

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Associations' Duties and Obligations (LAC 35:III.Chapter 57)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 57. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule rescinds and replaces the previous emergency adoption of LAC 35:XVII.Chapter 57. This Emergency Rule shall become effective November 7, 2022 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing Chapter 57. Associations' Duties and Obligations §5705. Security of Racetrack Premises

A. The stable area of the premises of every association shall be enclosed with a fence, the type and construction of the fence to be subject to the approval of the commission. The association shall maintain a 24-hour guard at any opening of the fence during the horse race meeting.

B. An association must maintain adequate staffing of security officers on backside to:

1. patrol the backside;
2. check every vehicle coming into the backside for commission-granted licenses; and
3. check every horse trailer for the names of horses entering and exiting the backside.

C. An association must provide security guards to be present in the jockeys' room during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:277 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5706. Barns on Backside of Racetrack

A. An association shall ensure that ~~the~~ all barns are kept in good repair and are kept clean by the licensed occupants.

1. Barn buildings, fences, bathrooms, and outdoor and indoor lighting shall be kept in good working order.

2. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the amendment of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 12 feet by 12 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede any requirements set forth by the Department of Environmental Quality.

D. An association must provide the minimum number of total stalls, as specified by the Commission by majority vote, on its backside in good, working condition to house horses for their assigned racing dates.

E. The commission shall send a representative to each racetrack annually to assure that upkeep of all barns, both exterior and interior, is maintained. This shall include, but not be limited to, upkeep of:

1. stalls;
2. restroom facilities;
3. tack rooms;
4. feed rooms;
5. living quarters;
6. horse paths;
7. walking wheels; and
8. exterior barn paint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018), amended LR 48:

§5740. Backside Internet Access

A. An association shall provide access to wireless internet on the backside free of charge to the horsemen and commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5742. Grandstand, Clubhouse, and Apron Areas

A. An association shall ensure that the grandstand is kept clean, in good repair, and properly ventilated for use by the public.

B. An association shall grant access for the general public to the grandstand and apron areas of its racetrack on live race

days, with all doors and gates unlocked, no later than one hour before post time of the first race of the day.

C. An association shall provide live pari-mutuel tellers at its racetrack betting windows and an open concession stand that sells programs and forms no later than one hour before post time of the first race of the day.

1. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

D. An association shall provide security personnel who are visible to the public no later than one hour before post time of the first race of the day.

E. An association shall ensure that all elevators and escalators are kept clean and in good working condition during any hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5745. Providing Concession and Restaurant Services

A. The operation shall be conducted so that all persons who patronize the respective tracks shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various tracks on each day that racing is conducted under the license, permit or privilege granted by the commission. Concessionaires vending any liquid refreshments shall not permit the surrender of glass containers to customers except in appropriate areas as designated by the association.

B. An association shall ensure that food and beverages are always available to guests at the racetrack during open hours of operation.

C. An association shall make a sit down dining experience available on weekend live race days and during stakes races.

D. An association shall provide tables and seats for guests to sit at and eat outside along the apron of the racetrack.

E. An association shall ensure that the racetrack kitchen and all cooking equipment are kept clean, in good repair, and fully operational during its race meets.

F. An association shall provide at least one quick service snack bar and a full service bar to be open during each live race day at least one hour before the first race and at least one hour after the last race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission LR 2:92 (March 1976), amended by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), LR 4:278 (August 1978), LR 11:6 (January 1985), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5756. Minimum Employment Requirements

A. An association shall maintain employees as follows.

1. Within 30 days after receiving the association's annual plan of operation per LAC 35:VII.5777, the commission shall determine in writing how many full-time and seasonal positions that the association will need to employ to operate the following during race meets:

- a. food service;
- b. marketing;
- c. pari-mutuel windows;
- d. kiosk repairs;
- e. racing officials; and
- f. racetrack maintenance.

2. Pari-mutuel tellers must be available at the ratio of 1 teller to every 50 guests on track with a minimum of 3 tellers in each betting area on the first floor and a minimum of 1 teller in each betting area on the clubhouse floors and private areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:147, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5758. Animals and Livestock

A. Trainers must have all animals and livestock, other than equines, approved by the racing secretary before being allowed on the backside, and the association must report those animals and livestock to the commission and require paperwork for all service animals before allowing them access to the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5760. Paddock

A. An association shall ensure that the paddock, paddock stalls, and parade ring are kept clean, in good repair, and free of dangerous surfaces on which horses and people can walk.

B. An association must provide an employee to remove horse manure from the paddock area during live racing in a timely manner.

C. All paddock stalls must have a working fan.

D. An association shall maintain healthy, well-groomed landscaping in the paddock area throughout live race meets.

E. An association shall ensure that trash cans are available in the paddock area and that trash cans are emptied and all litter on paddock area grounds is removed daily when horses are stalled on the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5762. Grass and Drainage Maintenance

A. An association shall keep all grass areas maintained with adequate grass cutting and weed eating.

B. An association shall maintain all drainage throughout the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5764. Surface of Race Course

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

E. An association must get a soil sample tested for its dirt course twice a year.

1. The test must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

F. An association must get its turf course inspected and evaluated twice a year.

1. The inspection and evaluation must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018), amended LR 48:

§5771. Minimum Infrastructure Investment Requirements

A. An association shall deposit 10 percent of its gross profits into a fund for infrastructure maintenance and improvements per R.S. 4:164.

1. These deposits shall occur at the same time as when the association's state taxes are paid each month.

2. The association shall continue depositing 10 percent of its gross profits until such time when the commission determines that the association has complied with all infrastructure maintenance and improvements as required by the commission in this Chapter.

a. When the commission, by majority vote, determines full compliance with its required infrastructure maintenance and improvements by the association, the association shall maintain a minimum fund balance of \$3,000,000.

b. When the commission determines full compliance with its required infrastructure maintenance and improvements by the association, the commission can authorize any of the following by two-thirds vote:

- i. exemption from maintaining fund balance,
- ii. exemption from making deposits, or
- iii. allow fund balance to be withdrawn

c. The commission, by majority vote, may reconsider prior determination of compliance and revoke any exemption or allowance granted to an association per this Subsection at any time.

d. There shall be an ongoing review, at least annually, by the commission to determine any additional required facility maintenance and improvements needed and to be required by the commission after obtaining input from associations and stakeholders.

3. The funds specified in this Subsection are subject to audit at any time by the commission and the legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5772. Minimum Marketing Investment Requirements

A. An association shall specify the total amount of funds that it will use for marketing and promotions for horse racing with its submitted annual plan of operation report per LAC 35:VII.5773.

1. The commission shall make a determination, by majority vote, whether the amount of funds specified by the association for marketing and promotions is acceptable or if the association must submit a new marketing plan with appropriate funding to comply with the commission's determination of compliance per LAC 35:VII.5771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5773. Association Annual Plan of Operation Report

A. An association shall provide an annual report to the commission, due by January 30 after each fiscal year ends starting with fiscal year 2022 due on January 30, 2023, regarding the association's plan of operation for the upcoming fiscal year to include details about:

1. customer service;
2. full-time and seasonal employment;
3. marketing and promotions for horse racing;
4. capital improvements;
5. facility maintenance;
6. facility improvements; and
7. a summary of the prior fiscal year's plan of operation implementation and status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5775. Association Quarterly Reports

A. The quarterly reports required each year under this Section shall be due within 20 days of the end of each quarter as follows.

1. Reports from January to March are due no later than April 20.

2. Reports from April to June are due no later than July 20.

3. Reports from July to September are due no later than October 20.

4. Reports from October to December are due no later than January 20.

B. Each association shall provide quarterly reports to the commission of the names and addresses of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in R.S. 4:158.2, to the association.

1. The reports must also specify whether or not the listed entities are any of the following:

- a. a registered Louisiana business;
- b. a female-owned business; and
- c. a minority-owned business.

C. Each association shall provide quarterly reports to the commission of the demographic information of its workforce, to include:

1. race;
2. gender; and
3. Louisiana residency.

D. Each association shall provide quarterly reports to the commission on its marketing plan, which shall include, but not be limited to, dollars spent on promotions, marketing and advertising broken down by racetrack and casino spending on the following:

1. television advertisements;
2. radio advertisements;
3. magazine advertisements;
4. billboard advertisements;
5. giveaways;
6. rewards; and
7. any other dollars spent on promotions, marketing; and advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:158.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5777. Broadcasting Live Races

A. An association shall ensure that televisions are broadcasting live races from its racetrack and are all in working operation adequately throughout the following areas operated by the association:

1. casino;
2. bars,
3. restaurants;
4. off-track betting areas;
5. track betting and viewing areas; and
6. in the backside track kitchen during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5779. Association Website Requirements

A. An association shall stream its live racing in real time with capabilities of replays for races in its current meet on its website and/or application for a smart television or provide a link on its website that allows viewing of live races and replays at no charge from a third-party provider.

B. An association shall provide technology that allows reservations to be made by guests and horsemen or shall provide on its website a phone number that will be answered by a live person to allow reservations to be requested and confirmed for guests and horsemen as follows:

1. from 8:00 AM to 6:00 PM on non-race days; and
2. from 8:00 AM through the last race being made official on race days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5781. Tote Boards

A. All associations must have a tote board in the infield and a tote board above the stalls in the paddock providing current odds and results during live racing.

1. All new tote boards installed after adoption of this Rule must have digital video capabilities.

2. All tote boards located in the infield must have landscaping approved by the commission at the same time as the association's race meet applications for licenses, dates, and wagering are considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5783. Winner's Circle

A. An association shall ensure that the winner's circle is kept clean, maintained, and upgraded as needed for safety and appearance.

B. An association must provide an employee to remove horse manure from the winner's circle in a timely manner during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5785. Parking Areas

A. All parking areas on association property, regardless of their location, must have drainage that removes all puddles caused by rain.

B. An association shall maintain healthy landscaping for every day of the year at all entry roads and parking areas.

C. On a regular basis, security personnel shall check all handicap parking spaces on association property for any cars parked without displayed handicap eligibility and shall ensure that no vehicles are blocking wheelchair access to handicap vehicles.

D. All parking must be appropriately and visibly marked for parking spaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5787. Maintenance Equipment

A. Each racetrack shall have a functioning rock picker attachment for tractors for removal of rocks and stones on racing surfaces.

B. Each racetrack that has at least one escalator on its premises shall have a functioning duplex escalator cleaning machine or similar equipment specifically made to clean escalators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5789. Off-Track Wagering Facilities

A. An association shall ensure that food and beverages are always available to guests at its off-track wagering facilities during open hours of operation.

B. All pari-mutuel wagering areas must have tellers or self-betting terminals to place bets, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

1. There must be a teller in close proximity that can cash tickets and take bets.

C. All off-track wagering facilities must be open and taking wagers during the hours that any racetrack in the United States is conducting live racing, except by agreement with the commission or its designee.

D. This Section lists the minimum requirements for off-track wagering facilities, and an association reserves the right to exceed these minimum requirements as allowable under the laws of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5791. Horse Move In and Move Out

A. An association shall be prepared and allow horses to move in to allotted stalls and train on its racetrack grounds no later than 30 days prior to the start of a race meet, unless ordered by the commission to be a longer period.

B. An association shall allow horses to stay housed in the allotted stalls and train on the racetrack grounds for at least 15 days after the end of a race meet, unless otherwise negotiated and in agreement with the Louisiana Horsemen's Benevolent and Protective Association

C. The commission may grant an exception to the arrival and departure dates set in this Section due to force majeure or other prohibitive circumstances on a case-by-case basis as requested by an association.

D. The Louisiana Horsemen's Benevolent and Protective Association may request an earlier arrival date or later departure date for horses with allotted stalls at a specified racetrack in writing to the association and the commission for consideration.

1. If the Louisiana Horsemen's Benevolent and Protective Association and the association reach an agreement on earlier arrival or later departure dates for horses, the association may charge a stall rate of \$8 per stall per day for the agreed-upon additional days, subject to annual review by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5793. Reporting Altercations

A. An association shall provide a written report of any physical altercation of which it has been made aware that occurs on its grounds to the commission within 5 days of incident.

1. The individuals involved in the reported physical altercation may be subject to immediate suspension by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

Charles A. Gardiner III
Executive Director