

TEXAS RACING COMMISSION

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Safety and Medication Working Group

Tuesday, August 06, 2019
10:30 A.M.

Texas Animal Health Commission
2105 Kramer Lane
Austin, TX 78758

The Safety and Medication Working Group will meet to discuss the following matters:

1. Update by Texas Animal Health Commission about equine infectious anemia, piroplasmiasis, anthrax, and vesicular stomatitis
2. Policy and rule changes regarding clenbuterol (Rule 319.3, Medication Restricted):
 - Enhancing the penalty to Class 1
 - No longer placing horses on the veterinarian's list for a positive finding
3. Policy and rule changes to prohibit the use of albuterol and enhance the penalty to Class 1 (Rule 319.3, Medication Restricted)
4. Policy change to require horses working off the veterinarian's list to have no detectable level of permissible therapeutic medications at the time of their work
5. Proposed rule change requested by Sam Houston Race Park to require horses placed on the veterinarian's list to remain on the list for at least seven days (Rule 319.102, Veterinarian's List)

CHAPTER 319 **VETERINARY PRACTICES AND DRUG TESTING**
SUBCHAPTER A **GENERAL PROVISIONS**
SECTION 319.3 **MEDICATION RESTRICTED**

1 (a) Except as otherwise provided by this section, a horse or greyhound participating in a
2 race may not carry in its body a prohibited drug, chemical, or other substance.

3 (b) Furosemide at or below the approved tolerance level in a horse that has been
4 admitted to the furosemide program is permissible. The maximum permissible
5 concentration shall be published on the list of therapeutic drugs posted under
6 subsection (c) of this section.

7 (c) Therapeutic drugs that are necessary for treatment of illness or injury in race animals
8 are permissible, provided that:

9 (1) the therapeutic drug is on a written list of permissible levels of therapeutic
10 medications that is approved by the executive secretary, maintained by the commission
11 veterinarian, and posted in the commission veterinarians' office; and

12 (2) the concentration of the drug does not exceed the maximum permissible
13 concentration on the written list of therapeutic drugs.

14 (d) Except as otherwise provided by this chapter, a person may not administer or cause
15 to be administered to a horse or greyhound a prohibited drug, chemical, or other
16 substance, by injection, oral or topical administration, rectal infusion or suppository,
17 nasogastric intubation, inhalation, or any other means during the 24-hour period before
18 the post time for the race in which the animal is entered.

19 (e) A positive finding by a chemist of a prohibited drug, chemical, or other substance in
20 a test specimen of a horse or greyhound collected on the day of a race, subject to the
21 rules of the commission relating to split specimens, is prima facie evidence that the
22 prohibited drug, chemical, or other substance was administered to the animal and was
23 carried in the body of the animal while participating in a race.

24 (f) Except as provided in paragraph (1) [~~(2)~~] of this subsection, clenbuterol and albuterol
25 are [~~is~~] prohibited and shall not be administered to a horse participating in racing at any
26 time.

27 ~~[(1) Any horse that is the subject of a finding by the stewards that a test specimen~~
28 ~~contains clenbuterol shall immediately be placed on the Veterinarian's List for not less~~
29 ~~than 60 days.~~

30 ~~(A) In order to have a horse removed from the Veterinarian's List after being~~
31 ~~placed on the list under this subsection, the trainer must contact a commission~~
32 ~~veterinarian to schedule a time and test barn location where the horse must be~~
33 ~~presented after the sixtieth day in order for a commission veterinarian to obtain test~~
34 ~~specimens to be submitted to the official laboratory for testing.~~

35 ~~(B) The cost of each test conducted under this section, including applicable~~
36 ~~shipping costs, shall be borne by the owner and must be paid in full at the time the~~
37 ~~specimens are shipped to the laboratory.~~

38 ~~(C) The collected specimens must not have any detectable level of clenbuterol. If~~
39 ~~no detectable level of clenbuterol is present, the horse shall be removed from the~~
40 ~~Veterinarian's List. If a detectable level of clenbuterol is present, then the horse shall~~
41 ~~remain on the Veterinarian's List until such time that a test specimen reveals no~~
42 ~~detectable level of clenbuterol.~~

43 ~~(D) A horse placed on the Veterinarian's List pursuant to this subsection may not~~
44 ~~be entered in a race until it has been removed from the list.]~~

45 (1) [(2)] A horse may only be administered clenbuterol or albuterol if:

46 (A) it ~~[the clenbuterol]~~ is prescribed by a licensed veterinarian;

47 (B) within 24 hours of initiating treatment, the trainer or owner has submitted to
48 the Commission a form prescribed by the Commission and signed by the veterinarian,
49 indicating:

50 (i) the name of the horse;

51 (ii) the name of the trainer;

52 (iii) the name of the veterinarian;

53 (iv) that the veterinarian has personally examined the horse and made an
54 accurate clinical diagnosis justifying the ~~[clenbuterol]~~ prescription;

55 (v) the proper dosage and route of administration; and

56 (vi) the expected duration of treatment; and

57 (C) only FDA-approved clenbuterol or albuterol that is labeled for use in the
58 horse is prescribed and dispensed.

59 (2) [~~(3)~~] A horse that has been administered clenbuterol or albuterol under paragraph
60 (1) [~~(2)~~] of this subsection shall be placed on the Veterinarian's List for a period ending
61 not less than 30 days after the last administration of the drug as prescribed, subject to a
62 negative test for clenbuterol, albuterol, or any other beta-agonist drug [~~test~~] before being
63 removed from the list.

64 (A) In order to have a horse removed from the Veterinarian's List after being
65 placed on the list pursuant to paragraph (1) [~~(2)~~] of this subsection, the trainer must
66 contact a commission veterinarian to schedule a time and test barn location where the
67 horse must be presented after the thirtieth day in order for a commission veterinarian to
68 obtain test specimens to be submitted to the official laboratory for testing.

69 (B) The cost of each test conducted under this section, including applicable
70 shipping costs, shall be borne by the owner and must be paid in full at the time the
71 specimens are shipped to the laboratory.

72 (C) The collected specimens must not have any detectable level of clenbuterol,
73 albuterol, or any other beta-agonist drug. If no detectable level of clenbuterol, albuterol,
74 or any other beta-agonist drug is present, the horse shall be removed from the
75 Veterinarian's List. If a detectable level of clenbuterol, albuterol, or any other beta-
76 agonist drug is present, then the horse shall remain on the Veterinarian's List until such
77 time that a test specimen reveals no detectable level of clenbuterol, albuterol, or any
78 other beta-agonist drug.

79 (D) A horse placed on the Veterinarian's List pursuant to paragraph (1) [~~(2)~~] of
80 this subsection may not be entered in a race until it has been removed from the list.

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: 11/14/2018

***Request for Proposed Change to an Existing Rule or
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules, and failure to complete all sections may delay consideration of your request.

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, TX 78754-4552
Phone: 512/833-6699 Fax: 512-833-6907
email: info@txrc.texas.gov

Contact Information:

Name:	Frank Hopf		
Phone Number:	281-807-8803	Fax number:	281-807-8720
Mailing address:	7575 N. Sam Houston Pkwy W. Houston, TX 77064		

Check appropriate box(es):

Personal Submission *OR*

Submission on Behalf of Sam Houston Race Park
(Name of Organization)

Proposed Change to (if known): Chapter: 319 Rule: 102

Proposed Addition to (if known): Chapter: _____ Rule: _____

Other Rules Affected by Proposal (if any): Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Statutory Authority for Proposed Change: _____

A. Summary of the Issue and Proposed Solution

1. Summarize the issue. Address the following:
 - Proposed rule would be inline with ARCI-010-015 Declarations and Scratches B. Scratches (5) (Page 236, Version 8.4 July 2018)
2. Summarize proposed solution(s). Address the following:
 - Sam Houston Race Park, Lone Star Park and Retama Park have moved to a 7 day entry schedule yet the rule was written when entry periods were 3 or 4 days out.

B. Impact of Proposal

Please answer the following questions to the best of your ability. Explain all “yes” answers below.

	Yes	No
1. Is this change likely to have any fiscal impact on state or local government over the next five years?		X
2. Is there likely to be any cost to persons or businesses required to comply with the change?		X
3. Is the change likely to result in the creation or elimination of a government program?		X
4. Is the change likely to create any new employee positions or eliminate any existing employee positions within the Texas Racing Commission?		X
5. Is the change likely to require an increase or decrease in future legislative appropriations to the agency?		X
6. Is the change likely to require a substantial increase or decrease in the total amount of fees paid to the agency?		X
7. Does the change create any new regulations or expand any existing regulations?		X
8. Is the change likely to increase the number of individuals subject to the rule's applicability?		X
9. Is the change likely to have an impact on the Texas economy?		X
10. Is the change likely to have a negative economic effect on small businesses?		X
11. Is the change likely to have a negative impact on micro-businesses (independently owned businesses with no more than 20 employees)?		X
12. Is the change likely to have a negative impact on the local economy?		X
13. Is the change likely to have a negative impact on rural communities (communities with a population of less than 25,000)?		X
14. Is the change likely to have a negative impact on employment conditions in Texas?		X
15. Is the change likely to restrict, limit, or impose a burden an owner’s right to his or her private real property?		X

16. Explain any “yes” answers, including estimates of cost where appropriate.

17. If you answered “yes” to any questions above, is there another way to achieve the same goal that would not result in a “yes” answer?

18. What is the anticipated public benefit of this change?

D. Support or Opposition

Please identify any affected stakeholder groups that expressed support or opposition. (These stakeholders may include the racetracks, breed registries, owners, kennel owners, trainers, jockeys, veterinarians, members of the public, or others.)

- Lone Star Park and Retama Park
- THP
- TTA
- TQHA

Are there any affected stakeholder groups that have not been consulted on this proposal?

- N/A

C. Proposal

Provide rule language you are proposing. Please show any language to be added with underlined text (example: new text) and any current rule language to be eliminated in brackets with strikethroughs (example: [~~text to be deleted~~]). To substitute text, show the new text first (example: new text [~~old text~~]).

(a) no change

(b) no change

(c) A horse that is placed on the veterinarian's list may not be removed from the list before the ~~fourth day~~ seventh day after the date the horse is placed on the list. A horse may be removed from the veterinarian's list only on demonstrating to the commission veterinarian that the horse is raceably sound and in fit physical condition to exert its best effort in a race.

(d) no change

(e) no change

CHAPTER 319

VETERINARY PRACTICES AND DRUG TESTING

SUBCHAPTER B

TREATMENT OF HORSES

SECTION 319.102

VETERINARIAN'S LIST

1 (a) The commission veterinarian shall maintain a veterinarians' list of the horses that are
2 ineligible to start in a race due to physical distress, unsoundness, or infirmity. The test
3 barn supervisor shall ensure that a current version of the veterinarian's list is posted
4 daily in the racing office.

5 (b) On a form prescribed by the executive secretary, the commission veterinarian shall
6 notify the racing secretary and the trainer of a horse placed on the veterinarian's list as
7 soon as practical after placing the horse on the list.

8 (c) A horse that is placed on the veterinarian's list may not be removed from the list
9 before the seventh [~~fourth~~] day after the date the horse is placed on the list. A horse
10 may be removed from the veterinarian's list only on demonstrating to the commission
11 veterinarian that the horse is raceably sound and in fit physical condition to exert its best
12 effort in a race.

13 (d) Before removing a horse from the veterinarian's list, the commission veterinarian
14 may require the horse to perform satisfactorily in a workout or qualifying race.
15 Performance in such a workout or qualifying race must be conducted in accordance with
16 §319.3 of this title (relating to Medication Restricted). The commission veterinarian may
17 require the collection of test specimens from a horse after a workout or race required
18 under this subsection. If a specimen is collected under this subsection, the commission
19 veterinarian may not remove the horse from the veterinarian's list until the results of the
20 test are negative.

21 (e) A workout for or an examination by a commission veterinarian in any pari-mutuel
22 jurisdiction will be recognized for the purposes of removing a horse from the
23 veterinarian's list.

Texas Government Code

Sec. 2006.002. ADOPTION OF RULES WITH ADVERSE ECONOMIC EFFECT. (a) A state agency considering adoption of a rule that would have an adverse economic effect on small businesses, micro-businesses, or rural communities shall reduce that effect if doing so is legal and feasible considering the purpose of the statute under which the rule is to be adopted.

(b) To reduce an adverse effect on small businesses and rural communities, as applicable, an agency may:

(1) establish separate compliance or reporting requirements for small businesses and rural communities;

(2) use performance standards in place of design standards for small businesses and rural communities; or

(3) exempt small businesses and rural communities from all or part of the rule.

(c) Before adopting a rule that may have an adverse economic effect on small businesses or rural communities, as applicable, a state agency shall prepare:

(1) an economic impact statement that estimates the number of small businesses or rural communities subject to the proposed rule, projects the economic impact of the rule on small businesses or rural communities, and describes alternative methods of achieving the purpose of the proposed rule; and

(2) a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule.

(c-1) The analysis under Subsection (c) shall consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses or rural communities, as applicable. The state agency must include in the analysis several proposed methods of reducing the adverse impact of a proposed rule on a small business or rural community.

(d) The agency shall include the economic impact statement and regulatory flexibility analysis as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and shall provide copies to:

(1) the standing committee of each house of the legislature that is charged with reviewing the proposed rule; and

(2) if feasible, each member of the legislature who represents a rural community adversely impacted by the proposed rule.

(e) This section does not apply to a rule adopted under Title 2, Tax Code.

(f) To reduce an adverse effect of rules on micro-businesses, a state agency shall adopt provisions concerning micro-businesses that are uniform with those outlined in Subsections (b)-(d) for small businesses.

(g) The attorney general, in consultation with the comptroller, shall prepare guidelines to assist a state agency:

(1) in determining a proposed rule's potential adverse economic effects on small businesses and rural communities, as applicable; and

(2) in identifying and evaluating alternative methods of achieving the purpose of a proposed rule.