than one owner, one legal name of a party to the stable name must appear followed by the term "et al.";

10. A corporate name may be used as a stable name; and

11. A stable name may be canceled when all parties to the stable name submit to the stewards and racing secretary written notice of the cancellation, and a stable name may be changed by registering a new stable name with the commission.

J. Racing colors. For thoroughbred, steeplechase and other flat races, a holder of a permit as an owner shall register a set of racing colors when submitting an application for an owner's permit. The following provisions shall regulate the registration of racing colors:

1. Owners shall be responsible for designing and providing racing colors, consisting of jackets and caps of distinctive colors and patterns, to be worn by jockeys during a race;

2. Racing colors shall be registered annually by the owner;

3. Racing colors that are not readily distinguishable from those already registered by the commission or from those already registered with The Jockey Club or the National Steeplechase Association shall be prohibited;

4. No jockey may wear the racing colors except those registered by the owner; however, in emergency situations, the jockey may wear substitute racing colors with the permission of the stewards; and

5. Owners and trainers shall be jointly responsible for providing the clerk of scales with racing colors that are neat, clean and in good repair.

11VAC10-60-50. Authorized agent.

A holder of a permit allowing the person to participate in horse racing as an owner may employ an authorized agent to act on his behalf in all matters pertaining to racing and ownership of horses within the enclosure. The following provisions shall apply to authorized agents:

1. The owner shall submit to the stewards a signed, notarized statement authorizing the agent, specifying the powers of the agent, and specifying whether or not the agent is empowered to receive money from the horsemen's account;

2. The authorized agent shall apply for the appropriate permit, and shall apply separately for permits for each owner represented;

3. A copy of the owner's signed, notarized authorization shall be submitted by the owner to the racing secretary, horsemen's bookkeeper and attached to the application for the permit;

4. The owner shall be jointly responsible for all acts and omissions of the authorized agent while serving on behalf of the owner in a racing matter; and

5. An owner may revoke the agency by submitting written notification to the stewards.

11VAC10-60-70. Trainer.

A. Generally. No horse may be entered to race at a race meeting licensed by the commission unless the horse is under the care and supervision of a person holding a permit in good standing from the commission as a trainer. A trainer may represent the owner in entering of a horse, declaring the horse out of a race or retaining a jockey.

B. Qualifications. A permit may be issued to a person to participate in horse racing as a trainer if the person possesses a currently valid permit as a trainer in Virginia or another jurisdiction or if the person satisfactorily completes a trainer's test administered under the supervision of the stewards. A person shall not be issued a permit as a trainer unless he meets the following requirements:

1. The person must be 18 years old or older;

2. If the applicant for the permit is subject to the compensation provisions of the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia), he must submit proof of his compliance with the insurance and self-insurance provisions of that Act with his application for the permit;

3. The person must be qualified by experience or competence to care for and train racehorses; and

4. The person must have in his charge a horse eligible to race.

C. Trainer's test. The stewards may require any person, whether or not he holds a currently valid permit in Virginia or another jurisdiction as a trainer, to satisfactorily complete a trainer's test to demonstrate that he is qualified by experience or competence to care for and train racehorses. The test shall consist of a written test administered by the stewards and a barn test administered by representatives of the horsemen, under the supervision of the stewards.

D. Prohibitions. A holder of a permit may not participate in horse racing as a trainer and as a jockey agent, veterinarian or veterinarian's assistant. In addition, a trainer:

1. Shall not train horses under an assumed name or stable name;

2. Shall not engage in any activity, directly or indirectly, involving the care, supervision or racing of horses other than those he has registered with the racing secretary as being in his charge; and

3. A holder of permits to participate in horse racing as a trainer and as a jockey shall only ride those horses trained by the permit holder.

E. Suspension. All horses in the care of a trainer who is suspended for more than 10 days must be transferred to another trainer approved by the stewards. During the period of suspension the suspended trainer shall (i) have no communication with the new trainer, the new trainer's staff, or the horse owner; (ii) not benefit financially from transferred horses in his stable during the time of suspension; and (iii) not be permitted on the grounds except with the permission of the stewards.

F. Duties. A person holding a permit allowing him to participate in horse racing as a trainer shall be responsible for the proper care, health, training, safety and protection of horses under his care against administration of all substances foreign to the natural horse, except those specifically permitted by the regulations of the commission. In the exercise of his duties, a trainer shall:

1. Register with the stewards all persons in his employ and ensure that all of his employees have made application for the appropriate permits from the commission;

2. Promptly notify the stewards and the licensee's director of security of any employee he discharges;

3. Register all horses in his charge and present to the racing secretary the certificates of registration, certificates of eligibility or other registration documents;

4. Enter horses with the permission of the owner and bear primary responsibility as to the horse's eligibility, weight allowances, racing fitness, proper shoes, bandages, and other equipment;

5. Ensure that the horse is in the paddock at the time prescribed by the stewards;

6. Furnish the name of the jockey engaged to ride the horse at the time designated by the racing secretary;

7. Attend the horse in the paddock and supervise the saddling of the horse, and in his absence, provide an assistant trainer or other trainer to attend the saddling of horses and assume responsibility for the horses already entered;

8. Witness himself, or assign one of his employees to witness, the collection of samples of blood, urine, or other bodily substances in the test barn;

9. Maintain the stable area assigned to his horses in a neat, clean and sanitary condition at all times, and ensure that all fire prevention measures are taken; and

10. Report promptly to the commission veterinarian any serious illness or death of a horse in his charge.

G. Standardbred trainer. A permit may be issued to a person desiring to participate in horse racing as a trainer of Standardbreds if the person possesses a currently valid trainer's license from the United States Trotting Association or a permit in Virginia.

H. Steeplechase trainer. A permit may be issued to a person desiring to participate in horse racing as a trainer of horses utilized in steeplechase races if the person possesses a currently valid trainer's license issued by the stewards of the National Steeplechase Association or a currently valid permit as a trainer of horses utilized in steeplechase races in Virginia or another jurisdiction.

I. Substitute trainer. When a trainer is absent from his stable or the enclosure and a horse under his care is scheduled to race, he must provide a licensed trainer or assistant trainer to assume joint responsibility for the horses he is training. The substitute trainer or assistant trainer shall sign, in the presence of the stewards, a statement accepting responsibility for those horses.

J. Assistant trainer. A person holding a permit allowing him to participate in horse racing as a trainer may employ an assistant trainer with the approval of the stewards. Any assistant trainer shall be qualified to assume the duties and responsibilities imposed upon the holder of a trainer's permit, and the trainer shall be jointly responsible for the assistant trainer's acts and omissions involving racing matters and this chapter.

K. Trainer responsibility. The trainer shall be the absolute insurer of, and responsible for, the condition of each horse he enters in a race, regardless of the acts of third parties. A trainer shall not start a horse or permit a horse in his custody, care or control to be started if he knows, or through the exercise of reasonable care he might have known or has cause to believe, that the horse has received a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission. The trainer shall guard, or caused to be guarded, each horse in his charge in a manner and for a period of time before racing so as to prevent any person from administering a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission.

11VAC10-60-80. Stable foreman.

A person shall submit an application to participate in horse racing as a stable foreman. The person shall meet all of the requirements set forth in this chapter pertaining to participants, and be an

employee of a person holding a permit as an owner or trainer. The person's participation in horse racing shall be in accordance with this chapter.

11VAC10-60-90. Night watchman.

A person shall submit an application to participate in horse racing as a night watchman. The person shall meet all of the requirements set forth in this chapter pertaining to participants, and be an employee of a person holding a permit as an owner or trainer. The person's participation in horse racing shall be in accordance with this chapter.

11VAC10-60-100. Groom.

A person shall submit an application to participate in horse racing as a groom. The person shall meet all of the requirements set forth in this chapter pertaining to participants, and be the employee of a person holding a permit as an owner or trainer. The person's participation in horse racing shall be in accordance with this chapter.

11VAC10-60-110. Hotwalker.

A person shall submit an application to participate in horse racing as a hotwalker. The person shall meet all of the requirements set forth in this chapter pertaining to participants, and be the employee of a person holding a permit as an owner or trainer. The person's participation in horse racing shall be in accordance with this chapter.

11VAC10-60-120. Jockey.

A. Generally. A person shall submit an application to participate in horse racing as a jockey. The applicant shall submit to the stewards sufficient evidence that he is either a journeyman or apprentice jockey in Virginia or another jurisdiction and demonstrates sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys.

B. Examinations. A jockey may be required to take a physical examination from a physician appointed by the stewards to establish that he possesses the physical ability to safely ride in races. A jockey may also be required to take an eye examination from a physician appointed by the stewards to establish he has eyesight sufficient to safely ride in races.

C. Apprentice jockey. If the person does not possess a currently valid permit in Virginia or another jurisdiction as an apprentice jockey, has not ridden satisfactorily in three races at a pari-mutuel meeting, or has never held a thoroughbred journeyman jockey permit, then the stewards may allow the person to ride probationary mounts in three races at a race meeting licensed by the commission under the following conditions:

1. That he is at least 16 years old;

2. That he has held a permit for at least one year as an exercise rider under the supervision of a person holding a permit as a trainer;

3. A trainer submits a notarized statement to the stewards that the person has been employed by him and has demonstrated sufficient horsemanship to be allowed to ride in three races at a race meeting licensed by the commission;

4. The starter has schooled the person from the starting gate with other horses and approves the person as capable of breaking a horse properly from the starting gate;

5. The stewards retain sole discretion of whether or not the person possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys; and

6. The stewards, in their discretion, may at any time deny the person the opportunity to ride in more races for cause.

If the person possesses a currently valid permit from another jurisdiction as an apprentice jockey or has ridden satisfactorily in three races at a pari-mutuel meeting, then the person must submit sufficient evidence to the stewards:

a. That he is at least 16 years old;

b. That he has ridden satisfactorily in at least three races at a pari-mutuel meeting; and

c. That he has demonstrated to the stewards sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys.

D. Amateur jockey. A permit may be issued to a person desiring to participate in horse racing as an amateur jockey. The person shall compete on even terms when riding against professional jockeys, but he shall not accept any fees or gratuities. The person must meet all of the requirements for an apprentice jockey, and his amateur status must be noted on the program.

E. Steeplechase jockey. A permit may be issued to a person desiring to participate in horse racing as a jockey riding horses in steeplechase races. A person shall submit an application for the appropriate permit, meet all of the requirements pertaining to holders of permits as jockeys, and hold a currently valid license issued by the stewards of the National Steeplechase Association.

F. Foreign jockey. Whenever a jockey from a foreign country, excluding Mexico and Canada, rides in the United States, he must submit an application for a permit and declare that he is a holder of a valid permit and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet stating:

1. That he is the holder of a valid permit to ride;

2. That he is not currently under suspension; and

3. That he agrees to be bound by the rules and regulations of the jurisdiction in which he is riding.

This sheet shall be retained by the stewards and at the conclusion of the jockey's participation in racing, it shall be returned to the jockey, properly endorsed by the stewards, stating he has not incurred any penalty or had a fall. If a penalty has been assessed against the jockey, the stewards shall notify the racing authority issuing the original permit to extend the penalty for the same period of time.

G. Apprentice allowance. An apprentice jockey may claim the following weight allowances in all overnight races except stakes and handicaps:

1. A 10-pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners.

2. A seven-pound allowance until the apprentice has ridden an additional 35 winners.

3. If an apprentice has ridden a total of 40 winners prior to the end of a period of one year from the date of riding his fifth winner, he shall have an allowance of five pounds for one year from the date of the fifth winning mount.

4. If, after a period of one year from the date of the fifth winning mount, the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year or until the apprentice rides his 40th winning mount, whichever comes first. But in no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted under the provisions of this regulation.

5. An apprentice who possesses a contractual agreement may claim an allowance of three pounds for an additional one year when riding horses owned or trained by the original contract employer.

H. Extension of apprentice allowance. The commission or its designee may extend the weight allowance of an apprentice jockey when an apprentice jockey is unable to continue riding due to (i) physical disablement or illness, (ii) military service, (iii) attendance in an institution of secondary or higher education, (iv) restriction on racing, or (v) other valid reasons.

1. In order to qualify for an extension, an apprentice jockey shall have been rendered unable to ride for a period of not less than seven consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance. Under exceptional circumstances, the commission or its designee will give consideration to the total days lost collectively.

2. The commission or its designee shall have the authority to grant an extension to an eligible applicant, but only after the apprentice jockey has submitted documentation to them verifying the days lost as defined by this regulation.

3. An apprentice jockey may petition the commission or its designee for an extension of time for claiming apprentice weight allowances, and the apprentice jockey shall be bound by the decision of the commission or its designee. If the apprentice jockey has been denied an extension in another jurisdiction, the commission or its designee shall deny the application for an extension.

I. Jockey contracts. An apprentice jockey may enter into a contract with an owner or trainer, who holds an appropriate permit issued by the commission, for a period not less than three years nor more than five years. The following provisions shall apply to contracts for apprentice jockeys:

1. The original contract is to be submitted to the stewards with copies made available to the parties to the contract;

2. A written extension may be made to a contract, if the original was for less than five years;

3. The original contract shall be kept in full force and in effect throughout its contract period. Any and all amendments to the contract shall be made a part of and either added to or attached to copies in the possession of the parties and a copy of the amendments submitted to the stewards;

4. An owner or trainer may not enter into a contract with an apprentice jockey unless he has control or possession of a stable of horses as would, in the discretion of the stewards, warrant the employment of an apprentice;

5. An apprentice jockey may not acquire his own contract;

6. All apprentice jockey contracts must be submitted to the stewards within 30 days of their execution or upon filing an application for a permit;

7. The contract shall provide for fair remuneration, adequate medical attention, suitable board and lodging, workers' compensation insurance coverage, and provision for conserving the savings out of the earnings of the apprentice; and

8. Any apprentice or contract rider shall be entitled to the regular jockey fees, except when riding a horse owned in part or solely by his contract holder. An interest in the winnings only, e.g., a trainer's commission, does not constitute ownership.

J. Apprentice certificate. An apprentice jockey may be granted an apprentice certificate issued by the commission or its designee, in lieu of a traditional apprentice contract. An apprentice jockey who loses his weight allowances shall obtain a jockey permit before being permitted to ride again.

K. Restrictions of jockeys under contract. Any apprentice or journeyman jockey who is under a contract to an owner or trainer shall not:

1. Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

2. Ride or agree to ride any horse in a race without consent of his contract employer; and

3. Share any money earned from riding with his contract employer.

L. Calls and engagements. Any jockey who is not prohibited by a contract may agree to give first or second calls on his services to any owner or trainer. If the agreement is for more than 30 days, then the agreement must be in writing and a copy of the agreement submitted to the stewards for approval. Any jockey employed by an owner or trainer on a regular salaried basis may not ride against the stable. No owner or trainer shall employ or engage a jockey to prevent him from riding another horse.

M. Naming of jockeys. A jockey shall be named to ride a horse in a race at a time designated by the racing secretary, and a subsequent change of a jockey shall be approved by the stewards. The following provisions shall apply to the naming of a jockey:

1. After a jockey gives a call to ride a horse in a race, either personally or through his agent, and fails to fulfill the engagement, he shall not accept another engagement in that race or be assigned by the stewards to another horse in that race;

2. In races where a jockey has more than one engagement, the jockey agent shall specify a first and second call on the jockey's services; and

3. A jockey may be named on no more than two horses in a race. In turf course races, in which there is an also-eligible list for the dirt course, a jockey may be named on no more than three horses, one of which shall be a dirt course only entrant.

N. Fee earned. A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey, of his own free will, takes himself off of his mount where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above regulation shall be at the discretion of the stewards.

O. Multiple engagements. If any owner, or his trainer or authorized agent, engages two or more jockeys to ride the same horse in the same race after the time designated by the racing secretary to name jockeys, the owner shall pay the jockey taken off the horse a matching fee equal to that earned by the jockey who rode the horse. No owner shall be held liable for multiple engagements where such engagements are the results of actions taken by jockeys or their agents. An owner or trainer who elects to remove a jockey from his mount after the time designated by the racing secretary for naming jockeys may be subject to disciplinary action by the stewards.

P. Duty to fulfill engagements. A jockey shall fulfill his duly scheduled riding engagements, unless excused by the stewards. No jockey shall be forced to ride a horse he believes to be unsound or over a racing surface that he believes to be unsafe. If the stewards find that a jockey's refusal to fulfill a riding engagement is unwarranted, then the jockey may be subject to disciplinary action.

Q. Presence in jockey room. A jockey who has an engagement to ride in a race shall report his weight and be physically present in the jockeys' room at a time appointed by the stewards, unless excused by the stewards, and upon arrival shall report all of his engagements for the program to the clerk of scales. The following provisions shall apply:

1. In the event a jockey does not report to the clerk of scales at the appointed time, the clerk of scales shall advise the stewards who may name a substitute jockey and any substitution shall be publicly announced prior to the opening of wagering;

2. After reporting to the clerk of scales, a jockey shall remain in the jockeys' room until he has fulfilled all of his engagements for the program. A jockey may only leave to ride in a race or to view the races from a location approved by the stewards;

3. A jockey shall have no communication with any person outside the jockeys' room other than an owner or trainer for whom he is riding, a racing official, his jockey agent or a representative of the media; and

4. A jockey who intends to discontinue riding at a race meeting prior to its conclusion shall notify the stewards no later than upon fulfilling his final engagement of the day he intends to depart.

R. Attire. A jockey shall wear traditional attire and shall be neat and clean in appearance. A jockey shall wear the cap and jacket in the owner's racing colors, white breeches, top boots, protective helmet, safety vest which meets the minimum specifications as defined by the British Equestrian Trade Association, and a number on his right shoulder corresponding to the horse's number as shown on the saddle cloth and daily program.

S. Weighing out. A jockey shall report to the clerk of scales for weighing out, not more than one hour and not less than 15 minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any. The following provisions shall apply to weighing out:

1. A jockey shall not carry more than two pounds of overweight without the consent of the owner or trainer of the horse which he is engaged to ride; however, a jockey shall not carry more than five pounds of overweight;

2. Bit, blinkers, bridle, number cloth, reins, safety helmet, safety vest, whip, goggles, overgirth, chamois, and breastplate shall not be included in a jockey's weight;

3. All overweights shall be promptly reported to the stewards; and

4. No horse shall be disqualified because of overweight carried.

T. Weighing in. Following the completion of the race, a jockey shall ride his horse to the designated area, salute the stewards, dismount, remove from the horse his equipment, without assistance, which is to be included in a jockey's weight, and move directly to the scales where he may be weighed in by the clerk of scales. No person shall throw any covering over any horse until a jockey has removed from the horse his equipment which is to be included in a jockey's weight. Due to injury to either horse or jockey, the stewards may excuse the jockey from weighing in. A jockey shall not weigh in at less weight than he weighed out and no jockey shall weigh in at more than four pounds over the weight at which he weighed out, unless affected by the weather and with the permission of the stewards.

U. Wagering. A jockey may only have a wager placed for him through an owner or trainer of the horse he is riding in the race, and the jockey's wager shall only be on his horse to win. The owner or trainer placing the wager shall keep precise records of all wagers placed for a jockey and the record shall be available to the stewards upon request.

V. Viewing films. The stewards shall attempt to notify all jockeys who are requested to attend the reviewing of the films, and their names shall be posted on the film list. A jockey whose name is on the film list shall be present at the designated time and place to view the films of the race, unless excused by the stewards. A jockey may be accompanied by a representative of his choosing.

W. Designated races. A jockey who is serving a suspension of 10 days or less will be permitted to ride in a designated race during the suspension if:

1. The race has been specified as a designated race by the racing secretary before opening day of the race meeting.

2. The race has been approved as a designated race by the stewards.

3. The jockey is named not later than at the time designated by the racing secretary.

4. The jockey agrees to serve an additional day of suspension in place of the day on which the jockey rides in a designated race.

Reciprocity of this regulation will apply only to those jurisdictions which have adopted the designated race regulation.

11VAC10-60-130. Jockey agent.

A person shall submit an application to participate in horse racing as a jockey agent. The jockey agent acts as an agent for the jockey he represents in securing riding engagements. The stewards, in their discretion, may ask a person to take a written or oral examination to determine his fitness to participate in horse racing as a jockey agent. In addition to all of the requirements imposed upon all holders of permits, the following shall apply to jockey agents:

1. A jockey agent shall designate in writing those jockeys for whom he is making engagements;

2. A jockey agent shall have in his possession at all times an engagement book, approved by the stewards, and all engagements made for a jockey by the agent shall be recorded in the book. The book shall be presented to the stewards upon request;

3. A jockey agent shall not make or assist in making any engagement for a jockey other than those he has designated in writing;

4. A jockey agent may make engagements for only two jockeys, one of which must be an apprentice jockey;

5. A jockey agent may make engagements for two journeyman jockeys only with the permission of the stewards;

6. If a jockey agent relinquishes the making of engagements for any jockey, the jockey agent shall immediately notify the stewards and clerk of scales and turn over to the stewards a list of any unfilled engagements he may have made for that jockey;

7. A jockey agent may give only one "first call" and one "second call" per race for each jockey he represents, and conflicting claims for the services of a jockey shall be decided by the stewards;

8. A jockey agent shall be able to explain, to the satisfaction of the stewards, rival claims for the services of a jockey or that the rival claims are the result of bona fide error;

9. No jockey shall have more than one agent;

10. An owner, trainer or authorized agent may make engagements for an apprentice jockey or jockey;

11. A jockey not represented by an agent may make his own engagements;

12. A holder of a jockey agent permit may not be licensed as an owner, trainer, or authorized agent; and

13. Under no circumstances shall a jockey agent be permitted within the saddling enclosure during racing hours nor shall he be allowed on the track proper or in the winner's circle at the conclusion of any race run. An agent may not have access to the jockey quarters at any time or communicate with any jockey during racing hours without permission of the stewards.

11VAC10-60-140. Exercise rider.

A person shall submit an application to participate in horse racing as an exercise rider. If the applicant for a permit as an exercise rider is not employed by an owner or trainer or does not possess a similar permit from another jurisdiction, then the stewards may, in their discretion, require the applicant to demonstrate his horsemanship before issuing a permit to the applicant. The exercise rider shall wear a protective helmet and a safety vest which meets the minimum specifications as defined by the British Equestrian Trade Association when exercising horses.

11VAC10-60-150. Pony rider.

A person shall submit an application to participate in horse racing as a pony rider. If the applicant for a permit as a pony rider is not in possession of a similar permit from another jurisdiction, then the stewards may, in their discretion, require the applicant to demonstrate his horsemanship before issuing a permit to the applicant. The pony rider shall wear a protective helmet, a safety vest which meets the minimum specifications as defined by the British Equestrian Trade Association, and attire prescribed by the licensee. The attire shall be neat, clean and in good repair.

11VAC10-60-160. Farrier.

A person shall submit an application to participate in horse racing as a farrier. If the applicant for a permit as a farrier does not possess a similar permit from another jurisdiction, then the stewards may, in their discretion, require the applicant to demonstrate his skill under the supervision of the commission veterinarian and an experienced farrier before issuing a permit.

11VAC10-60-170. Driver.

A person shall submit an application to participate in horse racing as a driver of Standardbreds. The person shall meet all of the requirements set forth in this chapter pertaining to holders of permits, and hold a currently valid provisional or full license as a driver from the United States Trotting Association. The following provisions shall apply to drivers:

1. A driver may be required to take a physical examination from a physician appointed by the stewards to establish that the person is physically fit to safely drive in races;

2. A driver may be required to take an eye examination from a physician appointed by the stewards to establish that the person has eyesight sufficient to safely drive in races;

3. A driver shall wear attire as prescribed by the stewards, including racing colors registered with the United States Trotting Association and a protective helmet, approved by the Snell Foundation or United States Department of Transportation, with the chin strap in place, on the racing surface during racing hours;

4. A driver shall report to the paddock judge, at a time prescribed by the stewards, on those days he has a driving engagement;

5. A driver, once he has reported to the paddock judge, may leave the paddock only to warmup or drive horses in races and may not leave the paddock until his participation in the program is completed;

6. A driver shall fulfill his engagements, and, if he is removed from driving a horse in a race, he shall not drive another horse in the same race; and

7. A driver shall not refuse to be substituted by the stewards without good and sufficient reason.

11VAC10-60-180. Mutuel clerk.

The licensee shall employ a sufficient number of qualified persons to act as mutuel clerks for the race meeting. A mutuel clerk shall sell and cash valid pari-mutuel tickets under the supervision of the mutuel manager and report any unusual patterns in the wagering to the mutuel manager. The person shall submit an application for a permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-190. Concessionaire or vendor.

A person shall submit an application to participate in horse racing as a concessionaire or vendor. A concessionaire or vendor shall be considered any person selling goods or services, either personally or through employees or representatives, to other persons within the enclosure, whether the sales are made to the public or persons holding permits issued by the commission. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-200. Concessionaire or vendor employee.

A person shall submit an application to participate in horse racing as an employee of a concessionaire or vendor. An employee of a concessionaire or vendor shall be considered a person who sells goods or services for his employer whether the sales are made to the public or persons holding permits issued by the commission. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-210. Licensee-administrative employee.

A person shall submit an application to participate in horse racing as an administrative employee of the licensee. An administrative employee shall be considered any person employed in the administrative offices of the licensee who is not specifically mentioned elsewhere in this chapter. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-220. Licensee-marketing employee.

A person shall submit an application to participate in horse racing as a marketing employee of the licensee. A marketing employee shall be considered as any person employed in marketing, promotion, public address announcing, publicity, information windows or public relations for the licensee. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-230. Licensee-medical employee.

A person shall submit an application to participate in horse racing as a medical employee of the licensee. A medical employee of the licensee shall be considered as any person employed as a physician, nurse, paramedic, first-aid room attendant or ambulance driver. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-240. Licensee-operations employee.

A person shall submit an application to participate in horse racing as an operations employee of the licensee. An operations employee shall be considered as any person employed in admissions, parking, program sales, gift shop and as ushers, technicians or guides. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-250. Licensee-plant employee.

A person shall submit an application to participate in horse racing as a plant employee of the licensee. A plant employee shall be considered as any person employed in maintenance and repair of structure, grounds, or racing surface of the facility. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-260. Licensee-staff employee.

A person shall submit an application to participate in horse racing as a staff employee of the licensee. A staff employee shall be considered as any person employed as a secretary, receptionist or any other capacity on the licensee's staff. A person shall submit an application for the appropriate permit, meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-270. Other applicants for participation in horse racing as employee of permit holder, vendor or licensee.

A person shall submit an application to participate in horse racing as an employee of another permit holder, vendor or licensee, not stated elsewhere in these regulations. The employer shall notify the stewards, in writing, of the employment of the person. The person shall meet all of the requirements set forth in this chapter pertaining to holders of permits, and his participation shall be in accordance with the provisions of this chapter.

11VAC10-60-280. Independent contractors.

These regulations, which are applicable to persons employed by the licensee in various categories, are equally applicable to persons employed as independent contractors retained by the licensee.

11VAC10-60-290. Clocker.

A person shall submit an application to participate in horse racing as a clocker for flat race meetings. The clocker shall be present at his assigned location at the opening of training hours each morning and remain there until training hours are concluded. The clockers shall keep a listing of the name of each horse working out, distance, time, manner in which the workout was accomplished, condition of the racing surface, and any other information deemed appropriate. At the conclusion of training hours, the clocker shall submit the listing to the stewards, racing secretary and any other personnel deemed appropriate.

11VAC10-60-300. Gap attendant.

A person shall submit an application to participate in horse racing as a gap attendant for flat race meetings. The gap attendant shall be present at his assigned location at the opening of training hours each morning and remain there until training hours are concluded. The gap attendant shall obtain the name of each horse working out, distance, and the starting point and finishing points of the workout, and report this information to the clocker. The gap attendant shall report to the stewards any exercise rider or trainer who refuses to supply this information.

11VAC10-60-310. Stall superintendent.

A person shall submit an application to participate in horse racing as a stall superintendent. The stall superintendent shall assist the racing secretary in seeing that the horses are quartered in their assigned stalls, establish a system where horses may not leave or enter the stabling area without the racing secretary's permission, and ensure that the stabling area is maintained in a clean, neat and sanitary condition.

11VAC10-60-320. Track superintendent.

A person shall submit an application to participate in horse racing as a track superintendent. The track superintendent shall (i) be responsible for maintaining the racing surfaces in a safe and humane condition; and (ii) keep written records of the maintenance done on the racing surfaces and present the written records for inspection upon the request of the stewards or commission.

CHAPTER 70

STEWARDS

11VAC10-70-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Disciplinary action" means an action taken by the stewards or the commission for violation of federal or state law, local ordinance, or the regulations of the commission and may include any of the following:

1. Revocation of a permit;

2. Suspension of a permit;

3. Assessment of a fine;

4. Reprimand;

5. Probation; and

6. Any combination of the above.

"Disqualification" means a ruling by the stewards which revises the order of finish of a race.

"Fine" means a form of disciplinary action where a pecuniary punishment is imposed on the holder of a permit by the stewards or commission.

"Inquiry" means an investigation into the conduct of a race which is initiated by the stewards prior to declaring a race "official."

"Objection" means a complaint filed by an owner, trainer, jockey or driver against another horse, jockey or driver after a race but prior to the race being declared "official."

"Probation" means for a stipulated period a holder of a permit shall conduct himself according to terms and conditions established by the stewards.

"Protest" means a written statement filed before a race objecting to the eligibility of a horse or holder of a permit to participate in a race.

"Reprimand" means a form of disciplinary action where the holder of a permit is reproved severely in writing by the stewards or the commission.

"Revocation" means a form of disciplinary action where the permit of a holder is recalled by the stewards or the commission.

"Suspension" means a form of disciplinary action where the permit of a holder is temporarily withdrawn by the stewards or the commission.

11VAC10-70-20. Appointment.

The commission shall appoint stewards, all of whom shall be employees of the commission. To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association. The commission may waive any accreditation requirements for good cause shown.

11VAC10-70-30. Senior Commonwealth Steward.

One of the stewards employed by the commission shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards that do not pertain to the operation of the satellite wagering facilities. Any steward may conduct hearings pertaining to the operation of satellite wagering facilities.

11VAC10-70-40. General powers and authority.

A steward or the stewards shall be responsible to the commission, shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission.

A steward or the stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting and at all satellite facilities licensed by the commission. The powers of the stewards shall include:

1. Reviewing the conduct of all racing officials, track management, permitted personnel, other persons responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;

2. Determining all questions, disputes, protests, complaints, and objections concerning live horse racing and simulcast horse racing and enforcing their rulings;

3. Taking disciplinary action against any holder of a permit or participant found violating federal laws, state laws, local ordinances or regulations of the commission;

4. Reviewing applications for permits and either granting or denying permits to participate in horse racing at race meetings or satellite facilities. Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;

5. Enforcing the regulations of the commission in all matters pertaining to horse racing and satellite facilities;

6. Issuing rulings pertaining to the conduct of horse racing and satellite facilities;

7. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";

8. Requesting assistance from other commission employees, law-enforcement officials, racing officials, members of the horse-racing industry or the licensee's security service in the investigation of possible statutory or rule violations;

9. Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters and satellite facilities;

10. Substituting another qualified person where any racing official is unable to perform his duties;

11. Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any

licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;

12. Placing horses on the Stewards' List for unsatisfactory performance; and

13. Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.

11VAC10-70-60. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings or satellite facilities, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;

2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";

3. Being present in the stewards' stand during the running of all races at race meetings;

4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;

5. Determining the identification of horses;

6. Determining eligibility of horses for races restricted to Virginia breds;

7. Determining eligibility of a horse or person to participate in a race;

8. Supervising the taking of entries and the drawing of post positions;

9. Approving or denying requests for horses to be excused from racing;

10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;

11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign when there are alleged violations;

12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign when there are alleged violations;

13. Causing the "official" sign to be posted after determining the official order of finish for the purposes of the pari-mutuel payout;

14. Reviewing the video tapes of the previous day's races and determining the jockeys who should review the films for instructional purposes;

15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;

16. Reporting their findings of their periodic inspections of the facilities to the commission;

17. Filing with the commission a written daily report during race meetings. Such report shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;

18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate; and

19. Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:

a. Issue a reprimand;

b. Assess a fine;

c. Require forfeiture or redistribution of a purse or award;

d. Place a permit holder or participant on probation with or without conditions;

e. Suspend a permit holder or participant with or without conditions;

f. Revoke a permit;

g. Exclude from the grounds under the jurisdiction of the commission; or

h. Any combination of the above.

11VAC10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by trainers, owners, jockeys or drivers after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;

2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;

3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;

4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;

5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;

6. Protests arising out of the running of a race must be made to the stewards as soon as possible after the completion of the race but before the race is declared official. The stewards may call and examine any witness regarding the protest;

7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and

8. A participant or holder of a permit may not withdraw a protest without the permission of the stewards.

11VAC10-70-80. Period of authority.

The period of authority for each steward shall be established by contractual arrangement between each steward and the commission.

11VAC10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other stewards and the executive secretary shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the substitute steward, the reason for his appointment, and the races over which the substitute officiated.

11VAC10-70-100. Initiate action.

The stewards may, from their observations, take notice of misconduct or violation of this chapter and institute investigations and disciplinary proceedings regarding possible violations of this chapter.

11VAC10-70-110. Stewards hearings.

The following provisions shall apply to hearings conducted by the stewards:

1. The Senior Commonwealth Steward shall preside at the hearing or, in the case of satellite facilities, one steward shall conduct the hearing;

2. The steward or stewards may issue subpoenas to compel the attendance of witnesses or for the production of reports, books, papers, registration documents or any other materials they deem appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

3. The steward or stewards shall administer oaths to all witnesses;

4. The steward or stewards may examine any witnesses at hearings;

5. Written notice shall be given to the holder of a permit in a reasonable time prior to the hearing;

6. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;

7. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses;

8. The steward or stewards may grant a continuance of any hearing for good cause; and

9. A recording of the proceedings shall be made and forwarded to the commission in the event of a request for a review of the decision of the steward or stewards.

11VAC10-70-120. Emergency authority.

The stewards, in their discretion, may exercise emergency authority within the enclosure of a horse racing facility licensed by the commission under the following provisions:

1. When any racing official is unable to discharge his duties, the stewards may appoint a substitute;

2. The stewards may name a substitute jockey or driver for any horse;

3. The stewards may designate a substitute trainer for any horse; and

4. In the event of illness or injury to a horse or any other emergency before the start of a race, the stewards may excuse the horse from racing.

11VAC10-70-130. Multiple wagering pools.

When the stewards determine that there is an irregular pattern of wagering or determine that the conduct of a race would not be in the best interests of horse racing in the Commonwealth, they have the authority to cancel any multiple wagering pool. The stewards shall submit a written report to the commission of every cancellation of a multiple wagering pool.

11VAC10-70-140. Form reversal.

The stewards shall take notice of any reversal of form by any horse and shall conduct an inquiry of the horse's owner, trainer, jockey or driver, or other persons connected with the horse including any person found to have deliberately restrained or impeded a horse in order to cause it not to win or finish as near as possible to first.

11VAC10-70-150. Extent of disqualification.

The stewards, in their discretion, may determine the extent of any disqualification and may place any disqualified horse behind others in the race with which it interfered or may place the offending horse last in the race.

11VAC10-70-160. Disqualification of entry.

The stewards, in their discretion, may disqualify a coupled entry when they determine the act that led to the disqualification served to unduly benefit the other horse or horses in the coupled entry.

11VAC10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the person being disciplined, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the person being disciplined, but in either case, the mode of delivery shall be duly certified by the sender. The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.

11VAC10-70-180. Fines.

All fines imposed by the steward or stewards or by the commission shall be payable within 72 hours, excluding Saturdays, Sundays or holidays. Fines shall be payable in cash, checks or money orders.

CHAPTER 80

COMMISSION VETERINARIAN

11VAC10-80-10. Generally.

The Virginia Racing Commission shall appoint a commission veterinarian who shall be a graduate of an accredited school of veterinary medicine and in possession of a full and unrestricted license from the Virginia Board of Veterinary Medicine. The commission, in its discretion, may appoint assistant veterinarians and personnel to assist the commission veterinarian in the carrying out of his duties and responsibilities.

11VAC10-80-20. Restrictions.

The commission veterinarian or his assistant veterinarians shall not be permitted to treat or prescribe for any horse within the enclosure or any horse that may be entered to race. However, this shall not preclude the commission veterinarian or his assistant veterinarians from rendering care in an emergency situation. When emergency care is rendered, the veterinarian shall submit a written report to the commission.

11VAC10-80-30. Duties.

The scope of responsibility for the commission veterinarian encompasses not only the welfare of horses and the subsequent safety of jockeys, but the interests of the public within the broad context of upholding the integrity of racing. The commission veterinarian shall exercise jurisdiction over all veterinarians licensed by the commission to the extent necessary to ensure compliance with the regulations pertaining to pari-mutuel racing in Virginia and shall perform those duties assigned to him by the commission, the executive secretary of the commission, and the stewards. His duties shall include but not be limited to:

1. Ensuring that all horses within the enclosure are treated in a humane manner and reporting any case of animal abuse or neglect to the stewards;

2. Reviewing the daily written reports submitted by practicing veterinarians;

3. Ensuring that prerace examinations are performed on every horse entered to race on that day's program and recommending to the stewards that horses found to be unfit for racing be excused;

4. Recommending that sick and injured horses be placed on the veterinarian's list;

5. Advising the stewards on the condition of horses that are coming off the veterinarian's list;

6. Ensuring the collection of samples and the proper operation of the test barn;

7. Approving the lists of medications and preparations submitted by pharmaceutical representatives prior to their sale within the enclosure;

8. Being present at scratch time of each racing day to inspect any horses requested by the stewards and report on their fitness for racing;

9. Giving the stewards his opinion of a horse's condition and recommendation relative to the horse's fitness for racing;

10. Scheduling the licensee veterinarian and assistant commission veterinarians so that a veterinarian is present in the paddock during saddling, on the track during the post parade, at the

starting gate until the horses are dispatched from the gate, and at the wire to observe horses after they finish a race;

11. Managing racing injuries on the track, being authorized to humanely destroy any horse deemed so seriously injured that it is in the best interests of the horse so to act, and reporting to the stewards the names of all horses euthanized at the race meeting and the reasons;

12. Facilitating postmortem examinations performed on horses that have died on the grounds of the licensee's racetrack and maintaining necessary records; and

13. Coordinating practicing veterinarians and regulatory agencies to effect measures to control communicable and reportable equine diseases.

11VAC10-80-40. Prohibitions.

No holder of a permit shall employ or pay compensation or any gratuity to any veterinarian, either directly or indirectly, during the term of his employment with the commission.

CHAPTER 90

APPEALS TO THE COMMISSION

11VAC10-90-10. Request for review; stay.

A holder of a license or permit or a participant who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A denial of a license or permit or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. At the written request of an aggrieved party, a stay may be granted by the chairman of the commission or a commissioner designated by the chairman. Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.

11VAC10-90-20. Where to file a request.

A request for a commission review shall be sent by certified mail or hand delivered to the general business office of the commission.

1. A request for a commission review must be submitted within 72 hours of receipt of the order being contested by the holder of or applicant for a permit, excluding Saturdays, Sundays and holidays;

2. A request for a commission review must be delivered by certified mail or by hand and will be timely only if received at the general business office of the commission by 5 p.m. on or before the date prescribed;

3. Delivery to other than the general business office of the commission or to other commission personnel is not effective; and

4. The applicant for or holder of a permit assumes full responsibility for the method chosen to file a request for a commission review.

11VAC10-90-30. Content of request.

The request shall state:

1. The disciplinary action by the steward or stewards being contested;

2. The basis for the request; and

3. Any additional information the licensee, permit holder or participant may wish to include concerning the request.

11VAC10-90-40. Withdrawal of a request.

An applicant for or holder of a permit may withdraw a request, which has been filed with the commission, by submitting a written statement to the general business office of the commission within 72 hours of filing a request, declaring his intention to withdraw the request. The commission, in its discretion, may accept or reject a request to withdraw a request.

11VAC10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.

2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a recommended written decision for their consideration. The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision at least 10 days before the date set for the review.

a. The written notice shall describe the charges, basis thereof and possible penalties.

b. The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the person requesting the review elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission or hearing officer may issue subpoenas to compel the attendance of witnesses or the production of books, papers, and other relevant evidence it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

b. Oaths shall be administered to all witnesses;

c. The commission may examine any witnesses;

d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;

e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;

f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; and

g. The commission may grant a continuance of any review for good cause.

6. Review proceedings regarding riding or driving infractions shall be on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.

7. In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been obtained at the time of the stewards hearing. If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.

11VAC10-90-60. Decision by commission.

The commission's decision shall be in writing and shall be sent to the applicant for or holder of a permit by certified mail, return receipt requested. The original written decision shall be retained by the commission and become part of its records.

1. Prior to rendering its decision, the parties to the review shall be given the opportunity, on request, to submit in writing for the record proposed findings and conclusions and statements of reasons therefor.

2. If the commission has appointed a hearing officer to preside at the review, the commission shall consider the proposed written decision of the hearing officer and any exceptions filed thereto after which the commission may adopt, modify or reject the hearing officer's proposed decision.

3. The commission's decision shall briefly state the findings, conclusions, reasons, or basis therefor upon the evidence presented by the record and relevant to the basic law under which the commission is operating together with the appropriate order, permit, grant of benefits, sanction, relief or denial thereof.

CHAPTER 100

HORSES

11VAC10-100-10. Generally.

The conduct of horse racing, with pari-mutuel wagering, shall be safe to the participants and humane to the horses as well as being of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices.

11VAC10-100-20. Registration requirements.

No horse may start in a race unless the horse's certificate of foal registration, eligibility certificate or other registration document from the appropriate breed registry is on file with the racing secretary. The certificate of foal registration, eligibility certificate or other registration document must be filed with the racing secretary by the owner, or in his absence by his trainer or authorized agent before the horse may start in a race. However, the stewards may for good cause, in their discretion, waive this requirement, if the horse is otherwise correctly identified to the stewards' satisfaction and the complete past performances of the horse are available to the public. When the stewards waive this requirement, they must submit written notification to the commission.

11VAC10-100-30. Lip tattoo requirements.

No horse may start in a race without a legible lip tattoo number being applied by the designated personnel appropriate to the breed of horse. The stewards, in their discretion, may approve a readable microchip approved by The Jockey Club for identification purposes if appropriate. In harness racing, no Standardbred may start in a race without either a legible lip tattoo or a freeze brand number being applied by the designated personnel appropriate.

11VAC10-100-40. Names of horses.

No horse may be entered or raced under any other name than the name listed on its certificate of foal registration, eligibility certificate or other registration document. In the event a horse's name is changed, the horse's former name shall be shown parenthetically in the daily race program the first three times the horse races after its name is changed. In the event a horse is named after completing published workouts, it shall be the trainer's responsibility to notify the stewards and racing secretary of the horse's name so that the published workouts may be correctly attributed and the public notified.

11VAC10-100-50. Ringers.

No horse may be entered or raced, if it has been determined that the horse was knowingly entered or raced under a name other than its own by the owner or trainer. No horse may be entered or raced, if it has been determined that the owner or trainer knowingly participated in or assisted in the entry or racing of some other horse under the horse's name.

11VAC10-100-60. Concealed identity or ownership.

No person shall, at any time, cause or permit the correct identity or ownership of a horse to be concealed or altered, and no person shall refuse to reveal to any racing official the correct identity or ownership of any horse he owns or trains.

11VAC10-100-70. Nerved horses.

No horse that has been "high nerved" may be entered or raced. A horse that has been "low heel nerved" may be entered and raced. The following provisions shall apply to horses that have been "high nerved" or "low heel nerved":

1. A "high nerved horse" means a horse whose nerves have been desensitized by any means at or above the fetlock, including volar, palmar or plantar nerves;

2. Lack of feeling at the coronary band at the front of the foot is prima facie evidence that a horse has been nerved in contravention of this regulation;

3. Incisions over nerves at or above the fetlock are evidence that the horse has been "high nerved," even if partial or complete feeling is present at the front of the coronary band of the foot;

4. A "low heel nerved horse" means a horse whose posterior branch only of the palmar digital nerves have been desensitized by any means below the fetlock;

5. A horse that has been "low heel nerved" must have the procedure designated on its certificate of foal registration, eligibility certificate, or other registration document, and this designation must be certified by the practicing veterinarian who performed the procedure;

6. The primary responsibility rests with the owner to see that the certificate of foal registration, eligibility certificate or other registration document is properly designated and certified by the practicing veterinarian when a horse is low nerved;

7. Prior to being entered, a horse, that has been "low heel nerved" must be examined and approved by the commission veterinarian for racing;

8. The racing secretary shall maintain a list of horses that have been "low heel nerved" and shall cause this list to be prominently displayed in the racing office; and

9. The primary responsibility rests with the trainer to see that all horses that have been "low heel nerved" and are under his supervision are immediately added to the list of nerved horses maintained by the racing secretary.

11VAC10-100-80. Certificate of veterinary inspection.

An official test for equine infectious anemia is required and must be conducted by a laboratory approved by the United States Department of Agriculture for each horse within the enclosure. The following provisions shall apply:

1. Horses entering the Commonwealth of Virginia must be accompanied by an official Certificate of Veterinary Inspection signed by an accredited veterinarian. This certificate shall give an accurate description of each horse;

2. The Certificate of Veterinary Inspection shall indicate that each horse has been officially tested and found negative for equine infectious anemia within the past 12 months. The test must be valid to cover the time the horse is expected to be within the enclosure;

3. Horses originating in the Commonwealth of Virginia must be accompanied by a report of an official negative test for equine infectious anemia conducted within the past 12 months. The test must be valid to cover the time the horse is expected to be within the enclosure;

4. For the purposes of this regulation, an "approved laboratory" means a laboratory approved by the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture;

5. For the purposes of this regulation, an "accredited veterinarian" means a veterinarian approved by the Deputy Administrator to perform functions required by cooperative state-federal disease control and eradication programs;

6. The Certificate of Veterinary Inspection or report of an official negative test shall be attached to the health certificate, certificate of foal registration, eligibility certificate or other registration document; and

7. The primary responsibility for the presentation of the foregoing documents shall rest with the owner of the horse or his trainer or authorized agent.

11VAC10-100-90. Vision.

No horse may be entered or raced unless it has unimpaired vision in at least one eye. No horse currently afflicted by ocular disease affecting its vision may be entered or raced.

11VAC10-100-100. Published workouts for Thoroughbreds.

Except in steeplechase or as otherwise may be specifically exempted by the commission, no Thoroughbred may be entered or raced unless its most recent workouts have been recorded and made generally available to the public by being prominently displayed in the grandstand and clubhouse, published in periodicals of general circulation, announced to the public or included in the closed-circuit broadcast. The following provisions shall apply to published workouts:

1. No horse may be entered to race for the first time in its life unless it has a minimum of two published workouts;

2. No horse may start in a race unless it has a published workout within the past 30 days or has raced within the past 30 days; and

3. No horse may start in a race unless the stewards, in their discretion, determine that the horse's published past performances, whether in races or workouts, are sufficient to enable the public to make a reasonable assessment of its capabilities.

11VAC10-100-120. Official publication statistics.

For Thoroughbreds, in determining eligibility, allowances and penalties, the reports, records and statistics as published in the Daily Racing Form and its monthly charts or similar publication or corresponding official publications of any foreign country, shall be considered official, but the records and statistics may be corrected until 45 minutes prior to post time of the race. For Standardbreds, in determining eligibility, the eligibility certificate and any records the United States Trotting Association may provide shall be considered as official. For American Quarter Horses, in determining eligibility, the registration certificates and records of the American Quarter Horse Association shall be considered as official.

11VAC10-100-130. Valuation of purse money.

The amount of purse money earned in foreign races is credited in United States currency on the day the purse money was earned for the purposes of determining penalties and allowances. There shall be no appeal for any loss on the exchange rate at the time of transfer from that of another country to United States currency.

11VAC10-100-150. Stewards' List.

A. The stewards shall maintain a Stewards' List of the horses that are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing.

B. The stewards may place a horse on the Stewards' List when there exists a question as to the exact identification or ownership of said horse.

C. A horse that has been placed on the Stewards' List because of inconsistent performance or behavior may be removed from the Stewards' List when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

D. A horse that has been placed on the Stewards' List because of questions as to the exact identification or ownership of said horse may be removed from the Stewards' List when, in the opinion of the stewards, proof of exact identification or ownership, or both, has been established.

11VAC10-100-151. Veterinarian's List.

The commission veterinarian shall maintain a Veterinarian's List of those horses determined to be unfit to compete in a race due to physical distress, unsoundness or infirmity. A horse placed on the Veterinarian's List shall be removed from the list only after being demonstrated to the satisfaction of the commission veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race. A horse may be required to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness, and if so a blood or urine, or both, post-work test sample may be taken from the horse.

11VAC10-100-152. Starter's List.

No horse shall be permitted to start in a race unless approval is given by the starter. The starter may maintain a Starter's List of all horses that are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling shall be under the direct supervision of the starter.

11VAC10-100-160. Filly or mare bred.

Any filly or mare that has been covered by a stallion shall be reported to the racing secretary prior to being entered in a race. The racing secretary shall prominently display in the racing office a listing of the fillies and mares that have been bred and the names of the stallions to which they have been bred. No filly or mare that has been covered by a stallion may be entered in a claiming race unless a written release from the stallion owner is attached to the certificate of foal registration, eligibility certificate or other registration document indicating the stallion service has been paid or satisfied.

11VAC10-100-170. Equipment.

Equipment must be used consistently on a horse, and a trainer must obtain permission from the paddock judge to change the use of any equipment on a horse from its last previous start. The paddock judge shall maintain a list of the equipment worn by each horse and inform the stewards immediately of any change in its equipment. The following provisions shall apply to equipment:

1. A horse's tongue may be tied down with a clean bandage or gauze;

2. No Thoroughbred may race shod in anything other than ordinary racing plates, e.g., bar shoe, mud calks, without the permission of the stewards and the public being informed through appropriate means;

3. No Thoroughbred may race in a bridle weighing more than two pounds;

4. Use on a horse of other than an ordinary whip either in a race or workout including any goading device, chain, spurs, electrical or mechanical device, appliance or any means which

could be used to alter the speed of the horse is prohibited, except spurs may be used in steeplechase races pursuant to 11VAC10-160-150; and

5. For Thoroughbreds, Quarter Horses and Arabians, an ordinary whip shall weigh one pound or less, be 30 inches long or less and have not more than one popper. No stingers or projections extending through the hole of a popper or metal part on a whip shall be permitted.

11VAC10-100-180. Sex alteration.

A horse which has been gelded or spayed shall be so designated on the certificate of foal registration, eligibility certificate or other registration by the owner or his trainer or his authorized agent, and certified by the practicing veterinarian. The owner shall also inform the appropriate breed registry that the sex of the horse has been altered.

11VAC10-100-190. Racing soundness examination.

All horses racing on the flat or over jumps that are entered to race must be examined by the commission veterinarian or his assistant veterinarians prior to racing to determine the horse's fitness for racing. The trainer of each horse shall promptly identify the horse to be examined, and the examination is to take place outside of the horse's stall. The horse may be led at a walk or trot as requested by the examining veterinarian. For Standardbreds, the racing soundness examination shall consist of the commission veterinarian observing the horse during its warmups prior to racing.

11VAC10-100-200. Post-mortem examination.

A horse which suffers a breakdown on the racing surface, either during training or racing hours, and dies or is euthanized or a horse that dies while stabled within the enclosure shall be subject to a post-mortem examination at the discretion of the stewards. The following provisions shall apply:

1. The written consent of a steward authorizing the removal of the remains shall be obtained;

2. The stewards may take control of the bodily remains of the deceased horse and order an appropriate post-mortem examination to be conducted to determine the cause of death; and

3. It shall be the responsibility of the licensee at all times to prevent the unauthorized removal from the enclosure of the remains of a deceased horse.

11VAC10-100-210. Walkover.

If at post time for a stakes race, futurity or other special event, there is only one horse or horses representing only one wagering interest, then the stewards shall declare the race a walkover. However, the horse or horses shall start and complete the course before a winner is determined, but for wagering purposes, the stewards shall declare the race "no contest." For a walkover in a steeplechase race, the horse or horses shall report to the starter and gallop across the finish line, but they shall not be required to complete the course.

11VAC10-100-220. Dead heat.

Purses, prizes or awards for a race in which a dead heat has occurred shall be divided equitably by determination of the stewards. For Standardbreds, where heat racing is employed and the race winner is required to win two heats, a horse finishing in a dead heat for first place shall be considered a winner.

11VAC10-100-230. Carrying assigned weight.

Each horse shall be raced to the finish by the jockey or driver to give their best effort to win the race. For all horses racing on the flat or over jumps, they shall carry their assigned weight,

including the jockey, from the post parade to the start and to the finish. For Standardbreds, the horse must pass the finishing point with the driver seated in the sulky and both of the driver's feet must be in the stirrups.

11VAC10-100-240. Injured horse.

Each horse, which suffers an injury during a workout or during a race, shall be pulled up by the jockey or driver as soon as safety permits to the horse and others utilizing the racing surface. All measures shall be taken to stabilize the condition of the horse until the horse ambulance and a veterinarian arrive to render assistance.

CHAPTER 110

ENTRIES

11VAC10-110-10. Definitions.

The following words and terms when used in these regulations shall have the following meaning, unless the context clearly indicates otherwise:

"Added money" means money added by the licensee to the stakes fees paid by subscribers to form the total purse for a stakes race.

"Allowance" means a concession in the amount of weight that may be carried by a horse as specified in the conditions of the race.

"Closing" means the time specified by the racing secretary after which entries for a race will not be accepted.

"Condition book" means a book, published by the licensee, setting forth the conditions for each race for a specified period of time during a race meeting.

"Condition sheet" means a sheet, published by the licensee, setting forth the conditions for a specified period of time usually during a Standardbred race meeting.

"Conditions" means the terms of eligibility and entry, including the amount and deadlines for the payment of any fees.

"Declaration" means the withdrawal of a horse entered in a race before the time of closing of entries.

"Entry" means the act of naming a specific horse to run in a specific race.

"Free handicap" means a handicap for which no fee is required to be weighted, but an entrance or starting fee may be required for starting.

"Futurity" means a stakes race in which the horse is nominated either during the year of foaling or when the foal is in utero.

"Handicap" means a race in which the weights assigned to the horses are done so by the racing secretary with the intent of equalizing the chance for each horse to win.

"Overnight race" means any race for which the owners of the horses running in the race are not required to pay any fee.

"Penalty" means the amount of weight a horse is obligated to carry in a race as specified in the conditions for the race.

"Purse" means the total money for which a race is run.

"Race" means a contest among horses for a purse, prize or other reward and is contested at a race meeting licensed by the commission as well as in the presence of the stewards.

"Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries.

"Scratch time" means the time specified by the racing secretary as a deadline to scratch a horse out of a race.

"Stakes" means all fees paid by subscribers to a stakes race for nominating, sustaining, entrance or starting fees as required by the conditions.

"Stakes race" means a race that closes more than 72 hours before its running and for which the subscribers contribute fees toward the purse.

11VAC10-110-20. Horses ineligible to be entered.

A horse is ineligible to be entered in a race when:

1. The horse is not identified by name, color, sex and age and the names of its sire and dam;

2. The horse has been raced under an identity other than its own for fraudulent purposes;

3. The horse's name and identity have been utilized for fraudulent purposes;

4. The horse is wholly or partially owned by a person who is under suspension, has been ruled off or whose permit or license has been revoked by the commission or by a similar regulatory body in another jurisdiction;

5. The horse is under the care and supervision of or being trained by, a person who is under suspension, has been ruled off or whose permit or license has been revoked by the commission or a similar regulatory body in another jurisdiction;

6. The horse does not have a report of an official negative test for equine infectious anemia conducted within the past 12 months and the test must be valid to cover the time the horse is expected to be within the enclosure;

7. The horse appears on the stewards', veterinarian's, starter's or similar list in this or another jurisdiction;

8. The horse is a first-time starter that has not been approved for racing by the starter;

9. The horse has a tracheal tube inserted to assist artificially its breathing;

10. The horse has been "high nerved" or its nerves have been desensitized by any means at or above the fetlock, including volar, palmar or plantar nerves;

11. The horse has impaired vision in both eyes; or

12. The horse is not eligible under the conditions specified for the race as published in the condition book or on the condition sheet.

11VAC10-110-30. Horses ineligible to start.

A horse is ineligible to start in a race when:

1. The owner does not possess the required permit issued by the commission or has not applied for the appropriate permit;

2. The trainer, authorized agent or the person having care and supervision of the horse does not possess the appropriate permit issued by the commission or has not applied for the required permit;

3. The horse's certificate of foal registration, eligibility certificate or other registration document issued by the appropriate breed registry is not on file with the racing secretary or permission to start the horse without these documents has not been obtained from the stewards;

4. The horse has not been lip-tattooed or does not possess a readable microchip approved by The Jockey Club for the purposes of identification or is a Standardbred that has not had a freeze-brand number applied;

5. The ownership of the horse has been transferred without notifying the racing secretary and the appropriate breed registry;

6. The horse is subject to a lien or lease that has not been approved by the stewards and filed with the racing secretary and horsemen's bookkeeper; or

7. Nominating, sustaining, entry, starting or any other required fees have not been paid for the horse by the time specified in the published conditions of the race.

11VAC10-110-40. Filing.

The licensee shall provide forms on which entries may be filed with the racing secretary. All entries shall be in writing and any entries made by telephone or telegraph must be confirmed in writing upon the request of the racing secretary. The following provisions shall apply to the filing of entries:

1. No entry shall be considered filed until received by the racing secretary;

2. Every entry must be in the name of the horse's owner as completely disclosed and registered with the racing secretary and the appropriate breed registry;

3. Every entry must designate the horse's name as spelled on its certificate of registration, eligibility certificate or other registration document;

4. Every entry must designate the horse's owner, trainer, racing colors, jockey or driver, weight claimed where appropriate, color, sex, age, sire and dam, any penalties and allowances claimed, and where appropriate, claiming price;

5. Every entry must be signed and dated by the person making the entry;

6. No alteration may be made in any entry after the closing of entries. However, an error may be corrected with the permission of the stewards; and

7. The following additional provisions shall apply to Standardbred races:

a. The licensee shall provide a locked entry box in which entries shall be deposited;

b. The entry box shall be opened by a steward at the time designated; and

c. All entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn under the supervision of a steward.

11VAC10-110-50. Stakes races.

Entry of a horse in a stakes race, futurity or other special event shall be made in accordance with the conditions specified for the race. In the event of a dispute between the person filing an entry and the sponsor of the race, the stewards shall make the final determination on the eligibility of the horse.

11VAC10-110-60. Closing of entries.

Entries for overnight races shall close at a time prescribed by the licensee and approved by the stewards. Entries for stakes races, futurities and other special events shall close at the time specified in the conditions. The following provisions shall apply to the closing of entries:

1. The racing secretary shall be responsible for the securing and safekeeping of all entries once they are filed and shall be responsible for denying access to the entries by other permit holders;

2. No entry shall be accepted after the prescribed time for the closing of entries; and

3. In the event of an emergency or if an overnight race fails to fill, then the racing secretary, with the approval of the stewards, may extend the prescribed time for the closing of entries.

11VAC10-110-70. Posting.

The racing secretary, upon the closing of entries, shall compile a list of the horses entered for each race for each day's racing program, and the racing secretary shall post the list in a prominent place in the racing office.

11VAC10-110-80. Number of starters.

Except for steeplechase races, the maximum number of starters in any race shall be limited to the number of starting positions afforded by the licensee's starting gate and any extensions to the starting gate approved by the stewards. The stewards also shall consider any guidelines promulgated by the associations appropriate to the breed of horses racing, the distance from the start to the first turn, any other conditions affecting the safety and fairness of the start.

11VAC10-110-90. Coupling.

All horses entered in the same race and owned wholly or partially by the same owner or spouse shall be joined as a mutuel entry and shall constitute a single wagering interest, except as provided for in subdivision 7 of this section. No trainer shall enter more than two horses in an overnight race. The following provisions shall apply to mutuel entries:

1. The racing secretary shall be responsible for coupling entries for wagering purposes;

2. No more than two horses having common ties through ownership, which would result in a mutuel entry and a single wagering interest, may be entered in an overnight race;

3. When two horses having common ties through ownership are entered in an overnight race, preference shall be given to the horse with the earliest preference date or the most stars;

4. Two horses having common ties through ownership shall not start as a mutuel entry in an overnight race to the exclusion of another horse;

5. The racing secretary shall be responsible for assigning horses to the mutuel field when the number of wagering interests exceeds the numbering capacity of the infield tote board;

6. In an overnight race, the racing secretary may uncouple entries having common ties through training; and

7. In any thoroughbred stakes race with added or guaranteed money of $50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

11VAC10-110-100. Penalties and allowances.

The responsibility for claiming the weight penalties and weight allowances shall rest with the trainer. The following provisions shall apply to penalties and allowances:

1. Penalties are obligatory;

2. Allowances are optional as to all of the allowance or any part thereof;

3. Allowances must be claimed at the time of entry and cannot be waived after the closing of entries, except by permission of the stewards;

4. A horse shall start with only the allowance of weight to which it is entitled at the time of starting, regardless of the allowance it was entitled to at the time of entry;

5. Horses incurring penalties for a race shall not be entitled to any allowances, with the exception of age, sex or apprentice, for that race;

6. An apprentice allowance may be claimed only in overnight races and cannot be claimed in a stakes or handicap race;

7. Horses not entitled to the first allowance in a race shall not be entitled to any subsequent allowance specified in the conditions;

8. Allowances are not cumulative, unless specified in the conditions of the race;

9. Failure to claim an allowance is not cause for disqualifying the horse;

10. A claim of an allowance to which a horse is not entitled shall not disqualify the horse unless the incorrect weight is carried by the horse in the race;

11. A protest that a claim of an allowance is incorrect must be made in writing and submitted to the stewards at least one hour before post time;

12. No horse shall incur a penalty or be barred from any race for having finished second or lower in any race;

13. No horse shall be given a weight allowance for failure to finish second or lower in any race;

14. No horse shall receive an allowance for not winning in one or more races, but maiden allowances and allowances to horses that have not won a race within a specified period or a race of a specified value are permissible;

15. Penalties incurred and allowances due in jump races shall not apply to races on the flat and vice versa;

16. No horse shall incur a penalty for a placing from which it was subsequently disqualified, but a horse earning a placing through the disqualification shall incur the penalty for that placement;

17. When a race is under appeal, the horse that finished first and any other horse, which may be moved into first place, shall be liable for all penalties attached to the winner until there has been a final determination;

18. Any error discovered in the assignment of any penalty or claim of any allowance may be corrected, with the permission of the stewards, until 45 minutes prior to post time;

19. In determining eligibility, allowances and penalties, the reports, records and statistics as published in the Daily Racing Form and its monthly chart books or any similar publication shall be considered official; and

20. In all races, except handicaps and races where the conditions expressly state otherwise, two-year-old fillies are allowed three pounds and fillies and mares three years old and upward are allowed five pounds before September 1 and three pounds thereafter.

11VAC10-110-110. Scale of weights.

For thoroughbreds racing on the flat, when the weights are not stated in the conditions of the race, the weights shall be assigned according to the scale of weights as published by The Jockey Club. For horses racing over jumps, when the weights are not stated in the conditions of the race, the weights shall be assigned according to the scale of weights as published by the National Steeplechase Association.

11VAC10-110-120. Foreign entries.

In determining eligibility, penalties and allowances for horses imported from a foreign nation, the racing secretary shall consider the Pattern Race Book published jointly by the Irish Turf Club, the

Jockey Club of Great Britain and the Societe d'Encouragement. For horses imported from a foreign nation, the racing secretary shall convert metric distances to English measures by using a scale of 200 meters to the furlong and 1600 meters to the mile.

11VAC10-110-130. Prohibited entries.

Unless the published conditions state otherwise, any money paid in nominating, subscription, sustaining or entry fees shall be refunded, if the entry of an ineligible horse is discovered at least 45 minutes before post time. Otherwise, the moneys shall be considered part of the purse.

11VAC10-110-140. Preference system.

The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because they were eliminated through races overfilling or failing to fill. The racing secretary shall develop procedures through which these horses will be granted preference in future entries. The procedures developed by the racing secretary must be submitted to the stewards for their approval at least 15 days before the beginning of the race meeting.

11VAC10-110-150. Post positions.

Post positions for all races shall be determined by lot, drawn in the presence of persons filing the entries and supervised by a steward or his representative. The racing secretary shall be responsible for assigning pari-mutuel numbers for each starter to conform with the post position draw, except where the race includes two or more horses joined as a single wagering interest.

11VAC10-110-160. Also-eligible list.

If the number of entries for a race exceeds the number of horses permitted to start in any race, then the racing secretary may place as many as eight horses on an "also-eligible list." The racing secretary shall develop procedures through which the horses on the also-eligible list may be drawn into the race should a horse be scratched. The procedures developed by the racing secretary for the also-eligible list must be submitted to the stewards for their approval at least 15 days before the beginning of the race meeting.

11VAC10-110-170. Declarations.

For thoroughbred racing, a horse may be withdrawn from or "declared out" of a race before the closing of entries. All declarations shall be made in a manner prescribed by the racing secretary. Declarations are subject to the approval of the stewards and are irrevocable.

11VAC10-110-180. Scratches.

For flat racing, a horse may be withdrawn from or "scratched out" of a race after the closing of entries under the following conditions:

1. Scratches shall be made in a manner prescribed by the racing secretary;

2. Scratches are subject to the approval of the stewards;

3. A horse may be scratched from a stakes race, futurity or other special event until 45 minutes before post time for the race for any reason;

4. No horse may be scratched from an overnight race without the approval of the stewards;

5. In making a determination on whether to permit a horse to be scratched from an overnight race, the stewards may require a report from a veterinarian, who possesses a permit issued by the commission, attesting to the physical condition of the horse;

6. Scratches, once approved by the stewards, are irrevocable; and

7. Any horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall not be permitted to race again until the horse has been removed from the Veterinarian's List by the commission veterinarian and the expiration of six calendar days following the day on which such horse was scratched or excused.

11VAC10-110-190. Responsibility for eligibility.

The responsibility for the eligibility of a horse for a race shall rest with the trainer. No person shall enter a horse that is ineligible under the conditions specified in the condition book or condition sheet.

11VAC10-110-200. Reopening entries.

In the event an overnight race does not fill, the racing secretary, with the permission of the stewards, may reopen entries on that race and extend the closing time for entries for a reasonable period. When entries on a race are reopened, the racing secretary shall cause an announcement to be made over the public address system that entries have been reopened.

11VAC10-110-210. Cancelling a race.

In the event an overnight race does not fill, the racing secretary may cancel that race and instead use a substitute race, which must be listed in the condition book or condition sheet, to complete the program.

11VAC10-110-220. Divided races.

When a race fails to fill, the racing secretary may divide any other programmed race, which may have been overfilled, for the same day. The following provisions shall apply to divided races:

1. The stewards, in their discretion, may grant additional time beyond the prescribed closing of entries to permit entries to be filed for races that have been divided;

2. The division of entries in divided races shall be in accordance with the conditions specified under which the entries were made; and

3. In the absence of any conditions regarding the division of entries, horses that might be coupled as mutuel entries may be placed in different divisions and the remainder of the horses shall be drawn by lot to provide wagering interests as equal as possible for each division of the divided race.

11VAC10-110-230. Starter's fee.

Notwithstanding the provisions of 11VAC10-20-190 A 7 b, any starter's fee due for benevolent purposes may be charged to an owner and may be deducted from his account maintained in the horsemen's account. Any owner charged such a fee shall pay the amount due. The licensee or horsemen's bookkeeper shall not be obligated to collect amounts due.

CHAPTER 120

CLAIMING RACES

11VAC10-120-10. Generally.

A claiming race is a race in which any horse programmed may be purchased for the designated price by any person holding a permit as an owner, or his authorized agent, or a person holding a claiming certificate issued by the commission. For the purposes of this regulation, "programmed" means the horse's name and designated claiming price are printed in the daily program published by the licensee.

11VAC10-120-20. Claiming certificate.

A person who does not hold a currently valid permit in Virginia or any other jurisdiction as an owner may apply for a claiming certificate. The following provisions shall apply to applicants for claiming certificates:

1. The applicant shall submit an application for a permit as an owner, pay the applicable fee, be photographed and fingerprinted as set forth in 11VAC10-60;

2. The applicant also shall submit a statement designating the trainer who will assume care and responsibility for the horse claimed;

3. The trainer named in the statement must be the holder of a currently valid permit issued by the commission;

4. The claiming certificate may be issued to the applicant which will be valid until the end of the race meeting during which it was approved, but it may be canceled by the stewards for cause; and

5. The applicant shall file the claiming certificate with the racing secretary indicating his eligibility to claim a horse.

11VAC10-120-30. Voided claiming certificate.

The holder of a claiming certificate may be issued a permit as an owner upon the completion of a valid claim and the claiming certificate shall be returned to the commission and voided.

11VAC10-120-40. Eligibility to claim.

Only a holder of a permit as an owner, or his authorized agent, or the holder of a claiming certificate may file a claim on a horse programmed to race in a claiming race. The following provisions shall apply to the eligibility of persons filing claims:

1. An authorized agent may only file a claim for an owner for whom he is authorized to act as an agent;

2. A person holding a permit solely as an authorized agent may not file a claim for himself or for any other person for whom he is not authorized to act as agent;

3. An owner, authorized agent or holder of a claiming certificate may file only one claim for any race;

4. An owner may not file a claim for his horse in which the owner or trainer has a financial or beneficial interest, or cause his horse to be claimed, directly or indirectly, for his account; and

5. A partnership, stable name or any other joint venture, despite the number of individual owners comprising such a venture, may file no more than one claim for any race.

11VAC10-120-50. Claiming procedure.

A claim may be filed on a horse programmed to race by properly completing a claim slip, including but not limited to the correct spelling of the horse's name, the date and the race number, sealing the claim slip in an envelope and depositing the envelope in a locked claims box. The following provisions shall apply to the claiming of a horse:

1. The licensee shall provide claim slips, claim envelopes and a locked claim box to secure filed claims;

2. The claim slip, enclosed in a sealed envelope, must be deposited in a locked claim box at least 15 minutes before post time of the race for which the claim is filed;

3. The licensee shall provide a clock, and before the sealed envelope is deposited in the locked claim box, the time of day shall be stamped upon the envelope;

4. No money or its equivalent shall be put in the claim box;

5. The person filing the claim must have sufficient funds on deposit with the horsemen's bookkeeper or licensee in not less than the amount of the designated price and applicable sales taxes;

6. The claims clerk shall inform the stewards of a claim filed for a horse and of multiple claims on a horse;

7. The claims clerk shall ascertain that the claim slip and envelope are properly complete;

8. The claims clerk shall ascertain that the person is eligible to claim a horse and inform the stewards immediately of any doubts of the person's eligibility;

9. The claims clerk shall ascertain that there are sufficient funds on deposit with the horsemen's bookkeeper or licensee of not less than the amount of the claim and applicable sales taxes;

10. If more than one valid claim is filed for a horse, then title to the horse shall be determined by lot under the supervision of the stewards or their representative;

11. A claimed horse shall race in the interest of and for the account of the owner from whom the horse was claimed;

12. The original trainer shall remain the absolute insurer of the condition of the horse until any post-race testing is completed;

13. Title to a claimed horse shall be transferred to the new owner at the time the horse is deemed a starter whether the horse is dead or alive, sound or unsound, or injured in the race or after the race;

14. In harness racing, the successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse even though such claimed horse was scratched and did not start in the claiming race from which it was scratched. The successful claimant must exercise his option by 9 a.m. of the day following the claiming race to which the horse programmed and scratched. No horse may be claimed from a claiming race unless the race is contested;

15. A horse that has been claimed shall be delivered to the new owner at the conclusion of the race either at the paddock or at the detention barn, after the completion of any post-race testing;

16. The claimant shall present the former owner with written authorization of the claim from the racing secretary;

17. A positive test result for any prohibited drug is grounds for voiding the claim;

18. The new owner may request that the horse be tested for equine infectious anemia, by taking the horse immediately following the race to the detention barn where a blood sample will be drawn;

19. A positive test result for equine infectious anemia is grounds for voiding a claim;

20. The certificate of registration, eligibility certificate or registration document shall be retained by the racing secretary until the results of the post-race testing are known;

21. The funds for the claim shall be retained by the horsemen's bookkeeper or licensee until the results of the post-race testing are known;

22. When it is determined that the claim is valid and that there are no grounds for voiding the claim, the certificate of registration shall be delivered by the racing secretary to the claimant and the funds for the claim shall be paid to the former owner;

23. The new owner shall be responsible for filing the change of ownership with the appropriate breed registry;

24. Despite any designation of sex or age of a horse appearing in the daily program or other publication, the person making the claim shall be solely responsible for determining the sex or age of the horse before filing a claim for the horse; and

25. Officials and employees of the licensee shall not provide any information as to the filing of the claim until after the race has been run, except as necessary for processing of the claim.

11VAC10-120-60. Invalid agreements.

No person shall offer or agree to claim or not to claim, or attempt to prevent another person from claiming any horse in any claiming race. No person shall attempt to prevent another person from entering a horse in a claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.

11VAC10-120-70. Voided claims.

The stewards may void any claim that violates the provisions of this regulation. The stewards, in their discretion, may require a person filing a claim to sign a written statement that the claim was made according to the provisions of this chapter.

11VAC10-120-80. Restrictions on a claimed horse.

When a horse is claimed out of a claiming race other than steeplechase races, the following restrictions shall apply to the horse for 30 calendar days after the day that the horse was claimed:

1. The horse may only start in claiming races for a designated price of 25% more than the amount for which the horse was claimed, except in harness racing a horse may start in claiming races for any price;

2. The horse may not be sold or transferred wholly or in part to another person, except in another claiming race;

3. The horse may not remain in the same stable or under the control or supervision of its former owner or trainer, unless reclaimed;

4. Notwithstanding the 30-day restriction above, the horse may not race elsewhere until after the close of the meeting at which it was claimed, except with the permission of the stewards; and

5. All horses claimed in other jurisdictions and racing in Virginia shall be subject to the conditions of the claiming regulation in the jurisdiction where the claim was made.

11VAC10-120-100. Disciplinary action.

Failure to comply with the regulations pertaining to claiming of horses or failure to deliver a horse that has been claimed to the successful claimant may subject the permit holder or holder of a claiming certificate to disciplinary action by the stewards.

CHAPTER 130

VIRGINIA BREEDERS FUND

11VAC10-130-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Breeding season" means a period of time beginning on February 1 and ending on August 1 of each year. For Standardbreds, the breeding season means a period of time beginning February 15 and ending on July 15 of each year.

"Registered" means the completion of the process of filing an application with the commission or its designee to satisfy the requirements for participation in the Virginia Breeders Fund.

"Stallion owner" means an owner or lessee of record of a stallion that covered mares in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred horse.

"Virginia-bred Arabian horse" means a registered Arabian horse foaled in the Commonwealth of Virginia.

"Virginia Arabian horse breeder" means the owner or lessee of record of the mare at the time of foaling of a Virginia-bred Arabian horse.

"Virginia Arabian sire" means a registered Arabian stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Arabian horse.

"Virginia-bred Quarter Horse" means a registered Quarter Horse foaled or conceived in the Commonwealth of Virginia.

"Virginia Quarter Horse breeder" means the owner or lessee of record of the mare at the time of conception of a Virginia-bred Quarter Horse.

"Virginia Quarter Horse sire" means a registered Quarter Horse stallion or registered Virginia Thoroughbred stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Quarter Horse.

"Virginia resident" means a person legally required to file a resident income tax return with the Commonwealth of Virginia or a partnership, corporation, stable name or other entity that is solely owned by Virginia residents and owners legally required to file resident income tax returns with the Commonwealth.

"Virginia-bred Standardbred horse" means a registered Standardbred horse sired by a Virginia Standardbred sire, a registered Standardbred horse foaled in the Commonwealth of Virginia provided that the foal-producing mare is domiciled in the Commonwealth from July 15 through December 31 of the year in which the horse is foaled, or a registered Standardbred horse foaled in the Commonwealth provided that the foal-producing mare is bred back that same breeding season to a Virginia Standardbred sire with the following exceptions:

1. A registered Standardbred horse that is purchased in its two-year-old year by a Virginia resident before April 1, 2007, prior to making its first start in a nonqualifying race;

2. A registered Standardbred horse that is purchased or owned by a Virginia resident after December 31, 2004, and before April 30, 2007, provided that the horse was sired by a Virginia Standardbred sire; or

3. A registered Standardbred horse that was foaled in the Commonwealth of Virginia prior to April 30, 2007.

"Virginia Standardbred horse breeder" means the owner or lessee of record of the mare at the time of conception of a Virginia-bred Standardbred horse.

"Virginia Standardbred sire" means a registered Standardbred stallion that stood only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Standardbred horse. Shipment of semen for the breeding of mares outside the Commonwealth shall be permitted so long as any resulting foals meet the requirements of this chapter in all other respects.

"Virginia-bred Thoroughbred horse" means a registered Thoroughbred horse foaled in Virginia.

"Virginia-sired Thoroughbred horse" means a registered Thoroughbred horse sired by a Virginia Thoroughbred sire, but not foaled in Virginia or not otherwise satisfying the requirements for a Virginia-bred Thoroughbred horse.

"Virginia Thoroughbred horse breeder" means the owner or lessee of record of the mare at the time of foaling a Virginia-bred Thoroughbred horse.

"Virginia Thoroughbred sire" means a registered Thoroughbred stallion that covers mares, other than test mares, only in the Commonwealth during the breeding season in which it sires a Virginia-bred Thoroughbred horse, or only during that part of the breeding season after entering the Commonwealth.

Part II
General

11VAC10-130-20. Generally.

The purpose of this chapter is to establish procedures for the administration of the Virginia Breeders Fund by the Virginia Racing Commission as provided for in § 59.1-372 of the Code of Virginia.

A. Certification. The commission or its designee shall certify that a racehorse is Virginia bred for eligibility for entry into races restricted to Virginia-bred horses, and to qualify its owner, the stallion owner, if applicable, and breeder for awards.

B. Determination of eligibility. The final determination of all questions, disputes or protests relating to the registration, eligibility for certification or breeding of a Virginia-bred horse and the final determination of eligibility of any horse to enter a race restricted to Virginia-bred horses shall rest solely with the commission.

C. Documentation. In making its determination, the commission or its designee, in its discretion, may require the submission of any certificate of foal registration, eligibility paper or any other registration document, affidavits or other substantive proof to support or deny any claim concerning registration of a horse as Virginia bred.

D. False statements. Any person who submits false or misleading information to a breed registry, to the commission or its designee, or to any racing official may be fined, have his permit suspended or revoked, be denied participation in the Virginia Breeders Fund for a period of time deemed appropriate by the commission, or any or all of the foregoing.

E. Forfeiture of awards and purse moneys. Any person who is denied participation in the Virginia Breeders Fund under the provisions of this chapter shall forfeit and restore to the fund any awards and purse moneys received based upon the submission of false or misleading information. Until the awards and purse moneys are restored, the commission may suspend the person's permit to participate in horse racing at licensed facilities.

F. Recognized registries. The commission shall recognize certificates of registration from the following breed registries:

1. Thoroughbred: The Jockey Club;

2. Standardbred: The United States Trotting Association;

3. Quarter Horse: The American Quarter Horse Association; and

4. Arabian horse: The Arabian Horse Registry of America.

G. Payment of awards. All awards for owners, stallion owners and breeders shall be distributed from the Virginia Breeders Fund in a manner prescribed by the commission. The following provisions shall apply to payment of owner, stallion owner and breeder awards:

1. Determination of individual distributions to a stallion owner shall be in the same ratio as the amount of first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the stallion owner for an award, to the total amount of first-place purse money won by all Virginia-bred horses that qualify stallion owners for awards at the race meeting;

2. Determination of individual distributions to a breeder shall be in the same ratio as the amount of first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the breeder for an award, to the total amount of first-place purse money won by all Virginia-bred horses at the race meeting;

3. Determination of individual distributions to an owner shall be in the same ratio as the amount of nonsupplemented first-place purse money won by the Virginia-bred horse at the race meeting that qualifies the owner for an award to the total amount of nonsupplemented first-place purse money won by all Virginia-bred horses at the race meeting;

4. To become eligible for an owner, a stallion owner or a breeder award from the Virginia Breeders Fund, the owner, stallion owner or breeder must be certified by the commission or its designee prior to receiving any award, unless his racehorse, stallion or foal has been previously registered with the commission or its designee;

5. A stallion owner or breeder will have 25 days after the closing of the race meeting, at which he becomes eligible for an award, to be certified by the commission or its designee unless his stallion or foal has been previously registered with the commission or its designee;

6. A stallion owner or breeder need only be certified once per racehorse; and

7. Any unclaimed awards from the Virginia Breeders Fund shall be remitted to the fund.

H. Distribution by breeds. The funds generated by the breed of horse through pari-mutuel wagering at a race meeting shall be distributed to that breed of horse through owner awards, stallion owner awards, breeder awards, purses and purse supplements.

I. Reimbursement of funds. The source of funding is 1.0% of all pari-mutuel pools, which shall be paid to the commission within five days of the date that the funds were generated. Purse moneys shall be paid from the horsemen's account when approval is granted by the stewards. The commission shall reimburse the horsemen's account to the extent that funds are available from the Virginia Breeders Fund.

J. Restrictions. In disbursing the Virginia Breeders Fund, the following restrictions shall apply:

1. Supplements to purses from the Virginia Breeders Fund shall not be considered in determining owner awards;

2. The amount of the purses for races restricted to Virginia-bred horses or any adjustments must be fair, equitable and appropriate to the quality of the horses competing for those purses;

3. Purses from the Virginia Breeders Fund shall be considered for stallion owner and breeder awards.

4. Funds allocated for purses shall be credited to the owner's account by the horsemen's bookkeeper in accordance with procedures established elsewhere in this chapter; and

5. Underpayment of moneys generated by each breed shall be remitted to the Virginia Breeders Fund.

K. Reservation of funds. The commission may set aside funds for distribution in future years if the commission, in its discretion, determines that there is an insufficient supply of Virginia-bred horses of a certain breed to warrant a distribution. In this event, the funds shall be deposited in an interest-bearing account for future distribution of awards and purse supplements to the breed that generated the funds so set aside.

L. Assignment of awards. Awards distributable to breeders and stallion owners are only assignable pursuant to a court order.

M. Advisory committee. To assist it in establishing this awards and incentive program to foster the industry of breeding racehorses in Virginia, the commission shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the fund program, one member representing the owners and operators of racetracks and one member representing all the meets sanctioned by the National Steeplechase Association.

The commission, in its discretion, may establish and appoint the members of subcommittees of the advisory committee for each breed of horse participating in the fund program. Each subcommittee shall be composed of one commissioner, the executive secretary of the commission, two advisory committee members, a member representing an owner or operator of a horse racing facility, and an at-large member associated with the breed of horse participating in the fund program. All appointments shall be approved by the commission.

Part III
Thoroughbreds

11VAC10-130-30. Commencement of registration.

The commission shall establish a date when owners of Thoroughbred stallions shall commence registering their stallions and breeders of Virginia-bred Thoroughbred horses shall commence registering their foals. No fee shall be assessed for registering stallions or foals prior to the date for the commencement of registration.

11VAC10-130-40. Stallion registration.

A. Initial registration. For a stallion owner to be certified to receive stallion owner awards from the Virginia Breeders Fund, the stallion owner shall register his stallion with the commission or its designee by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season, but no later than January 31, or within 30 days following the entry into stud in Virginia if entry is after the breeding season commences, the owner or authorized agent shall submit an application on a form approved by the

commission that shall set forth the name of the stallion, year of foaling, registration number, pedigree, including sire, dam and sire of the dam, where the stallion is standing at stud, the date of entry to stud if after the commencement of the breeding season, and the names and addresses of owners and lessees;

2. The application shall be signed and dated by the owner or lessee, or the authorized agent;

3. A notarized copy of the stallion's Certificate of Foal Registration, clearly showing the front and transfer side of the document, shall accompany the application;

4. If the stallion is held under a lease or a syndicate agreement, a copy of the lease or agreement shall accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the service certificate and receive stallion awards; and

5. The owner or authorized agent shall submit to the commission or its designee a notarized copy of The Jockey Club's Report of Mares Bred at the conclusion of the breeding season but no later than August 1.

B. Registration fees. A stallion may be registered with the commission or its designee for the breeding season after January 31 or 30 days following its entry into stud in Virginia. A registration fee of $100 for current members of the Virginia Thoroughbred Association (VTA) and $200 for non-VTA members shall accompany the application. A late registration fee of $250 for current VTA members and $350 for non-VTA members shall be assessed. A late registration of a stallion shall be accepted by the commission or its designee until August 1 for that breeding year.

C. Change of ownership. If there is a change in ownership or the stallion is subsequently leased or syndicated or the location of where the stallion is standing is changed, the new owner, lessee or syndicate manager shall submit to the commission or its designee a new application for stallion registration.

11VAC10-130-51. Foal registration.

A. Requirements. For an owner or lessee of a dam to be certified to receive breeder awards from the Virginia Breeders Fund, the owner or lessee must register his foal with the commission or its designee by satisfying the following requirements:

1. The owner, lessee or his authorized agent must submit an application on a form approved by the commission, including the name of the stallion; the name of the dam; the sire of the dam; the sex; color; year of birth; the location of foaling; and name, address and telephone number of the owner, lessee or his authorized agent;

2. The application must be signed and dated by the owner, lessee, or his authorized agent;

3. If the dam is held under a lease, a statement to that effect and a copy of the lease which must include a statement that the lessee is authorized to register the foal must accompany the application;

4. If the dam of the foal was not bred to a Virginia Thoroughbred sire or is not bred back to a Virginia Thoroughbred sire, then the owner, lessee or his authorized agent must sign the affidavit stating that the dam has been domiciled in the Commonwealth of Virginia from September 1 of the preceding year to February 1; and

5. As of September 1, 1999, all Virginia-bred Thoroughbred horses must be registered with the commission or its designee prior to being entered in any race at race meeting designated by the commission for purse supplements or awards from the Virginia Breeders Fund.

B. Registration fees. A foal may be registered by December 31 of its year of foaling by submitting a $25 fee for current members of the Virginia Thoroughbred Association (VTA) and $125 for non-VTA members that must accompany the application for foal registration. A yearling may be registered by December 31 of its yearling year by submitting a $50 fee for current VTA members and $150 for non-VTA members that must accompany the application for foal registration. A two-year-old or older may be registered by submitting a $200 fee for current VTA members and $300 for non-VTA members which must accompany the application for foal registration.

11VAC10-130-52. Virginia-Sired Thoroughbreds.

A Virginia-sired Thoroughbred may be registered with the commission or its designee by submitting a $25 fee for current members of the Virginia Thoroughbred Association (VTA) and $125 for non-VTA members that must accompany an application for registration in the Virginia Breeders Fund. The payment of the registration fee and filing of the application shall occur prior to entry in any race at a race meeting designated by the commission. Such registration shall entitle the horse to entry into races restricted to Virginia-bred Thoroughbreds and purse supplements, but shall not entitle a Virginia-sired Thoroughbred to other awards from the Virginia Breeders Fund.

11VAC10-130-60. Fund distribution; allocation of funds.

The funds generated by pari-mutuel wagering on Thoroughbred horse races for the Virginia Breeders Fund shall be allocated on the following schedule or as the commission deems appropriate in order to promote, sustain, and grow a native industry:

1. 35% shall be set aside for payment to the breeders of Virginia-bred Thoroughbred horses that win races at a race meeting designated by the commission;

2. 15% shall be set aside for payment to owners or lessees of registered Virginia stallions that sire Virginia-bred Thoroughbred horses that win races at race meetings designated by the commission; and

3. 50% shall be paid to supplement purses as determined by the commission under the following provisions:

a. An award may be paid to the owner or owners of a Virginia-bred Thoroughbred horse each time the horse earns purse money in a nonrestricted race at race meetings licensed by the commission or wins races at race meetings designated by the commission;

b. The maximum amount payable for breeder or stallion owner awards to a Virginia-bred Thoroughbred horse for any single race shall be $25,000;

c. The maximum amount payable for an owner award to a Virginia-bred Thoroughbred horse for any single race run in Virginia shall be $25,000, and the maximum amount payable for an owner award for any single race in any other jurisdiction shall be $5,000; and

d. Purses shall be paid for races restricted to Virginia-bred Thoroughbred horses.

11VAC10-130-70. Restricted races.

The racing secretary at each unlimited race meeting licensed by the commission may include in the condition book restricted races that equal not less than 5.0% of the total nonsubstitute races included in that book, and that those races shall be run if six separate wagering interests are entered. If there is not a sufficient number of registered Virginia-bred horses entered to fill the race, then the racing secretary may substitute another race.

Part IV
Standardbreds

11VAC10-130-75. Commencement of registration.

The commission shall establish a date when owners of Standardbred stallions shall commence registering their stallions and breeders of Virginia-bred Standardbred horses shall commence registering their foals.

11VAC10-130-76. Stallion registration.

A. Initial registration. For a stallion owner to be certified to receive stallion owner awards from the Virginia Breeders Fund, the stallion owner must register his stallion with the commission or its designee by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season, but no later than January 31, or within 30 days following the entry into stud in Virginia if entry is after the breeding season commences, the owner or authorized agent shall submit an application on a form approved by the commission that shall set forth the name of the stallion; year of foaling; registration number; pedigree, including sire, dam and sire of the dam; where the stallion is standing at stud; the date of entry to stud if after the commencement of the breeding season; and the names and addresses of owners and lessees;

2. The application must be signed and dated by the owner or lessee, or the authorized agent;

3. A notarized copy of the stallion's Certificate of Registration, clearly showing the front and transfer side of the document, must accompany the application;

4. If the stallion is held under a lease or a syndicate agreement, a copy of the lease or agreement must accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the Service Certificate and receive stallion awards; and

5. The owner or authorized agent must submit to the commission a notarized copy of The United States Trotting Association's Report of Mares Bred at the conclusion of the breeding season and no later than December 31 of the breeding year.

B. Registration fees. A stallion may be registered with the commission or its designee for the breeding season after January 31 or 30 days following its entry into stud in Virginia. A registration fee of $100 shall accompany the initial application.

C. Change of ownership. If there is a change in ownership, or the stallion is subsequently leased or syndicated, or the location of where the stallion is standing is changed, the new owner, lessee or syndicate manager must submit to the commission or its designee a new application for stallion registration.

11VAC10-130-77. Foal registration.

A. Requirements. For an owner or lessee of a dam to be certified to receive breeder awards from the Virginia Breeders Fund, the owner or lessee must register its foal with the commission or its designee by satisfying the following requirements:

1. The owner, lessee or his authorized agent must submit an application, on a form approved by the commission, including the name of the stallion; the name of the dam; the sire of the dam; sex; color; year of foaling; and name, address and telephone number of the owner, lessee or his authorized agent;

2. The application must be signed and dated by the owner, lessee or his authorized agent;

3. If the dam is held under a lease, a statement to that effect and a copy of the lease, which must include a statement that the lessee is authorized to register the foal, must accompany the application; and

4. All Virginia-bred Standardbred horses must be registered with the commission or its designee prior to being entered in races.

B. Registration fees. A foal may be registered with the commission or its designee.

C. Embryo/ovum transplants. Effective with foals of 2003 and thereafter, foals other than the first foal each year produced by any method including but not limited to embryo/ovum transplant shall be ineligible for racing or breeding in the Commonwealth of Virginia. This regulation shall not apply in the case of same birth twins. In addition, any future offspring of foals not eligible for racing or breeding under this regulation shall also not be eligible for racing or breeding in the Commonwealth of Virginia.

11VAC10-130-80. Allocation and restriction of funds.

A. Allocation. The funds generated by harness racing through pari-mutuel wagering shall be allocated according to the following schedule:

1. 15% may be set aside for payment to the breeders of Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission;

2. 10% may be set aside for payment to the owners or lessees of Virginia Standardbred stallions that sire Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission; and

3. 75% may be paid to supplement purses according to the following provisions:

a. Not less than 75% may be set aside to develop a stakes program for Virginia-bred Standardbred horses; and

b. Any remaining amounts shall be set aside and may be paid to the owner or owners of a Virginia-bred Standardbred horse each time the horse wins or earns purse money in a nonrestricted race at a horse racing facility licensed by the commission.

B. Restriction. During the first five calendar years of live pari-mutuel harness racing in the Commonwealth, payment of stallion owner and breeder awards shall be limited to an amount not exceeding 20% of that horse's nonmaiden nonsupplemented first-place purse used in the calculation and 40% of that horse's maiden nonsupplemented first-place purse used in the calculation.

C. Restricted races. The racing secretary at each unlimited race meeting licensed by the commission shall include on the condition sheet at least one race each day restricted to Virginia-bred Standardbred horses and the race shall be run if six separate betting interests are entered. If there is not a sufficient number of registered Virginia-bred horses entered to fill the race, then the racing secretary may substitute another race.

Part V
Arabians and Quarter Horses

11VAC10-130-90. Allocation of funds.

The funds generated by Arabian and Quarter horse racing through pari-mutuel wagering shall be allocated to the breed which generated the funds according to the following schedule:

1. 20% shall be set aside for payment to the breeders of Virginia-bred horses that win races at horse racing facilities licensed by the commission;

2. 10% shall set aside for payment to the owners or lessees of registered Virginia stallions which sire Virginia-bred horses that win races at horse racing facilities licensed by the commission; and

3. 70% shall be paid to supplement purses according to the following provisions:

a. A purse supplement may be paid to the owners of Virginia-bred horses each time Virginia-bred horses win nonrestricted races at horse racing facilities licensed by the commission; and

b. A purse supplement shall be paid to purses for races restricted to Virginia-bred horses.

CHAPTER 140

FLAT RACING

11VAC10-140-10. Definitions.

The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"Assigned weight" means the weight carried by a horse specified in the conditions of the race or by the racing secretary and printed in the daily racing program.

"Dead heat" means the finish of a race by two horses or more at the same time.

"Finish wire" means a real or imaginary line from the position of the photo-finish camera to a point immediately across and at right angles to the racing surface.

"Flat racing" means horse racing conducted over a surface without obstacles and includes racing with mounted riders for Arabians, Quarter Horses and Thoroughbreds.

"Highweight handicap" means a handicap race in which the weight assigned to the top horse is not less than 140 pounds.

"Match race" means a race between two horses.

"Nonstarter" means a horse that fails to obtain a fair opportunity to start, as determined by the stewards, when the starter dispatches the horses.

"Official time" means the period from the time the first horse crosses the starting post until the first horse crosses under the finish wire.

"Overweight" means any weight of one pound or more over the assigned weight carried by a horse in a race.

"Place" means to finish second in a race.

"Post position" means the relative position assigned to each horse numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

"Post time" means the advertised moment scheduled for the arrival of all horses at the starting post for a race.

"Produce race" means a race to be run by the produce of horses named or described in the conditions of the race at the time of entry.

"Purse race" means a race for money or other prize to which the owners of horses entered do not contribute a fee of more than $100.

"Race" means a contest among horses for a purse, prize or other reward, run at a race meeting licensed by the commission and in the presence of the stewards.

"Show" means to finish third in a race.

"Starter" means a horse that obtains a fair opportunity to start when the starter dispatches the horses.

"Starting post" means the starting point of a race.

"Underweight" means any weight less than the assigned weight carried by a horse in a race.

"Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

"Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

"Win" means to finish first in a race.

"Winner" means the horse whose nose reaches the finish wire first.

Part II
Paddock to Post

11VAC10-140-12. Safety helmets.

Any person mounted on a horse or stable pony on association grounds must wear a safety helmet approved by the American Society for Testing and Materials (ASTM) securely fastened under the chin at all times.

11VAC10-140-15. Safety vests.

A. A safety vest shall be worn when:

1. Racing, parading, or warming up a horse prior to racing;

2. Jogging, training, or exercising a horse at any time; or

3. Handling horses in the starting gate.

B. A safety vest shall:

1. Cover the torso, front and back, from the collar bone to the hip bone;

2. Be of uniform material and thickness over the whole of the vest except for localized:

a. Variation due to pattern, for example, quilting;

b. Thinner areas to aid fit, for example, under the arms, at fastenings and at edges; and

c. Thicker areas in regard to particularly sensitive areas of the body, for example, the spine; and

3. Equal or exceed a minimum shock absorbance rating of five according to the specifications established by the British Equestrian Trade Association (BETA), which are as follows:

a. Use a critical height apparatus to measure the maximum deceleration on impact of a striker consisting of a spherical idententer weighing 5.9 (+/-0.05) kilograms with a diameter of 215 (+/-2) millimeters;

b. Condition the vest and the striker for a minimum of three hours at 23° (+/-2°) Centigrade;

c. With the vest lying on a smooth, flat massive concrete base with the inside of the vest facing the striker and positioned so that the striker will impact on an area of typical thickness, not reinforced by additional material, raise and release the striker starting at a height of 0.2 meter and increasing the height by increments of 0.2 meter to a height that will result in a deceleration of over 300 gravity units (1G=9.81 ms^{-1}) as measured by recording the signal from an accelerometer through the impact from the time before the striker impacts the vest until the accelerometer returns to the same level as before the impact;

d. Record the gravity units measured at each height increment on a line graph that has the gravity units in ascending order as the vertical axis and the release height in meters in ascending meters as the horizontal access.

e. Plot the height in meters at which the deceleration reached 300 gravity units; and

f. Multiply the height obtained in subdivision 3 e of this subsection by 10 to calculate the shock absorbance rating.

11VAC10-140-20. Paddock time.

The trainer shall be responsible for the arrival in the paddock at the time prescribed by the stewards for each horse entered by the trainer.

11VAC10-140-30. Weighing out.

A jockey shall be weighed out by the clerk of scales no later than 15 minutes before post time. The following provisions shall apply to the weighing out of jockeys:

1. His clothing, saddle, girth, pad and saddle cloth shall be included in a jockey's weight;

2. Bit, blinkers, bridle, chamois, goggles, number cloth, overgirth, reins, safety helmet, safety vest, and whip shall not be included in a jockey's weight;

3. When a substitute jockey is required, he shall be weighed out promptly, and the name of the substitute jockey and weight announced to the public;

4. No jockey may carry overweight in excess of two pounds, without the permission of the owner or trainer;

5. If the overweight is more than one pound but less than five pounds, the jockey shall declare the amount of the overweight to the clerk of scales no later than 45 minutes before post time;

6. All overweights must be announced to the public;

7. A substitute jockey must be named, if the overweight exceeds five pounds;

8. If an underweight is discovered after wagering has commenced but before the start, the horse shall be returned to the paddock and the weight corrected;

9. A jockey shall not be weighed out unless the prescribed fee has been deposited with the horsemen's bookkeeper; and

10. Failure to have the prescribed fee on deposit with the horsemen's bookkeeper may be cause for the stewards to excuse the horse from racing.

11VAC10-140-40. Prohibitions.

No person other than the horse's owner, trainer, employees of the owner or trainer, paddock judge, horse identifier, assigned valet, commission veterinarian or his designee, steward, farrier, pony rider, or outrider shall touch a horse while it is in the paddock. The material used as a tongue tie shall be supplied by the horse's trainer or his designee, who shall affix the tongue tie in the paddock.

11VAC10-140-50. Saddling horses.

The trainer shall be responsible for the saddling of the horse, and in his absence, he must assign an assistant or substitute trainer to saddle each horse entered by him. All horses must be saddled in the paddock unless permission to saddle a horse elsewhere has been granted by the stewards.

11VAC10-140-60. Changing equipment.

Permission must be obtained from the stewards for the following changes of a horse's equipment from that which the horse used in its last previous start:

1. To add blinkers or any device that would restrict vision or could affect performance to a horse's equipment or to discontinue the use of blinkers or any such device that would restrict vision or could affect performance;

2. To use or discontinue use of a bar plate;

3. To race a horse without shoes or with a type of shoes not generally used for racing; and

4. To race a horse without the jockey carrying a whip.

Changes of equipment shall be noted in the daily program. In the absence of such notation, the change of equipment shall be announced to the public and noted on the closed-circuit television system. The stewards shall cause an appropriate public announcement or a display to be made in the paddock or elsewhere at the discretion of the stewards for the aforementioned changes of equipment.

11VAC10-140-70. First-time starters.

Whips or blinkers may be used on two-year-old horses and other first-time starters, if the horses are schooled from the starting gate under the supervision of the starter, and approved by the starter and the stewards before the time of entry.

11VAC10-140-80. Identifying equipment.

Each horse shall carry a conspicuous saddlecloth number and each jockey shall wear a number on his right arm, both of which correspond to the number of the horse as listed in the daily racing program. In the case of a coupled entry, each horse making up the coupled entry shall carry the same number with a distinguishing letter.

11VAC10-140-90. Inspecting equipment.

The paddock judge may, in his discretion, require that bandages on a horse's legs be removed or replaced.

11VAC10-140-100. Post parade.

All horses shall parade past the stewards' stand and carry their assigned weight from the paddock to the starting post, unless excused by the stewards from the post parade. The following provisions shall apply to post parades:

1. The stewards, in their discretion, may excuse a horse from the post parade;

2. Any horse excused from the post parade shall be led by an employee of the owner or trainer and shall carry its assigned weight from the paddock to the starting post;

3. After passing the stewards' stand during the post parade, the horses may leave the parade to walk, canter or otherwise warm up on their way to the starting post;

4. The post parade shall not exceed 12 minutes from the time the field enters the racing surface until reaching the starting post, except for unavoidable delays;

5. If a jockey is thrown from a horse during the post parade, he shall remount the horse at the point where he was thrown from the horse;

6. If a jockey is injured during the post parade or a substitute jockey is needed, then the horse shall be returned to the paddock where the horse shall be mounted by the substitute jockey;

7. If a horse leaves the racing surface during the post parade, the horse shall be returned to the racing surface at the nearest practical point to where it left the course and then complete the post parade; and

8. No person shall willfully delay the arrival of a horse at the starting post.

11VAC10-140-110. Lead pony and rider.

A horse may be led to the starting post by a lead pony and rider, but the horse and lead pony shall pass the steward's stand during the post parade en route to the starting post. Lead ponies and riders may be excluded from the paddock at the discretion of the stewards.

11VAC10-140-120. Outrider.

Outriders shall accompany the horses during the post parade and be positioned to render assistance to a jockey riding an unruly horse or catch a loose horse from the time the horses enter the racing surface until reaching the starting post. The outrider shall not help a jockey riding an unruly horse unless the jockey requests the assistance of an outrider. After the start of the race, the outriders shall position themselves to help jockeys in pulling up horses, catch any loose horses or render assistance to any injured horses.

11VAC10-140-130. Post time.

Post time shall be prominently displayed on the closed-circuit television system and, if available, on the infield results board. The starter shall endeavor to get the horses and jockeys at the starting post at post time so as to avoid any delay in effecting the start of the race.

Part III
Starting a Race

11VAC10-140-140. Starter.

The horses and jockeys, lead ponies and riders, and outriders shall be under the supervision of the starter from the time the horses enter the racing surface until the race is started. While the horses, jockeys, lead ponies and pony riders are under his supervision, the starter shall:

1. Grant a delay to allow for the substitution of an injured jockey or for the repairing of broken equipment;

2. Load the horses into the starting gate in the order of their post position or, with the approval of the stewards, load the horses into the starting gate by dividing the field and loading the horses from each section simultaneously;

3. Report to the stewards any delay in the start; and

4. Recall the horses from a false start where a starting gate is not used.

However, the starter, in his discretion, may:

1. Allow other jockeys to dismount during any delay;

2. Unload the horses from the starting gate, if there is a lengthy delay in the start of a race; and

3. Load a fractious horse out of post position order.

11VAC10-140-150. Unmanageable horse.

If a horse is unmanageable at the starting post, the starter may recommend to the stewards that the horse be excused. If the stewards excuse a horse from a race because it is unmanageable, they shall:

1. Order all money wagered on the unmanageable horse deducted from the pari-mutuel pool and order a prompt refund; and

2. Place the unmanageable horse on the stewards' list.

11VAC10-140-160. Starting gate.

Each licensee shall maintain at least two operable starting gates as required by 11VAC10-20-190.

11VAC10-140-170. Fair start.

If a door on the starting gate fails to open, a horse is inadvertently loaded into an incorrect post position, or otherwise fails to obtain a fair start, then the starter shall immediately report the circumstances to the stewards. In these circumstances, the stewards shall:

1. Post the "inquiry" sign on the infield results board;

2. Advise the public through the public address system and any other appropriate means to hold all mutuel tickets;

3. Make a determination of whether the horse obtained a fair start after consulting with the starter, other appropriate persons and reviewing the video tape recordings of the race; and

4. If the stewards determine that a horse did not obtain a fair start, they may order a refund on any or all of the portions wagered upon the horse; however, the horse shall be entitled to any purse money earned by its finish in the race.

11VAC10-140-180. Nonstarter.

If the horse is declared a nonstarter in a stakes race, futurity or other special event, then any entrance or starting fees shall be refunded.

11VAC10-140-190. Assistance prohibited.

Only the jockey may strike a horse at the start of a race. Only the jockey shall be permitted to shout or otherwise assist in breaking the horse away from the starting gate. During the running of a race, no assistance may be rendered by others.

Part IV
Post to Finish

11VAC10-140-200. Leading horse.

A leading horse when clear of all other horses in the race is entitled to any part of the racing surface, but no horse shall cross or weave in front of other horses in any way to impede them, cause interference or constitute intimidation.

11VAC10-140-210. Interference.

During a race, no jockey shall strike, strike at or touch another jockey or another jockey's horse or equipment, or jostle another horse to interfere with that jockey or horse.

11VAC10-140-220. Third party interference.

If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the interference was wholly caused by the fault of some other horse or jockey.

11VAC10-140-230. Control of horse.

A jockey shall be responsible for making his best effort to control and guide his mount during the running of the race so that it does not jostle, impede, interfere or intimidate another horse or jockey.

11VAC10-140-240. Off course.

If a horse runs on the wrong side of a post, fence, beacon or flag, it shall be considered off course and the jockey must turn back, return to the point where the horse went off course and complete the proper course or be disqualified.

11VAC10-140-250. Ridden out.

All horses shall be ridden to win or finish as near as possible to the first-place horse and show the best and fastest performance of which it is capable in the running of the race.

11VAC10-140-260. Easing.

A jockey shall not restrain a horse without adequate cause, even if it has no apparent chance to earn a portion of the purse money. A jockey shall not unnecessarily cause a horse to shorten its stride.

11VAC10-140-270. Instructions.

All horses and jockeys are expected to give their best efforts during the race, and any instructions or advice to jockeys to ride or handle their mounts otherwise than to win, is forbidden.

11VAC10-140-280. Reversal of form.

The stewards shall consider marked reversals of form and conduct inquiries of owners, trainers, jockeys and any other holders of permits that they deem appropriate to determine whether the horse was deliberately restrained or impeded in any way from winning or finishing as near as possible to the first-place horse.

11VAC10-140-290. Use of whip.

Whips are to be used uniformly and the stewards shall conduct inquiries into excessive or non-use of a whip, or the dropping of a whip during the running of a race.

11VAC10-140-300. Prohibited equipment.

No device other than the ordinary whip, shall be used to affect the speed of the horse during a race. No sponge or other object may be used to interfere with the respiratory system of a horse.

11VAC10-140-310. Weighing in.

After a race has been run, a jockey shall pull up his horse, ride promptly to the clerk of scales, dismount, and be weighed in by the clerk of scales. The following provisions shall apply to the weighing in of jockeys:

1. The winning horse may be accompanied by an outrider after the horse has been pulled up and is returned to the clerk of scales;

2. If a jockey is prevented from returning to the clerk of scales because of an accident or injury to either horse or rider, the jockey may be conveyed to the winners' circle by other means or excused by the stewards from weighing in;

3. A jockey must, upon returning to the clerk of scales, unsaddle the horse he has ridden and no other person shall touch the horse except by its bridle;

4. No person shall help a jockey in removing from the horse the equipment that is to be included in the jockey's weight;

5. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed all the equipment that is to be included in his weight;

6. A jockey shall carry over to the scales all pieces of equipment carried when weighing out, but after weighing in, the equipment may be handed to a valet;

7. A jockey shall not weigh in at less weight than he weighed out, and the stewards shall be informed of any underweight or overweight carried by the jockey; and

8. If a jockey weighs in two or more pounds less than the weight at which he weighed out, the horse shall be disqualified.

CHAPTER 150

HARNESS RACING

11VAC10-150-10. Definitions.

The following words and terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Hopples" means equipment including straps with loops at each end, each loop encircling a leg on a horse's body which tend to steady the horse and help it to maintain its gait.

"Harness racing" means races whereby registered Standardbred horses compete in harness and hitched to sulkies or under saddle.

"Starter" means a horse that obtains a fair start when the starter dispatches the horses.

"Starting point" means a point, no less than 200 feet from the first turn, where the starter gives the word, "Go."

"Sulky" means a United States Trotting Association-approved dual-shaft, dual-wheel racing vehicle on which the driver is seated.

"Warmup trip" means a horse being exercised prior to racing.

Part II
Conduct of Racing

11VAC10-150-12. Safety helmets.

A protective helmet, meeting the 2000 Standard for Protective Headgear (Snell Memorial Foundation), meeting Federal Motor Vehicle Safety Standard No. 218 (49 CFR 571.218), or that is ASTM/SEI certified, securely fastened under the chin, must be worn at all times on association grounds when:

1. Racing, parading, or warming up a horse prior to racing; or

2. Jogging, training, or exercising a horse at any time.

11VAC10-150-15. Safety vests.

A. A safety vest shall be worn when:

1. Racing, parading or warming up a horse prior to racing; or

2. Jogging, training or exercising a horse at any time.

B. A safety vest shall:

1. Cover the torso, front and back, from the collar bone to the hip bone;

2. Be of uniform material and thickness over the whole of the vest except for localized:

a. Variation due to pattern, for example, quilting;

b. Thinner areas to aid fit, for example, under the arms, at fastenings and at edges; and

c. Thicker areas in regard to particularly sensitive areas of the body, for example, the spine; and

3. Equal or exceed a minimum shock absorbance rating of five according to the specifications established by the British Equestrian Trade Association (BETA), which are as follows:

a. Use a critical height apparatus to measure the maximum deceleration on impact of a striker consisting of a spherical idententer weighing 5.9 (+/-0.05) kilograms with a diameter of 215 (+/-2) millimeters,

b. Condition the vest and the striker for a minimum of three hours at 23º (+/-2º) Centigrade,

c. With the vest lying on a smooth, flat massive concrete base with the inside of the vest facing the striker and positioned so that the striker will impact on an area of typical thickness, not reinforced by additional material, raise and release the striker starting at a height of 0.2 meter and increasing the height by increments of 0.2 meter to a height that will result in a deceleration of over 300 gravity units (1G=9.81 ms^{-1}) as measured by recording the signal from an accelerometer through the impact from the time before the striker impacts the vest until the accelerometer returns to the same level as before the impact,

d. Record the gravity units measured at each height increment on a line graph that has the gravity units in ascending order as the vertical axis and the release height in meters in ascending meters as the horizontal access,

e. Plot the height in meters at which the deceleration reached 300 gravity units, and

f. Multiply the height obtained in subdivision 3 e of this subsection by 10 to calculate the shock absorbance rating.

11VAC10-150-20. Paddock procedures.

The trainer shall be responsible for the arrival in the paddock at the time prescribed by the stewards for each horse entered by the trainer. The following provisions shall apply to the procedures to be followed in the paddock:

1. The paddock time shall not be less than one hour prior to post time;

2. Except for warmup trip, no horse shall leave the paddock until the post parade;

3. No driver, trainer or groom, once admitted to the paddock shall leave the paddock unless to attend a horse during a warmup trip;

4. Once leaving the paddock no person, except an owner who has another horse entered in a later race, shall be permitted to return;

5. Any horse that falls to the racing surface during a warmup trip shall be automatically excused by the stewards;

6. The licensee shall provide the services of a farrier during hours when horses are racing or taking warmup trips; and

7. The licensee shall provide equipment so that racing will not be unnecessarily delayed due to broken equipment.

8. A trainer may exercise his option not to take warmup trips with his horse prior to racing; however, such horse shall be satisfactorily paraded before the commission veterinarian or his assistant prior to starting in a race to determine the horse's fitness for racing.

11VAC10-150-30. Sulky.

Harness racing shall be conducted with each horse hitched to a United States Trotting Association-approved sulky. Each sulky shall have dual shafts and shall be equipped with wheel discs on the inside and outside of each wheel. During inclement weather, the wheels may be covered with mud guards. With the permission of the stewards, harness racing may be conducted under saddle.

11VAC10-150-40. Identifying equipment.

The licensee shall supply to each horse entered a numbered saddle pad which corresponds to the number of the horse as listed in the daily racing program. The horse shall wear the designated saddle pad during all warmup trips.

11VAC10-150-50. Racing colors.

Drivers must wear distinguishing colors, clean white pants and a safety helmet, with the chin strap in place, during all warmup trips and races.

11VAC10-150-60. Substitute driver.

No driver shall, without good and sufficient reason, refuse to drive a horse when ordered by the stewards to substitute for another driver. When a driver is programmed to drive a horse and removed at his request, he shall not be permitted to drive another horse in the same race.

11VAC10-150-70. Late driver change.

No driver may be changed without the permission of the stewards and for good cause. A person who causes a driver change after the daily racing program has been printed shall be subject to disciplinary action.

11VAC10-150-80. Hopples.

A horse habitually wearing hopples shall not be permitted to start in a race without them unless permission is granted by the stewards. A free-legged pacer shall not be permitted to race with hopples unless permission is granted by the stewards. Any person altering a horse's hopples for a fraudulent purpose shall be subject to disciplinary action.

11VAC10-150-90. Excessive use of the whip.

Drivers will be allowed whips not exceeding three feet, nine inches, plus a snapper not longer than six inches. The following actions shall be considered as excessive use of the whip:

1. Causing visible injury;

2. Whipping a horse after a race; and

3. Whipping under the arch or shafts of the sulky.

The use of the whip shall be confined to an area above and between the sulky shafts, to include the sulky shafts and the outside wheel discs. Drivers shall keep a line in each hand from the start of the race until the head of the stretch finishing the race.

The commission veterinarian or his designee shall make a mandatory visual inspection of each horse following each race for evidence of excessive use of the whip.

11VAC10-150-100. Post parade.

No horse may be excused from the post parade without the permission of the stewards. The horses comprising a race shall be formed in a post parade and on the track no less than 12 minutes prior to post time, unless, due to inclement weather, the stewards decrease the length of time. The starter shall inform the drivers of the number and length of warmup scores to be taken prior to going to the starting gate.

11VAC10-150-110. Timing procedure.

The time shall be taken from the first horse leaving the point which the distance of the race is measured until the winner reaches the wire. The leading horse shall be timed and his time only shall be announced. In the case of a dead heat for win, the time shall be accorded to the horses involved in the dead heat.

Part III
Driving Rules

11VAC10-150-120. Start.

A driver shall obey the starter's instructions. The starter may make recommendations to the stewards that disciplinary action be taken against a driver for:

1. Delaying the start;

2. Failing to obey the starter's instructions;

3. Rushing ahead of the inside or outside wing of the starting gate;

4. Coming to the starting gate out of position.

5. Crossing over before reaching the starting post;

6. Interfering with another driver or horse during the start; and

7. Failing to come up into the correct post position.

When a horse comes to the starting gate out of its assigned post position and gains an unfair advantage by moving either to the left or right of its assigned post position before the starter gives the word "go," the horse may be disqualified and placed by the stewards.

11VAC10-150-130. Racing.

A. Although a leading horse is entitled to any part of the racing surface, except after selecting his position in the home stretch, the driver of the leading horse and any other driver committing any of the following acts shall be subject to disciplinary action:

1. Changing either to the right or left during any part of the race when another horse is so near him that it causes the other horse to shorten its stride or make a break;

2. Jostling, striking, hooking wheels or interfering with another horse or driver;

3. Crossing sharply in front of a horse or crossing over in front of a field of horses in a reckless manner, endangering other drivers;

4. Swerving in and out or pulling up quickly;

5. Crowding a horse or driver;

6. Carrying a horse out;

7. Causing confusion or interference among trailing horses;

8. Letting a horse pass inside needlessly or otherwise helping another horse to improve his position in the race;

9. Committing any act which shall impede the progress of another horse or causing him to break;

10. Changing course after selecting a position in the home stretch;

11. Swerving in and out, or bearing in and out, in a manner so as to interfere with another horse, cause another driver to change course or take back;

12. Driving in a careless or reckless manner;

13. Loud shouting or other improper conduct; and

14. Kicking a horse, which shall be defined as a blow or thrust with the foot against any part of the horse's body or to impel by striking with the foot. Removal of a foot from the stirrups in and of itself shall not constitute the offense of kicking. The stewards shall assess a minimum fine of $200, a suspension or both disciplinary actions for the first violation, and any subsequent violation shall result in a suspension.

B. If at a racetrack that does not have a continuous solid inside hub rail a horse or part of the horse's sulky leaves the course by going inside the hub rail or other demarcation that constitutes the inside limits of the course, the offending horse shall be placed one or more positions where, in the opinion of the stewards, the action gave the horse an unfair advantage over other horses in the race or the action helped the horse improve its position in the race. In addition, when an act of interference causes a horse or part of the horse's sulky to cross the inside limits of the course, and the horse is placed by the judges, the offending horse shall be placed behind the horse with which it interfered.

11VAC10-150-140. Objections.

A driver shall lodge an objection by promptly informing the patrol judge prior to pulling up his horse after the race and dismounting. He shall proceed immediately to the designated telephone in the paddock to explain his objection.

11VAC10-150-150. Driven to the finish.

A driver shall drive his horse so as to win or finish as near as possible to the first-place horse and demonstrate the best and fastest performance of which it is capable during the race.

11VAC10-150-160. Inconsistent driving.

When a horse is driven or has been driven in the past with a design to prevent its winning a race, which it was evidently capable of winning, or driven in an inconsistent manner, or driven in a manner to perpetrate a fraud, the driver and anyone conspiring with him shall be subject to disciplinary action.

11VAC10-150-170. Breaking.

A. Driver's responsibility. When a horse breaks from its gait, the driver shall at once, where clearance exists, take the horse to the outside and pull it to its gait. The stewards may set any horse back one or more places if a driver of a breaking horse does not:

1. Properly attempt to pull the horse to its gait;

2. Take the horse to the outside where clearance exists; or

3. Lose ground by the break.

B. Lapped-on break. The stewards shall set back a breaking horse when the nose of a contending horse, which is on gait, is at least even with the hind quarter of the breaking horse at the finish.

C. Fraudulent intent. A driver allowing his horse to break, or causing his horse to make a break, for a fraudulent purpose shall be subject to disciplinary action.

D. Notation. One of the stewards shall call out a break made during the course of a race so that the clerk of the course may make a notation on the horse's eligibility certificate.

E. Any horse making a break that causes interference to other contending horses may be placed behind all offended horses; if there has been no failure on the part of the driver of the breaking horse in complying with this section, the driver may not be subject to disciplinary action by the stewards.

11VAC10-150-180. Excessive conversation.

A driver engaging in excessive or unnecessary conversation between or among other drivers while on the racing surface, either during warmup trips, post parade or races shall be subject to disciplinary action.

11VAC10-150-190. Qualifying races.

No Standardbred may be raced unless it has a race at the chosen gait, with a charted line in qualifying time, within 30 days of its last race. If a Standardbred does not have a charted line within 30 days of its race, then the horse must race in a qualifying race under the supervision of the stewards to determine its fitness for racing. The following provisions shall apply to qualifying races:

1. The licensee shall provide appropriate personnel for qualifying races to keep a charted line for each Standardbred in each qualifying race, an electronic timing device shall be in operation, and a photo-finish camera shall be in operation;

2. The licensee shall schedule as many qualifying races on as many days as is deemed appropriate for the horse supply, and the licensee shall maintain the racing surface in condition so that all Standardbreds have a reasonable opportunity to meet the qualifying time;

3. A Standardbred must race in a qualifying race if it has one race over a fast track that is not in the qualifying time as agreed upon by the licensee and the representative of the horsemen or on gait;

4. A Standardbred coming off the Veterinarian's List must race in a qualifying race, and the stewards, in their discretion, may require the horse to race in one or more qualifying races to establish its fitness for racing; and

5. The stewards, in their discretion, may authorize the collection of blood, urine or other samples of body substances from Standardbreds after competing in qualifying races.

11VAC10-150-200. Time trials.

For Standardbreds, time trials are permitted with the permission of the licensee and the commission provided that (i) the horse is subject to post-race testing; (ii) an electronic timing device is utilized; (iii) if the horse is accompanied by prompters, the prompters shall not precede the horse; and (iv) the stewards are present.

CHAPTER 160

STEEPLECHASE RACING

11VAC10-160-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Field" means the spaces between the fences, the space between the starting point and the first fence, and the space between the last fence and the finish.

"Steeplechase racing" means horse racing conducted over a surface including obstacles.

11VAC10-160-20. Generally.

The provisions of 11VAC10-140, Flat Racing, shall apply equally to the conduct of steeplechase racing, except where this chapter specifies otherwise.

11VAC10-160-30. Overweights.

If the overweight is more than one pound, the jockey shall declare the amount of the overweight to the clerk of scales no later than 45 minutes before post time. If the overweight exceeds 10 pounds, a substitute jockey must be named, except that an amateur jockey may carry more than 10 pounds of overweight.

11VAC10-160-40. Weighing out.

If a horse is equipped with a martingale, breast-plate or yoke, then this equipment must be put on the scale and included in the jockeys' weight.

11VAC10-160-50. Tongue ties.

The material used as a tongue tie shall be supplied by the horse's trainer, who shall affix the tongue tie in the paddock, except by the permission of the stewards, the tongue tie may be affixed in the horse's stall prior to going to the paddock.

11VAC10-160-60. Identifying equipment.

Each horse shall carry a conspicuous saddlecloth number which corresponds to the number of the horse as listed in the daily racing program. In the case of a coupled entry, each horse making up the coupled entry shall carry the same number with a distinguishing letter.

11VAC10-160-70. Post parade.

No horse shall be jumped over an obstacle on the way to the starting gate.

11VAC10-160-80. Starting.

Horses may be started either by a starting gate, barrier or a flag.

11VAC10-160-100. Remounting after fall.

Any horse losing its rider may be remounted by its jockey in any part of the same field or enclosure in which the mishap occurred. If the loose horse leaves the field, then it must be returned to the field where the mishap occurred before resuming the course.

11VAC10-160-110. Weighing in.

If a jockey weighs in at less than the weight at which he weighed out, the horse shall be disqualified unless the stewards are satisfied that such shortness of weight was caused by exceptional circumstances.

11VAC10-160-120. Fences.

Any course and obstacles over which steeplechase races are to be conducted must conform to the standards established by the National Steeplechase Association. The following shall be a general guideline, when conditions permit:

1. There shall be at least five fences in every mile;

2. Wings shall be a minimum of 20 feet long and a minimum of 6 feet at their highest point; and

3. Beacons shall be a minimum of 4 feet in height.

11VAC10-160-130. NSA (National Steeplechase Association) licenses.

A trainer shall not be permitted to train horses for steeplechase races unless he possesses the appropriate permit from the commission and a trainer's license from the National Steeplechase Association. A jockey shall not be permitted to ride horses in steeplechase races unless he possesses the appropriate permit from the commission and a jockey's license from the National Steeplechase Association.

11VAC10-160-140. Minimum age.

No horse shall be entered or shall start in a steeplechase race unless it is at least three years old.

11VAC10-160-150. Use of spurs.

Spurs may be used in steeplechase races, provided that they are of a type that will prod but not cut. All spurs must be approved by the stewards.

CHAPTER 170

CONDUCT OF QUARTER HORSE RACING

11VAC10-170-10. Generally.

The provisions of 11VAC10-140-10 et seq., Conduct of Flat Racing, shall apply equally to the conduct of quarter horse racing, except where this chapter specifies otherwise.

11VAC10-170-20. Starting.

The starting gate shall be located at the starting post so that a race is actually run at the designated distance.

11VAC10-170-30. Timing.

The timing of a race shall commence when the first horse breaks the electronic beam at the starting post and when the winner breaks the electronic beam at the wire.

11VAC10-170-40. Distance.

Distance in a race for quarter horses shall be reckoned in yards instead of furlongs or miles.

11VAC10-170-50. Time.

Time in a race for quarter horses shall be reckoned in at least hundredths of a second and a time shall be given for each horse.

CHAPTER 180

MEDICATION

11VAC10-180-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Bleeder" means a horse that has been diagnosed as suffering from exercise-induced pulmonary hemorrhage based on external or endoscopic examination by the commission veterinarian or a practicing veterinarian who is a permit holder in the Commonwealth of Virginia or any other jurisdiction.

"Bleeder list" means a tabulation of all bleeders to be maintained by the stewards.

"Commission" means the Virginia Racing Commission.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) or any substance included in the five classification schedules of the U.S. Uniform Controlled Substances Act (21 USC § 301 et seq.).

"Furosemide list" means a tabulation of horses permitted to use the medication of furosemide on race day by declaration to the stewards, in addition to horses on the bleeder list.

"Injectable substance" means a liquid or solid substance that may require the addition of a liquid via a needle and syringe to change it from a solid into a liquid, contained in a vial that can be accessed and administered only via a needle and syringe.

"Licensed veterinarian" means a veterinarian who holds a valid license to practice veterinary medicine and surgery under the applicable laws of the jurisdiction in which such person's practice is principally conducted.

"Milkshaking" or "bicarbonate loading" means administering a bicarbonate or other alkalinizing substance to a horse that elevates the horse's total carbon dioxide level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the commission, regardless of the means of administration.

"Permitted race day substances" means only substances approved by the commission that are administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.

"Prescription substance" means any substance that is administered or dispensed or labeled for use by or on the order of a licensed veterinarian for the purpose of medical treatment of an animal patient when a bona fide doctor-patient relationship has been established.

"Primary laboratory" means a facility designated by the commission for the testing of test samples.

"Prohibited substance" means any drug, medication or chemical foreign to the natural horse, whether natural or synthetic, or a metabolite or analog thereof, the use of which is not expressly permitted by the regulations of the commission.

"Race day" means the 24-hour period before post-time for the race in which the horse is entered to start.

"Reference laboratory" means a facility designated by the commission for the testing of split samples.

"Substance" means any drug, medication or chemical foreign to the natural horse or human being, whether natural or synthetic, or a metabolite or analog thereof.

"Test sample" means any sample of blood, urine, saliva or tissue obtained from a horse or person for the purpose of laboratory testing for the presence of substances.

"Tubing" means the administration to a horse of any substance via a naso-gastric tube.

11VAC10-180-25. Veterinary practices.

A. Veterinarians under authority of commission veterinarian. Veterinarians holding valid veterinarian permits issued by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the commission veterinarian and the stewards. The commission veterinarian shall recommend to the stewards the discipline that may be imposed upon a veterinarian who violates these regulations.

B. Treatment restrictions.

1. Except as otherwise provided in the regulations, no person other than a licensed veterinarian holding a valid permit issued by the commission may administer a prescription or controlled medication, drug, chemical or other substance to a horse at any location under the jurisdiction of the commission.

2. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

3. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

4. Notwithstanding these regulations, a veterinarian or other permit holder may possess within the enclosure of a horse racing facility a hypodermic syringe and needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

5. Unless granted approval by the commission veterinarian, veterinarians shall not have contact with an entered horse on race day except for the administration of race-day medications expressly permitted by the regulations.

C. Veterinarian treatment reports.

1. Practicing veterinarians must maintain complete records of all treatments, including date, time and proper identification of each horse. The record shall contain the name of the trainer, the name of the horse, all medications and dosages administered, and all diagnostic and therapeutic procedures performed on the horse.

2. At the request of the commission veterinarian or stewards, practicing veterinarians shall produce within 24 hours the billing and/or treatment records or other information for any horse treated by the veterinarian.

11VAC10-180-35. Prohibited practices.

A. No trainer shall allow a horse to appear in a race, qualifying race or official timed workout, when the horse contains in its system any prohibited substance, as determined by testing of blood, saliva or urine, or any other reasonable means.

B. No person shall administer any substance to a horse on race day other than those substances expressly permitted by the commission. Substances permitted by the commission shall be administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.

C. No veterinarian or permit holder shall, without good cause, possess or administer any substance to a horse stabled within the enclosure or at any facility under the jurisdiction of the commission:

1. That has not been approved by the U.S. Food and Drug Administration (FDA) for any use (human or animal), or the U.S. Department of Agriculture's Center for Veterinary Biologics;

2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC § 811 and 812;

3. That its use may endanger the health and welfare of the horse or endanger the safety of the rider or driver, or its use may adversely affect the integrity of racing; or

4. That does not have a recognized laboratory analytical method to detect and confirm its administration.

D. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The person actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a licensed veterinarian;

2. The prescription substance is labeled with a dosage for the horse or horses to be treated with the prescription substance; and

3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

E. The possession or administration of erythropoietin (Epogen), darbepoietin, oxyglobin, Hemopure, or any analogous substance that increases oxygen-carrying capacity of the blood is prohibited. Furthermore, should the analysis of a test sample detect the presence of antibodies of erythropoietin or darbepoietin or any analogous substance in the horse's blood that indicates a history of use of these substances, the horse shall be prohibited from racing and placed on the veterinarian's list until the horse tests negative for the presence of such antibodies.

F. The use of androgenic and anabolic steroids is prohibited in racing horses as stipulated in 11VAC10-180-75.

G. The use of an extracorporal shockwave therapy device or radial pulse wave therapy device is prohibited on the racetrack premises and at any site that falls under the jurisdiction of the Virginia Racing Commission unless:

1. The therapy device is registered with the commission veterinarian;

2. The therapy device is used by a veterinarian who is a permit holder; and

3. Each use of the therapy device is reported to the commission veterinarian on the treatment report.

Notwithstanding the provisions above, whether on or off the premises, a shockwave therapy device or radial pulse wave therapy device shall not be used on a racehorse fewer than 10 days

before the horse is to race. For the purposes of this calculation, the day of treatment shall be considered day one.

H. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a licensed veterinarian in which case the horse shall be scratched. The practice of administration of any substance, via a tube or other method, into a horse's stomach on race day is considered a violation of this chapter.

1. Using or possessing the ingredients or the paraphernalia associated with forced feeding to a horse of any alkalinizing agent with or without a concentrated form of carbohydrate, or administering any substance by tubing or other method on race day shall be considered a violation of this chapter.

2. Under the provisions of this subsection, endoscopic examination shall not be considered a violation of this chapter.

I. Notwithstanding any other provision in this chapter, no substance of any kind may be administered to a horse within three hours of the scheduled post time for the race in which the horse is entered. To ensure uniform supervision and conformity to this regulation, the trainer shall have each horse programmed to race stabled in its assigned stall within the enclosure of the horse race facility no fewer than four hours prior to post time for the respective race.

J. Intra-articular injections prohibited. Injecting any substance or inserting a needle into a joint space is prohibited within five days prior to the horse's race.

K. Peri-neural injections prohibited. Injecting a local anesthetic or other chemical agent adjacent to a nerve is prohibited within three days prior to the horse's race.

L. Hyperbaric oxygen chamber prohibited. Subjecting a horse to therapy utilizing a hyperbaric oxygen chamber is prohibited within four days prior to the horse's race.

11VAC10-180-60. Medications and prohibited substances.

A. Medications and prohibited substances are divided into five classes. The classes are:

1. Class 1. Substances found in this class have no generally accepted medical use in the racehorse and have a very high pharmacological potential for altering the performance of a racehorse. These substances should never be found in the horse's system through postrace testing or in the possession of any holder of a permit within the enclosure of a horse racing facility licensed by the commission. Such substances are potent stimulants of the nervous system including opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) Scheduled I and II controlled substances.

2. Class 2. Substances in this class have a high potential to affect the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate uses in equine medicine, but should not be found in a racehorse through postrace testing. The following groups of substances are in this class:

a. Opiate partial agonists or agonist-antagonists;

b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

c. Miscellaneous substances that might have a stimulant effect on the central nervous system (CNS);

d. Drugs with prominent CNS depressant action;

e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

f. Muscle-blocking substances that have a direct neuromuscular blocking action;

g. Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine);

h. Other biological substances and snake venoms or chemicals that may be used as nerve-blocking agents; and

i. Erythropoietin (Epogen), darbepoietin, oxyglobin, hemopure, or other blood-doping agents.

3. Class 3. Substances found in this class may or may not have an accepted therapeutic use in the horse, but have a potential to enhance performance, and their presence in the horse's system is prohibited on race day. The following groups of substances are in this class:

a. Substances affecting the autonomic nervous system that do not have prominent CNS effects, but that do have prominent cardiovascular and respiratory system effects (bronchodilators are included in this category);

b. Local anesthetics that have nerve-blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the substance (procaine);

c. Miscellaneous substances with mild sedative action, such as the sleep-inducing antihistamines;

d. Primary vasodilating/hypotensive agents;

e. Potent diuretics affecting renal function and body fluid composition; and

f. Anabolic and/or androgenic steroids and/or growth hormones other than boldenone, stanozolol, nandrolone, and testosterone, which are classified elsewhere in this section.

4. Class 4. Substances in this class are primarily therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. The following groups of drugs are in this class:

a. Nonopiate substances that have a mild central analgesic effect;

b. Substances affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:

(1) Substances used solely as topical vasoconstrictors or decongestants;

(2) Substances used as gastrointestinal antispasmodics;

(3) Substances used to void the urinary bladder; and

(4) Substances with a major effect on CNS vasculature or smooth muscle of visceral organs.

(5) Antihistamines that do not have a significant CNS depressant effect (this does not include H1 blocking agents, which are listed in Class 3).

c. Mineral corticoid substances;

d. Skeletal muscle relaxants;

e. Anti-inflammatory substances that may reduce pains as a consequence of their anti-inflammatory actions, which include:

(1) Nonsteroidal anti-inflammatory drugs (NSAIDs);

(2) Corticosteroids (glucocorticoids); and

(3) Miscellaneous anti-inflammatory agents.

f. Boldenone, stanozolol, nandrolone, and testosterone, individually but not in combination, at levels stipulated in 11VAC10-180-75.

g. Less potent diuretics;

h. Cardiac glycosides and antiarrhythmics including:

(1) Cardiac glycosides;

(2) Anti-arrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(3) Miscellaneous cardiotonic drugs.

i. Topical anesthetics agents not available in injectable formulations;

j. Antidiarrheal agents; and

k. Miscellaneous substances including:

(1) Expectorants with little or no other pharmacologic action;

(2) Stomachics; and

(3) Mucolytic agents.

5. Class 5. Drugs in this class are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents that have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

B. Disciplinary actions.

1. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

2. The stewards or the commission may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as the guideline in the penalty stage of the deliberations for a rule violation for any prohibited substance.

3. If a licensed veterinarian is administering or prescribing a drug not listed in the RCI Uniform Classification Guidelines for Foreign Substances, the identity of the drug shall be forwarded to the commission veterinarian to be forwarded to RCI for classification.

4. Any drug or metabolite thereof found to be present in a pre-race or postrace sample that is not classified in the most recent RCI Uniform Classification Guidelines for Foreign Substances may be assumed to be an RCI Class 1 Drug and the trainer and owner may be subject to those penalties as set forth in schedule "A" unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

5. Any permit holder of the commission, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may be subject to the same penalties set forth to the trainer.

6. Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the respective state licensing board of veterinary medicine for

consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission.

7. Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes shall be referred to the appropriate law-enforcement agency. Administrative action taken by the stewards or the commission in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

8. Pursuant to 11VAC10-60-70 E, all horses in the care of a trainer who is suspended for more than 10 days must be transferred to another trainer approved by the stewards. During the period of suspension the suspended trainer shall have no communication with the new trainer, the new trainers' staff, or the horse owner; shall not benefit financially from transferred horses in his stable during the time of suspension; and shall not be permitted on the grounds except with the permission of the stewards.

11VAC10-180-70. Phenylbutazone, flunixin and other NSAIDs.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of either phenylbutazone or flunixin (but not concurrently) in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone or flunixin has been administered shall be subject to testing at the direction of the commission veterinarian to determine the quantitative levels of phenylbutazone and flunixin or the presence of other substances which may be present.

C. Disciplinary actions. The stewards may take disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 2.0 micrograms per milliliter of plasma or flunixin quantified at levels above 20 ng per milliliter of plasma in horses following races, qualifying races, and official timed workouts for the stewards or commission veterinarian, and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as a guide. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone or flunixin is permitted by the commission.

11VAC10-180-75. Androgenic and anabolic steroids.

A. All androgenic and anabolic steroids are prohibited in racing horses, except as provided below.

B. Residues of the major metabolite of stanozolol, nandrolone, boldenone and testosterone at concentrations less than the thresholds indicated below are permitted in test samples collected from racing horses.

C. Concentrations of these substances identified in subsection B of this section shall not exceed the following total threshold concentrations (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

1. Metabolite of stanozolol (16Beta-hydroxystanozolol) – 25 pg/ml in plasma or 1 ng/ml in urine for all horses regardless of gender.

2. Boldenone – 200 pg/ml in plasma or 15 ng/ml in urine in male horses other than geldings. No boldenone is permitted in geldings or female horses.

3. Nandrolone:

a. 50 pg/ml in plasma or 1 ng/ml in urine in geldings, fillies, and mares.

b. 50 pg/ml in plasma or 45 ng/ml in urine in male horses other than geldings.

c. Male horses other than geldings will not be tested.

4. Testosterone.

a. 25 pg/ml in plasma or 20 ng/ml in urine in geldings.

b. 25 pg/ml in plasma or 55 ng/ml in urine in fillies and mares.

c. Male horses other than geldings will not be tested.

D. The presence of more than one of the four substances identified in subsection B of this section at concentrations greater than the individual thresholds indicated in subsection C of this section or a combination of any two or more substances recognized as androgenic or anabolic is prohibited.

E. Test samples collected from male horses other than geldings must be so identified to the laboratory.

F. Any horse administered an androgenic or anabolic steroid to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold, the horse is eligible to be removed from the list.

G. The stewards may take disciplinary actions for reports of quantitative testing by the primary testing laboratory indicating the presence of one or more androgenic or anabolic steroid at concentrations above the individual thresholds indicated in subsection C of this section and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as a guide.

11VAC10-180-80. Permitted race day substances.

A. Generally. The following substances that have been determined to be solely for the benefit and welfare of the horse., nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances, may be administered to a horse on race day are: Intravenous commercially available electrolyte solutions including calcium and magnesium, but not including bicarbonate, providing such administration is a minimum of three hours prior to the post time for that horse's race and administered under veterinary supervision within the limits of this chapter.

B. Bleeder medications. By this regulation, the Virginia Racing Commission specifically permits the use of bleeder medications in only those horses that:

1. Have been placed on the bleeders list by the stewards;

2. Have raced on furosemide in another jurisdiction and on the last previous start in a pari-mutuel race, as indicated by the past performance chart or by verification by the commission veterinarian from that racing jurisdiction, or both; or

3. Have been placed on the furosemide list by the stewards. A horse is eligible for inclusion on the furosemide list if the licensed trainer and a licensed veterinarian determine it is in the horse's best interest to race with furosemide, and the prescribed commission form is presented to the commission veterinarian prior to the close of entries for the horse's race. A horse placed on the furosemide list without demonstrating an episode of exercise-induced pulmonary hemorrhage is not restricted from racing for the usual recovery period described in 11VAC10-180-85 D. However, any future episode of exercise-induced pulmonary hemorrhage shall be considered a reoccurrence of bleeding for the purpose of determining restrictions from racing, as provided in this chapter.

a. A trainer or owner may discontinue the administration of furosemide to his racehorse only with the permission of the stewards. The request must be submitted in writing on forms prescribed by the commission and prior to entering the horse in a race.

b. A horse removed from the furosemide list may not be placed back on the furosemide list for a period of 60 calendar days unless the horse suffers an external bleeding incident witnessed by the commission veterinarian or his designee. In such case, the horse shall be placed on the bleeders list as though that bleeding incident was a reoccurrence of bleeding and subjected to a minimum 30-day or 90-day restriction for recovery as provided in this chapter.

C. Furosemide.

1. Procedures for usage. The use of furosemide shall be permitted by the commission only in horses eligible to receive bleeder medications and under the following circumstances:

a. Furosemide shall be administered intravenously within the enclosure of the horse race facility by a veterinarian who is a permit holder.

b. The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 ml (150 mg).

c. The veterinarian administering the furosemide shall deliver a furosemide treatment report to the commission no later than two hours prior to post time. The furosemide treatment report shall contain the following:

(1) The trainer's name, date, horse's name, and horse's identification number;

(2) The time furosemide was administered to the horse;

(3) The dosage level administered for this race;

(4) The barn and stall number; and

(5) The signature of the practicing veterinarian, who is a permit holder.

2. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of plasma and urine specific gravity measuring 1.010 or lower. Furosemide must be present in the plasma or urine of any horse that has been designated in the program as being treated with furosemide.

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall issue a written reprimand to the trainer and to the practicing veterinarian, if applicable.

2. For the second violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall fine the trainer, practicing veterinarian or both an amount not to exceed $500.

3. For the third violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section) within a 365-day period, the stewards shall suspend or fine the trainer, practicing veterinarian, or both, not to exceed $1,000 and 15 days.

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

E. Adjunct bleeder medications. The Virginia Racing Commission permits the use of no more than one adjunct bleeder medication in horses that receive furosemide as provided for in this

chapter. Such medications, if administered to a horse, must be administered on race day no less than three hours before post time. Permissible adjunct bleeder medications and maximum dosages are:

1. Conjugated estrogens, not to exceed 25 milligrams.

2. Aminocaproic acid, not to exceed 2.5 grams.

3. Tranexamic acid, not to exceed 1 gram.

4. Carbazochrome, not to exceed 5 milliliters.

F. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first start while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

G. Discontinue use of furosemide. A trainer or owner may discontinue the administration of furosemide to his horse only with the permission of the stewards and prior to entering the horse in a race.

11VAC10-180-85. Bleeders.

A. Examination of bleeders. A horse that is alleged to have bled in Virginia must be physically examined by the commission veterinarian or a practicing veterinarian who is a permit holder in order to confirm the horse's inclusion on the bleeder list. The veterinarian may conclude a horse is a bleeder under the following circumstances:

1. If the examination takes place immediately following the race or exercise and before the horse leaves the racing surface or test barn, a veterinarian may conclude the horse is a bleeder and an endoscopic examination is not required for inclusion on the bleeder list; or

2. If the examination takes place after the horse leaves the racing surface but within 90 minutes following the finish of a race or exercise in which the horse participated, a veterinarian shall require an endoscopic examination for inclusion on the bleeder list.

B. Confirmation of a bleeder. The commission veterinarian or practicing veterinarian who is a permit holder shall decide, based upon the standard of care a reasonable veterinarian should exercise in similar circumstances, whether the horse suffers from exercise-induced pulmonary hemorrhage and should be placed on the bleeder list. The confirmation of a bleeder shall be certified in writing by the commission veterinarian or practicing veterinarian, and the horse shall be placed on the bleeder list. The confirmation of a bleeder shall be filed with the commission within three days of the confirmation. Upon request, a copy of the certification shall be provided to the owner of the horse or his agent.

C. Posting of bleeder list. The bleeder list shall be maintained by the stewards, with the assistance of the commission veterinarian, and shall be made available upon request. No horse shall be removed from the bleeder list without the approval of the stewards.

D. Recovery period. If it is determined that a horse has bled as determined by this chapter, the horse shall be placed on the bleeders list and may not be permitted to race for at least 10 days. If a horse is determined to have bled within 365 days of the first occurrence, or if the horse bleeds externally on the track or in the test barn while on furosemide, the horse may not race for the following periods of time:

1. 30 days after the first reoccurrence;

2. 90 days after the second reoccurrence; and

3. The horse shall be barred from racing forever at the race meetings licensed by the commission after the third reoccurrence.

For the purpose of counting the number of days a horse is not permitted to race in meetings licensed by the commission, the day the horse bled is the first day of the recovery period, and the horse shall be permitted to race in meetings licensed by the commission when the last day of the recovery period under this chapter expired.

E. Bleeders from other jurisdictions. The commission veterinarian may designate a horse as a bleeder from another jurisdiction based upon information received from that jurisdiction confirming that the horse is a bleeder and that the requirements for inclusion on the bleeder list in Virginia have been satisfied.

11VAC10-180-90. Bicarbonate testing.

A. Generally. By this regulation, the Virginia Racing Commission prohibits the feeding or administration to a horse on race day of any bicarbonate-containing substance or other alkalinizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in the horse.

B. Test values. A serum total carbon dioxide level exceeding 37.0 millimoles per liter constitutes a positive test.

C. Testing procedure. The stewards or commission veterinarian may, at their discretion and at any time, order the collection of test samples from any horses present within the enclosure for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. Prerace-testing may be done at a time and manner directed by the commission veterinarian. If testing post race, blood samples shall be taken at least one hour after racing. Whether prerace or postrace, the sample shall consist of at least two blood tubes taken from the horse to determine the serum total carbon dioxide concentration. If the chief racing chemist finds that the total carbon dioxide levels in the tubes exceed the standard test values of 37.0 millimoles per liter, then he shall inform the stewards of the positive test results.

D. Split samples prohibited. The procedures for split sample testing shall not apply to bicarbonate testing procedures.

E. Disciplinary actions. The stewards shall, absent mitigating circumstances specifically noted in their findings, impose the following disciplinary action for violation of this section:

1. First offense: $2,500 fine and 90-day suspension; loss of purse.

2. Second offense: $5,000 fine and 180-day suspension; loss of purse.

3. Third offense: Revocation of license.

The stewards also may refer the case to the commission for further disciplinary action.

11VAC10-180-100. Collection of samples.

A. Test barn. Test samples shall be collected in the test barn under the supervision of the commission veterinarian or his designee. The commission veterinarian may, at his discretion, permit test samples to be collected in the horse's stall or any other location he deems appropriate. Under these circumstances, the commission veterinarian shall maintain a written record of his decision.

B. Horses to be tested. The stewards or commission veterinarian may, at any time, order the taking of test samples from any horse stabled within the enclosure of the horse racing facility, prior to racing or after racing including qualifying races and official timed workouts for the

stewards or commission veterinarian. However, the stewards shall designate at least one horse from each race for the collection of test samples.

C. Collection procedure.

1. The trainer or a permit holder designated by the trainer shall accompany the horse to the test barn and witness the collection and splitting of the samples. The trainer or permit holder designated by the trainer shall cooperate with the commission veterinarian and the commission's veterinary technicians in the performance of their duties. The trainer or permit holder designated by the trainer must remain with the horse until the horse is released from the test barn.

2. Horses, from which samples are to be collected, shall be escorted, following the race, directly to the test barn by the commission's veterinary technicians and the horses shall remain in the test barn until released by the commission veterinarian, his designee, or the test barn supervisor.

3. Stable equipment, other than common necessities for washing and cooling out a horse, is prohibited in the test barn. A practicing veterinarian may attend a horse in the test barn only in the presence of the commission veterinarian or the commission's veterinary technicians.

4. During the collection of test samples, the owner or trainer, or an assistant designated by the owner or trainer, shall be present and witness the collection of the test sample, the splitting of the sample and sealing of containers. In the case of a claimed horse, the owner or trainer, or an assistant designated by the owner or trainer in whose name the horse started, shall be present to witness the collection of the test samples.

5. The test and split samples collected from a horse shall have identification tags affixed. One portion of the tag, bearing a printed identification number, shall remain with the sealed test and split samples, and the other portion of the tag bearing the same printed identification numbers shall be detached in the presence of the witness. The commission veterinarian or his designee shall on the detached portion of the tags identify the horse from which the test and split samples were collected, the race and date, and other information deemed appropriate. The detached portion of the tag shall be witnessed by the trainer or a permit holder designated by the trainer, and shall be retained by the commission veterinarian for safekeeping.

6. A horse's identity shall be confirmed by examining its lip-tattoo number, or for a Standardbred, its freeze brand number. A horse that has not been lip-tattooed or a Standardbred that has not been freeze branded shall be reported immediately to the stewards.

7. If, after a horse remains for a reasonable time in the test barn, a test sample of urine cannot be collected from the horse, the commission veterinarian may, at his discretion, collect a test sample of blood or permit the horse to be returned to its barn where a test sample may be collected under the supervision of the commission veterinarian or the commission's veterinary technicians.

11VAC10-180-110. Laboratory findings and reports.

A. Primary testing laboratory. The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards and the commission veterinarian.

B. Reference laboratories. The commission shall designate one or more laboratories, other than the primary testing laboratory, as references laboratories. These laboratories will conduct confirmatory analysis of split samples. Any reference laboratory must be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. Chief racing chemist's responsibilities. The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. Reporting procedures. The chief racing chemist shall submit to the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag number whether the test sample was negative or there was a chemical identification. All confirmed positive identifications shall be submitted to the executive secretary, the stewards, and the commission veterinarian.

E. Chemical identifications. If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. Review of chemical identifications. Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification, which shall include, but not be limited to, the chief racing chemist and the commission veterinarian. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;

2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;

3. The commission veterinarian shall submit a written statement to the stewards including, but not limited to, the class of the substance, the concentration level detected in the sample, if determined, and its probable effect on a racehorse;

4. The stewards may ask questions at any time and request further documentation as they deem necessary;

5. After receiving the appropriate information on the identified substance, the stewards shall determine whether the chemical identification constitutes a violation of the regulations of the commission and whether it should be deemed a positive test result. In doing so, the stewards shall consider, among other things, the concentration level reported, its likely effect on the horse, and whether environmental contamination may have contributed to the test result;

6. In the event of a positive test result, the stewards shall notify the trainer and the owner of the horse of the right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

7. If the trainer or the owner elects to send the split sample to a reference laboratory, the stewards shall take no disciplinary action against any permit holder until the results from the reference laboratory are received, and the findings shall be a part of the record of any subsequent hearing; and

8. The chief racing chemist's report of a chemical identification, the commission veterinarian's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. A horse from which a positive test sample was collected may be placed on the steward's list until the stewards have made a final determination in the matter. The horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state until cleared by the chief racing chemist and permission for their disposal is obtained from the Senior Commonwealth Steward.

I. Split samples. The commission veterinarian or his designee shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be stored in secured location inside a locked freezer in accordance with the following procedures:

1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.

2. Upon packing of the test samples for shipment to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian or his authorized designee who shall be responsible for securing possession of the keys.

3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.

4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen if the respective horsemen's association has provided a representative. In the case that the split samples from a race must be secured in the freezer and no horsemen's representative is present, the commission veterinarian or his designee shall be in attendance.

5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.

6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.

K. Shipment of split samples. The trainer or owner of the horse shall have 48 hours from receipt of notice of a positive test result to request that the split sample be shipped to one of the reference laboratories designated by the commission and the split sample shall be shipped to the requested reference laboratory. The cost of shipment and additional testing shall be paid by the permit holder requesting the testing of the split sample. Upon the expiration of this 48-hour period, the trainer or owner relinquishes his right to request a split sample.

L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:

1. Date and time the split sample is removed from the freezer;

2. The test sample number;

3. The address of the reference laboratory;

4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;

5. Verification of retrieval of the split sample from the freezer;

6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;

7. Verification of the address of the reference laboratory on the split sample package;

8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory; and

9. The date and time custody of the split sample package was transferred to the carrier. The commission veterinarian, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.

In the event that the trainer or owner of the horse, or his designee, is not present, the commission veterinarian may not remove the split sample from the freezer or ship the split sample to a reference laboratory unless the trainer or owner has declined in writing his option to witness the removal, packaging and shipping procedure.

M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:

1. The split sample shall be removed from the freezer by the commission veterinarian or his designee; the trainer or owner, or his designee, may be present.

2. The trainer or owner, or his designee, may witness the packaging of the split sample by the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.

3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

4. The trainer or owner, or his designee, may accompany the commission veterinarian or his designee while delivering the package containing the split sample to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.

5. The trainer or owner, or his designee, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

6. The trainer or owner, or his designee, if witnessing the procedures, shall sign the chain of custody verification form.