

MARYLAND REGISTER

Emergency Action on Regulations

TO BE COMPLETED BY AELR COMMITTEE	EMERGENCY Transmittal Sheet	TO BE COMPLETED BY DSD
Date Received by AELR Committee		Date Filed with Division of State Documents
09/23/2014		
Emergency Status Approved		Document Number
_ -Yes _ -No		Date of Publication in MD Register
Emergency Status Begins On		
Emergency Status Ends On		
Name of AELR Committee Counsel		

1. COMAR Codification

Title Subtitle Chapter Regulation

09 10 03 02

2. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

3. Name of Regulations Coordinator

Donnice M Turner

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4. Name of Person to Call About this Document

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5. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

- Repeal of Existing Regulations

- Incorporation by Reference of Documents Requiring DSD Approval

6. Date Requested for Emergency Status to Begin: January 1, 2015

Date Requested for Emergency Status to Expire: May 31, 2015

7. Agency Will Take the Following Action on These Regulations

- Promulgate them in accordance with State Government Article, §§ 10-101 -- 10-126

- Allow them to expire

8. Is there proposed text which is identical to emergency text:

- Yes - No

If yes, corresponding proposed text published in:

- same issue

- future issue

- previous issue; it appeared in

: Md. R

(vol.) (issue) (page no's) (date)

Under Maryland register docket no.: --E.

9. Check the following item if it is included in the attached document:

- Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

10. Reason for Request for Emergency Status

The Emergency Status request will allow the proposed regulation to be in place on January 1, 2015, which is the beginning of the new racing year.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Eric B. London, Assistant Attorney General, (telephone #410-230-6117) on September 23, 2014. A signed copy of the approval is on file at this agency.

Name of Authorized Officer

J. Michael Hopkins

Title

Executive Director

Telephone No.

410-296-9682

Date

September 22, 2014

**Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION**

Subtitle 10 RACING COMMISSION

09.10.03 Prohibited Acts

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland.

Notice of Emergency Action

□

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to Regulation .02 under COMAR 09.10.03 Prohibited Acts.

Emergency status began:

Emergency status expires:

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

The emergency action has no economic impact.

Economic Impact on Small Businesses

The emergency action has minimal or no economic impact on small businesses.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 15

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The regulation would permit additional penalties to be imposed on a trainer who has previously received penalties for multiple violations of medication provisions. The number of trainers who will be affected and any financial impact on them cannot be determined.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The regulation would permit additional penalties to be imposed on a trainer who has previously received penalties for multiple violations of medication provisions. The number of trainers who will be affected and any financial impact on them cannot be determined.

G. Response to small business worksheet:

Impact Statement Part C — Legislative Information

Part C requests agencies to provide information required by the Department of Legislative Services in its report to the AELR Committee. Answer the questions in the space provided. Part C is not printed in the Maryland Register.

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the

proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated;
(ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses? Businesses.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected? Individuals who train horses may be affected by this proposed regulation if they are found to have violated a number of medication regulations over a short period of time. If a trainer accumulates and exceeds a specified number of points the trainer will be subject to additional sanctions as being considered a repeat offender. Determination of the appropriate sanction may include consideration of medication violations in other states.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs —

usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.) It cannot be determined what the financial effect would be on a trainer. If any, it would be proportional.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected? The intent of these regulations is to identify and sanction repeat offenders of the medication regulations. The number affected cannot be estimated.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above? It is the intent that these regulations will continue to improve the public perception of horse racing by having regulations in place that are uniform throughout the mid-Atlantic area.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice. None

Attached Document:

09.10.03.02 Sanctions.

In addition to a specific sanction applicable to a particular violation, an individual found by the:

A. Stewards or judges to have violated a provision of this chapter may be subject to:

(1) A fine of up to \$2,500,

(2) The suspension of any license issued by the Commission for a period of up to [90] 360 days, and

(3) Referral to the Commission for additional sanctions if the stewards or judges determine that a greater sanction is warranted than they are empowered to impose; and

B. (text unchanged)

C. *Multiple Medication Violations.*

(1) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-D, as provided in the most recent version of the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances, shall be assigned points as follows:

Penalty Class	Points for Controlled Medication	Points for Non-Controlled Medication
Class A	N/A	6
Class B	2	4
Class C	1	2
Class D	1/2	1

(2) The points assigned to a medication violation by the Stewards or Judges shall not be applied until a final adjudication of the enforcement of any such violation.

(3) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official record and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Stewards or Judges as provided in this regulation.

(4) Multiple positive tests for the same medication incurred by a trainer prior to delivery of the official notice by the laboratory may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Stewards or Judges may treat each substance found as an individual violation for which points will be assigned.

(5) The Stewards or Judges shall consider all points for violations in all racing jurisdictions as contained in the trainer's official record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(6) In addition to the penalty for the underlying offense, the following penalty shall be imposed upon a licensed trainer based upon the cumulative points contained in their official record:

Points	Suspension in Days
3-5.5	30
6-8.5	60
9-10.5	180
11 or more	360

(7) Multiple Medication Points are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

- (a) Has more than one violation for the relevant time period, and
- (b) Exceeds the permissible number of points.

(8) The suspension periods as provided above, shall run consecutive to any suspension imposed for the underlying offense.

(9) The Stewards' or Judges' ruling shall distinguish between the penalty for the underlying offense and any penalty based upon a Stewards or Judges review of a the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

(10) Any trainer who has received points for a medication violation shall have their points expunged from their record as follows:

Penalty Classification	Time to Expungement
A	Permanent
B	3 years
C	2 years
D	1 year

J. Michael Hopkins
Executive Director