

**Proposal by the  
Texas Quarter Horse Association  
to amend § 319.111, Bleeders and  
Furosemide Program**



Thursday, July 10, 2008

Charla Ann King  
Executive Director  
Texas Racing Commission  
P.O. Box 12080  
Austin, Texas 78711-2080

Dear Ms. King,

The Texas Quarter Horse Association respectfully requests the following rule change be considered at the next meeting of the Texas Racing Commission, Tuesday, August 5, 2008.

Sec. 319.111. Bleeders and Furosemide Program.

(b) Admission to Furosemide Program.

(1) A trainer may admit a horse to the furosemide program by stating at time of entry that the horse will compete with furosemide.

(2) A horse that competed with furosemide in its most recent start out-of-state must compete on furosemide in Texas unless withdrawn from the furosemide program at time of entry.

(3) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility listed in Subsection (g) of this section.

~~(3) An EIPH event experienced by a horse that is admitted to the furosemide program is deemed to be a second EIPH event for purposes of Subsection (g) of this section.~~

The proposed language in #3 is from the Racing Medication and Testing Consortium model rules under *Bleeder List*.

Thank you for your consideration of this request.

Sincerely,

Rob Werstler  
Executive Director

# Rule Adoptions

COMMENTS TO THE RULES BEGIN ON THE NEXT PAGE

1. Adoption of § 309.1, Racetrack Licenses
2. Adoption of § 309.7, Horse Racetrack Application Fees
3. Adoption of § 309.9, Denial, Suspension and Revocation of Licenses
4. Adoption of § 309.103, Construction and Renovation of Racetrack Facilities
5. Adoption of § 309.111, Comfort and Safety
6. Adoption of § 309.113, Accessibility by Disabled Persons
7. Adoption of § 309.114, Restrooms
8. Adoption of § 309.115, Refreshments
9. Adoption of § 309.116, Complaints
10. Adoption of § 309.117, First Aid
11. Adoption of § 309.118, Regulatory Office Space and Equipment
12. Adoption of § 309.120, Parking for Licensees
13. Adoption of § 309.123, Internal Communication System
14. Adoption of § 309.168, Hazardous Weather
15. Adoption of § 309.250, Test Barn
16. Repeal of § 309.251, Isolation Area
17. Repeal of § 309.252, Treatment Area
18. Adoption of § 309.253, Postmortem
19. Adoption of § 309.254, Equine Ambulance
20. Adoption of § 309.255, Chase Vehicle
21. Adoption of § 309.256, Starting Crew
22. Adoption of § 309.296, Official Program
23. Adoption of § 309.305, Starting Boxes
24. Adoption of § 309.309, Lockout Kennel
25. Adoption of § 309.311, Kennel Compound
26. Adoption of § 309.312, Turnout Pens
27. Adoption of § 309.314, Sprint Path
28. Adoption of § 309.317, Facilities and Equipment Maintenance Personnel



June 20, 2008

Charla Ann King  
Executive Director  
Texas Racing Commission  
P. O. Box 12080  
Austin, TX 78711-2080

Dear Ms. King,

We are in receipt of the documents related to the Texas Racing Commissions Rule Proposals. The Jockeys' Guild is in total support of the changes to the following three items:

- 309.117      First Aid
- 309.168      Hazardous Weather
- 309.256      Starting Crew

On behalf of the riders we appreciate your consideration. If I can be of any assistance please do not hesitate to contact us.

Sincerely,

Terence J. Meyocks  
National Manager  
The Jockeys' Guild

cc: John Beech

V-13

## **Comments to Chapter 309 Texas Racing Commission Rules** **Proposal Submitted by Retama Park**

309.7 The group agrees to the changes, however, the processing charge does not seem to adequately reimburse the commission for its staff time involved for a contested case but is too high for a non-contested case. We would recommend a \$25,000 fee for a non-contested case and that some discussion take place prior to setting a fee for contested cases.

309.9 The changes are acceptable

309.103 The group feels 30 days is an ample time period and objects to the proposed change to 60 days. Historically, this time period seems to have been adequate. A longer time period could serve to delay projects that are in the track's, patron's and/or licensee's best interest.

309.111 The group would like to know the reasoning for the change and what issues have arisen that make the change necessary. We have concern as to the interpretation of this rule and others that possibly change physical requirements for the facility.

309.113 The changes are acceptable

309.114 The group does not see the need for the added language with regard to licensees and restroom facilities and would like to know if there are existing facilities that are not in compliance with this proposal. The group objects to the last sentence of the proposed rule given that enforcement of the rule should come from the Health and Human Services. This department is better trained and equipped to handle inspections and determinations of adequacy of restroom facilities.

309.115 The group would like to know if staff deems all existing tracks to be in compliance of this proposed rule. The group is not agreeable to the change if it would require significant modifications to existing facilities. Specifically, does the rule require water fountains on the back side?

309.116 Changes to (a) and (b) result in the rule being overly broad. The existing (a) and (b) are adequate. The new 309.116 (c) (1) and (2) are acceptable. The new 309.116 (c)(3) seems to be overly burdensome and not necessary for staff to carry out its duties. Section 309 (c) (4) is acceptable.

309.117 The changes are acceptable.

309.118 The group would like a statement from staff as to the compliance of existing facilities with this rule prior to agreeing to the changes. 309.118 (e)(7) is not acceptable due to the lack of specificity in terms of numbers of desks, file cabinets and chairs. Section 309.118 (g)(5)(A)-(H) all are overly broad and needs specificity. Section 309.118(i) (2) is objectionable as using codes allow track's to identify costs. 309.118 (i)(3) is not acceptable as the tracks should not bear responsibility for getting listings for the commission.

309.119 The changes are acceptable

309.120 The changes need to be further defined. Where does the "lighted" parking area need to be, to what extent should the parking area be "lighted" and who is now in compliance?

309.123 The changes are acceptable.

309.151 The changes are acceptable.

309.168 The changes are totally unacceptable. We do not want to become meteorologists. Note 309.168 (b) (2) is already covered by a track's security plan.

309.250 Subject to knowing whether current tracks are in compliance with the revised rule, the proposed rule is acceptable. We would like to know what problems have lead to this proposal.

309.251 Acceptable

309.252 Acceptable

309.253 Acceptable

309.254 Acceptable

309.255 Acceptable

309.256 The changes are not acceptable particularly for thoroughbred racing.

Our starters do an excellent job of knowing how to handle loading without having one starter per horse. Starters know which horses are problems. Starters in Texas are also good at knowing who is qualified to load and having a one starter per horse rule increases the odds that someone who is unqualified will be handling a horse. We are concerned as well that this could lead to tracks reducing the number of starters per race which negatively impacts racing opportunities. Finally, having a wide range of horses in a race would mean that for most races there would be several assistants not doing anything for many of races on a card. Would a horse need to be scratched to bring the track in compliance with this rule?

309.296 The addition of 309.296 (a) (2) (F) is acceptable subject to verifying that our software can produce this information. The new 309.296 (a) (2) (G) is not useful information and therefore it is objectionable.



July 25, 2008

Mr. Mark Fenner  
General Counsel  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin Texas 78754

Dear Mark:

Sam Houston Race Park would like to offer the following comments on the proposed Changes to TXRC Chapter 309, as posted in the *The Texas Register*, in accordance with the Administrative Procedure Act.

**Chapter 309. Race Track Licenses and Operations**  
**Subchapter B. Operations of Racetracks**

- 309.103 (b) – Construction and Renovation of Racetrack Facilities
  - Concern - Sam Houston Race Park feels that 30 days is ample time to review projects and that the proposed 60 days would only delay projects that are in the patron's and Park's best interest. Racetracks typically have very small windows of time to complete projects (ex. between meets) and a longer review process would result in a smaller and sometimes impossible window of time to complete the necessary work.
  - Possible Solution - At the last Commission meeting, it was suggested by staff that 60 days would be beneficial for reviewing the plans of new racetrack facilities. Therefore, we would suggest that the 60 day window be limited to new facilities and that the 30 day window remain for facilities already in existence.
  
- 309.111 (a) – Comfort and Safety
  - Concern - Sam Houston Race Park does not understand the need for this change. Are there differing degrees of comfort and safety in public areas for licensees than what would be acceptable to patrons? Also we have concerns about how this rule could be interpreted.
  - Possible Solution – Rule to remain unchanged.
  
- 309.115 – Refreshments
  - Concern - Sam Houston Race Park does not agree with this change if it requires the installation of additional water fountains in the stable. Additionally we do not feel the rule change is definitive, and subjective to interpretation.
  - Possible Solution – Rule only to delete words "and other refreshments."

- 309.116 – Complaints
  - Concern - Sam Houston Race Park feels the definition in (a) and (b) is not clearly defined and would only impose burdensome paper work for Sam Houston Race Park and Commission staff. As operators of Racetracks it is in our best interest to respond to patrons and licensees and address concerns in a timely manner and we intend to do so. However, the language in section c(3) does not seem necessary for racing commission staff to fulfill their obligations to the State.
  - Possible Solution – Rule to remain unchanged.
  
- 309.118 - Regulatory Office Space and Equipment
  - Concern - Sam Houston Race Park would like more explanation for some of these changes. While some changes may be necessary with new facilities coming on line others could be burdensome to existing facilities.
  - Possible Solution(s) – Generally, a statement as to compliance of existing facilities would be helpful. Current facilities were built in a different era with different expectations and some of the items outlined could prove costly. Specifically, in section 309.118(e)(7), we would prefer the required numbers in lieu of objective statement such as adequate be provided. Specifically, in section 309.118(i)(2), permitting local and long distance calling without authorization codes exposes the association to numerous issues including unauthorized calling, long distance charges and inappropriate destinations. Specifically, in section 309.118(i)(3), to be listed in the governmental section of the local telephone directory, is unrealistic as a metropolitan area the size of Houston has numerous phone directories.
  
- 309.120 – Parking for Licensees
  - Concern - Sam Houston Race Park feels this change needs clarification. Is the lighting currently provided (same as the public lots) adequate for this section?
  - Possible Solution – A statement of compliance from Commission staff
  
- 309.168 – Hazardous Weather
  - Concern - Sam Houston Race Park strongly disagrees with these requested changes as during the summer months our region is blanketed almost daily with thunderstorm warnings and watches which are issued on a county wide basis. According to the U.S. Census Bureau, Harris County where Sam Houston Race Park is located, has a total area of 1,778 square miles making section 309.168(b)(2) particularly burdensome.
  - Possible Solution – Sam Houston Race Park would be happy to provide an emergency response plan for hazardous weather that addresses the procedures for our facility for approval by Commission staff. As operators of a live entertainment facility, this is something we take very seriously and believe we should be responsible for handling.

**Chapter 309. Race Track Licenses and Operations**  
**Subchapter C. Horse Racetracks**

- 309.294 – Starting Crew
  - Concern - Sam Houston Race Park does not see the need for this change as we typically strive to provide one additional assistant starter than the number required by the change. However, on the rare occasion that several assistants become injured or are prohibited from working, these changes could restrict the number of racing opportunities for the horsemen as well as limit wagering interest for patrons.
  - Possible Solution – Rule to remain unchanged.

Sam Houston Race Park would like the opportunity to visit with Commission staff to understand how we can address some of the items raised in this letter and at the last commission meeting in June 2008. Subsequently, we feel the adoption of these rules are premature and ask that we be allowed more time to discuss the possible impact of these rules changes.

Please let me know if you have any questions or concerns.

Sincerely,



Andrea B. Young  
Chief Operating Officer

**Texas Greyhound Association**  
**Comments to Proposed 309 (D) Rules Changes**

**RULE §309.305 Starting Boxes**

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- (a) An association shall provide and maintain at least two starting boxes approved by the executive secretary. Each starting box must be equipped with an automatic opener with a manual back-up.
- (b) The association shall periodically inspect each starting box to ensure its safe and effective operation. ~~When the track is being used for racing or schooling, the association shall have at least one person present on association grounds who is skilled and qualified to maintain the starting boxes.~~
- (c) An association shall ensure that the starting box located at the five- sixteenths start is set back in the chute.

**Comments:**

The TGA has no objection to this proposed rule change.

- (a) An association shall provide a lockout kennel that:
- (1) is soundproof, to prevent noise from disturbing the greyhounds that are waiting to race;
  - (2) is air-conditioned sufficiently to maintain a temperature between 68 and 75 degrees Fahrenheit;
  - (3) has sealed or ceramic floors and walls to permit proper cleaning and disinfection. ~~;~~ and
  - (4) ~~has a one-way viewing window to allow the trainers to view the interior of the lockout kennel.~~
- (b) Each crate located in the lockout kennel must:
- (1) be constructed of a smooth, hard material, such as stainless steel or tile;
  - (2) be at least three feet wide, four feet deep, and four feet high;
  - (3) be constructed so that the crate floor is not in direct contact with the concrete surface;
  - (4) be located on the floor level to prevent greyhounds from sustaining jumping injuries; and
  - (5) have a drop latch on the door.
- (c) An association shall provide a comfortable room near adjacent to the lockout kennel in which a kennel owner or trainer may view the race. The association shall also provide kennel owners and trainers a method for monitoring the interior of the lockout kennel and behind the starting box as approved by the executive secretary. and view the interior of the lockout kennel.
- (d) An association shall provide an area adjacent to the lockout kennel in which a greyhound can wait to weigh-in and cool down following a race or wait for schooling races. The area must:
- (1) be large enough to comfortably accommodate 100 greyhounds and the leadouts and trainers;
  - (2) be adequately shaded and fenced to shield the greyhounds' view of the racetrack;
  - (3) have eight water faucets with hoses;
  - (4) have a disinfected dipping vat, approved by the Commission veterinarian, through which a greyhound may be walked to assist in cooling down following a race; and
  - (5) have adequate drainage.

**Comments:**

The TGA would like the association to provide to the trainers a view of the greyhounds as they are loaded into the starting boxes.

**RULE §309.311    Kennel Compound**

(a) An association shall provide in the kennel compound area:

~~(1) not more than 18 separate kennel buildings for the kennel owners under contract with the association; and~~

~~(2) a separate kennel building for greyhounds that will be participating in stake races, designed to accommodate several trainers and their greyhounds.~~

**Comments:**

The TGA disagrees with the proposed change.

It has always been an important principle to the TGA that any licensed owner of a Texas-bred greyhound may run his/her greyhound in a Texas-bred stakes race at a Texas race track and provide its own care, trainer and handler. Without a stakes kennel, a "ship-in" would be forced to house their greyhound with an existing contracted kennel, leaving the greyhound in that kennel's care and control, even though the contracted kennel may have competing entries itself.

The three existing racetracks all have stakes kennels now. Although a stakes race has not been held to date that would be of the magnitude to draw many entries that are running out-of-state, the potential remains. The TGA would like this rule unchanged at the present time.

## RULE §309.312 Turnout Pens

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Each kennel building must have at least three turnout pens. Each pen must:

- (1) be free of any obstructions;
- (2) measure at least 20 feet by 40 feet;
- (3) have gates that connect to the other pens;
- (4) have at least a 15 foot overhang from the building;
- (5) have at least two halogen lights of 300 watts each located at each end;
- (6) be surrounded by a fence at least six feet high, of which the lower 32 inches is constructed of cinder block or a comparable material and the remaining portion is constructed of chain link;
- (7) have a gate adequate to accommodate a vehicle to remove the sand and deposit new sand;
- (8) have adequate water faucets and drainage; and
- (9) have sand or a comparable material of a depth approved by the executive secretary that is maintained in a sanitary state. a minimum of 12 inches of sand or a comparable material that is replaced at least every 3 months.

### Comments:

The TGA recognizes the significant expense to the associations and the inconvenience to the kennels under the current requirement. However, it does believe that the proposed change does not sufficiently address its concern on sanitary maintenance. The three racetracks also have different drainage systems, which affects maintenance.

The TGA proposed an annual change of sand to the racetracks, rather than every 3 months. After discussion with the associations, the TGA proposes the following:

- (8) have adequate water faucets;
- (9) have a drainage system approved by the executive secretary; and
- (10) have sand or a comparable material of a depth approved by the executive secretary that is maintained in a sanitary state subject to periodic evaluation conducted by the commission veterinarian.

## RULE §309.314 Sprint Path

An association shall provide, for every ~~three~~ five occupied kennel buildings, a sprint path located adjacent to the kennel compound area. The sprint path must:

- (1) be at least 30 feet wide and 400 feet long;
- (2) be divided down the middle by a chain link fence;
- (3) have at least one gate on each end for entering or exiting with greyhounds;
- (4) have a driveway along the side;
- (5) have a base and surface comparable to the racetrack surface; ~~and~~
- (6) have a highly visible material at both ends; ~~and be maintained by the association at all times.~~
- (7) be maintained by the association at all times.

### Comments:

The TGA recognizes that the 18 kennel buildings are not currently occupied and not all of the required sprint paths are currently used. Under the existing rule, all of the sprint paths are to be maintained. However, the number of sprint paths per kennel would be necessary if the buildings reach full occupancy in the future.

The TGA would like the current rule of providing a sprint path for every 3 kennels unchanged, but suggest adding the word "occupied" before kennels, thus reducing the associations' maintenance requirements under the current circumstances.

The TGA agrees with the addition of visible material at both ends of a sprint path.

## RULE §309.317 Facilities and Equipment Maintenance Personnel

When the track is being used for racing or schooling, the association shall have at least one person present on association grounds who is skilled and qualified to maintain the starting boxes, the racing surface, and all track equipment.

**Comments:**

The TGA agrees with the proposed change.

**RULE §309.355      Grading System**

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- (a) The racing secretary for an association shall grade the greyhounds for the races in accordance with this section.
- (b) Before the first day of a race meeting, the racing secretary shall classify the greyhounds and assign an appropriate grade. In assigning the grades, the secretary shall consider the greyhound's past performances.
- (c) The racing secretary shall use seven grades of AA, A, B, C, J, D, and M. Grade M is for maidens of any age and Grade J is for winning maidens.
- (d) The racing secretary shall lower a greyhound to the next lower grade, including lowering a grade J to a grade D, if the greyhound:
- (1) fails to finish in the top three positions in three consecutive starts;
  - (2) fails to earn better than one third place finish in four consecutive starts; or
  - (3) fails, as a Grade C or J, to finish in the top four positions in four consecutive starts
- (e) The racing secretary shall advance a greyhound that wins a race graded A, B, C, J, or D.
- (f) The racing secretary shall advance a greyhound that wins a maiden race to Grade J. The racing secretary shall advance a greyhound that wins a Grade J race to Grade C. On request by a kennel owner or trainer, the racing secretary may advance a greyhound that finishes second, third, or fourth in a maiden or a Grade J race to Grade D or C. For a greyhound regraded on request under this subsection, an association shall place the letter "M" or "J" after the greyhound's name in the racing program.
- (g) A greyhound that fails to finish in the top four positions in four consecutive starts in Grade D may requalify and, at the discretion of the racing secretary, be returned to the active list. If a greyhound fails to finish in the top four positions in four consecutive starts for a second time in the same race meeting, at the discretion of the racing secretary, that greyhound may requalify again; however, when the greyhound returns to the active list, that greyhound has two consecutive starts to finish in the top four positions. If the greyhound fails to do so, then that greyhound shall be dropped from further racing during the current race meeting.
- (h) A greyhound that falls in a race is considered a starter in that race and shall comply with the conditions set forth in subsection (d) of this section, unless lowering the greyhound would require the greyhound to be dropped from further racing in that race meeting.
- (i) For a greyhound that transfers to the racetrack from another racetrack during a race meeting, the racing secretary shall assign a grade that is appropriate for the greyhound's ability considering the competition at the racetrack and at the racetrack from which the greyhound transfers.
- (j) The racing secretary may regrade a greyhound that has not raced for at least 30 days.
- (k) During a greyhound's first three starts, the racing secretary may regrade the greyhound only once and only to a next higher or lower grade level.
- (l) The racing secretary may schedule up to eight mixed grade races each week. A mixed grade race must be designated by the letter "T" in the racing program.
- (m) A stake race must be designated by the letter "S" in the racing program.
- (n) An association may not require a kennel owner to furnish a greyhound of a specific grade or for a specific distance.
- ~~(o) A greyhound that has advanced from Grade M and has been dropped from further racing without winning another official start may be requalified after a period of 30 days.~~

(p) If a maiden fails to finish in the top four positions in six consecutive starts, the maiden may not race again at the race meeting until it requalifies. If the maiden fails to finish in the top four positions in the two starts after requalifying, the maiden may not race again at the race meeting.

**TGA Comments:**

The proposed changes to (c), (d)(3), and (f) will keep more greyhounds on the active list. Paragraph (o) is redundant.

**RULE §309.363      Official Program**

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(a) For each race day, an association shall prepare and print an official program. The official program must contain the order of the races on that day, the distance and track record for each race, and the names of the greyhounds scheduled to run in each race, in order of their post positions. The post positions must be designated by numbers placed at the left and in line with the names of the greyhounds.

(b) The official program must contain at least two past performances for each greyhound scheduled to race. The program must also contain, for each greyhound scheduled to race:

- (1) the name;
- (2) color;
- (3) sex;
- (4) date of whelping;
- (5) breeding;
- (6) established racing weight;
- (7) number of starts in official races;
- (8) number of times finishing first, second, and third;
- (9) name of owner and lessee, if applicable;
- (10) name of trainer; ~~and~~
- ~~(11) other information to enable the public to properly judge the greyhound's ability.~~
- (11) the Texas-bred emblem if the greyhound is an Accredited Texas-bred; and
- (12) other information to enable the public to properly judge the greyhound's ability.

(c) If the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times under the new name.

**TGA Comments:**

The Texas-bred emblem assists the TGA in its preparation of Owner Awards, plus it is informative to the public and promotes greyhound ownership.

**RULE §309.307    Lures**

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An association shall provide an inside dual equipped lure with an extendable arm and an audible squawker.

TGA Comments:

While greyhounds chase by sight, the noise from a squawker is also an aid, particularly for younger greyhounds.

**RULE §309.316    Emergency Care Facility**

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An association shall provide a veterinary facility to provide emergency care to injured or stressed animals. The association shall equip and maintain the facility with the equipment, including an x-ray machine, and materials approved by the Commission veterinarian.

**TGA Comments:**

When an injury occurs on the racetrack, an immediate diagnosis is critical to the greyhounds' treatment and care, as well as an accurate injury report.

## **RULE §315.1 Required Officials**

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(a) The following officials must be present at each greyhound race conducted in this state:

- (1) three racing judges;
- (2) a commission veterinarian;
- (3) an association veterinarian;
- (4) a racing secretary;
- (5) an assistant racing secretary;
- (6) a paddock judge;
- (7) a starter;
- (8) a clerk of scales;
- (9) a mutuel manager;
- (10) a chart writer;
- (11) a photofinish operator and timer;
- (12) a kennel master; ~~and~~
- (13) a mechanical lure operator;
- (15) a track superintendent; and
- (16) a brakeman.

(b) An individual may not serve as an official unless the individual has been approved by the executive secretary. Not later than the 30th day before the first day of a race meeting, an association shall submit to the executive secretary the name of each individual and qualified substitutes appointed to serve as an official at the race meeting and a summary of the proposed official's qualifications. The executive secretary may refuse to approve an individual as an official if the executive secretary determines the individual lacks sufficient qualifications to perform the duties of the official position. If the executive secretary determines that an individual is qualified to perform the duties required of the official position for which the individual is submitted and may be issued a license by the Commission, the executive secretary shall approve the appointment of the individual.

(c) The executive secretary may rescind the approval of an official if the executive secretary determines that:

- (1) the official has violated the Act or a rule of the commission;
- (2) the official has not fulfilled the duties of the position for which the official was appointed; or
- (3) the official has engaged in conduct that is inconsistent with the duties of the official and that is not in the best interests of racing.

### **TGA Comments:**

The TGA feels it is important to add a track superintendent as a required official as it is arguably the most important job at the racetrack. A brakeman also plays an

important role in the safety of the racetrack, and both should be designated and qualified for their positions.

**RULE §315.43. Track Superintendent.**

The track superintendent shall ensure that the racetrack is properly maintained. The track superintendent shall ensure that all track equipment is operable for all races and during training hours.

**RULE §315.44. Brakeman.**

The brakeman shall ensure that the lure is stopped on the designated revolution on the racetrack at the end of each race.

**TGA Comments:**

Both of these new rules add the description and basic responsibilities of the two required officials.

**David J. Freeman**  
**3300 Killingsworth Lane, Lot 262**  
**Pflugerville, Texas 78660**

July 24, 2008

Ms. Gloria Giberson  
Texas Racing Commission  
8505 Cross Park Drive, Ste. 110  
Austin, TX 78754

Re: Written Comments on Rules Amendments Published June 27, 2008

The main focus of the attached comments pertain to Rules Sec. 309.7, *Racetrack Application Fees*. However, many of the proposed amendments will require racing associations to incur substantial costs to renovate their respective facilities, to purchase specialized equipment, and to add personnel to their payrolls. Accordingly, the proposed amendments will have adverse economic effect on small and micro-businesses and, therefore, an economic impact statement and a regulatory flexibility analysis should be required. It would be prudent for the Racing Commission to examine the economic impact statement and the regulatory flexibility analysis prior to final adoption of any rule which would require capital investment on the part of a racing association.

Of particular concern is the immense increase in racetrack license application fees, especially for Class 2 licenses. The proposed changes to Rules Sec. 309.7(a)(1) provides the Racing Commission with the mechanism to charge additional funds to a license applicant, beyond the amount it has deposited, for processing the application. Accordingly, increasing the required deposit amount is effectively rendered moot by the Commission's ability to collect for actual costs it has expended.

The Commission Staff has recommended increasing the Class 1 license application fee by \$100,000. Inasmuch as the statutory limit of three Class 1 licenses have been awarded, it appears that the increase is unnecessary. Staff has proposed increases in the processing fees for Class 3 and Class 4 licenses although there has not been an application made for either of those category of licenses for over 15 years. It is apparent that the proposed increases are targeted at Class 2 license applications. Staff has claimed that it cost more than \$20,000 (the current fee) to process each license application for three Class 2 licenses that were awarded in 2007. The proposed increase would suggest that it cost \$75,000 for each Class 2 application it processed. Prior to the adoption of the proposed rules changes increasing the application fees, I respectfully suggest that Staff provide the Commission with records of actual expenditures it incurred for processing the applications of the licenses awarded in 2007.

Finally, with the likelihood of the Lawley Group and of Trinity Meadows Raceway, Inc. prevailing in their current lawsuits, it appears that the increase for processing a Class 2 license application is directly targeted at a specific entity. Staff will likely make the argument that the increase affects any potential applicant. On its face that would be true. However, considering Staff's efforts keep Trinity Meadows from being able to submit a Class 2 license application, recent suggested rules amendments, and actions taken by the Sunset Advisory Committee, the Commission seems to be working towards reducing the current number of Class 2 licenses and ensuring that no more will be issued. Raising the current Class 2 license processing fee from \$20,000 to \$75,000, without providing records of prior expenditures, can be construed as serving as a deterrent for submitting a license application and, worse, as a blatant discriminatory act towards one entity, namely Trinity Meadows.

Increases in racetrack license processing fees are unnecessary.

Please confirm that all Commissioners will receive a copy of this comment letter prior to the meeting on August 5, 2008.

Sincerely,

  
David J. Freeman

c: Brent Hamilton

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1 **309.1. Racetrack Licenses.**

2 (a) (No change.)

3 (b) Duration of License. A racetrack license is perpetual.

4 The Commission may suspend or revoke a license in  
5 accordance with the Act and these rules. By agreement with  
6 the Commission, an association may voluntarily surrender a  
7 racetrack license for suspension or revocation.

8 (c)-(d) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1           **309.7. Horse Racetrack Application Fees.**

2       (a) General Provisions.

3           (1) An applicant for a license must submit with the  
4 application documents an application or license fee in an  
5 amount set by the Commission.

6           (2) The application fee for a racetrack license must  
7 be in the form of a certified check or cashier's check.

8       (b) Application Fees.

9           (1) The application fee for a ~~horse~~ racetrack license  
10 is composed of a processing charge, a variable  
11 investigation charge, and a variable hearing charge. The  
12 processing charge is the amount needed by the Commission to  
13 cover the administrative costs of processing the  
14 application. set to cover administrative costs. The  
15 investigation charge is the amount needed by the Commission  
16 to cover the costs incurred by the Department of Public  
17 Safety and Commission staff for conducting the background  
18 investigation on the applicant. The hearing charge is the  
19 amount needed by the Commission to pay for the State Office  
20 of Administrative Hearings, legal and court reporting  
21 services for conducting a hearing on the application. An  
22 applicant for a ~~horse~~ racetrack license must pay all  
23 charges contemporaneously with filing the application. The  
24 failure to pay the total amount of the application fee may  
25 result in the application being summarily denied by the  
26 Commission or an administrative law judge. The Commission  
27 shall hold the application fee in the state treasury in a  
28 suspense account. The Commission may transfer the  
29 processing funds due to the Commission to the Texas Racing  
30 Commission Fund as costs are incurred. If the application  
31 is not certified as completed under § 309.3(d) of this  
32 chapter, the Commission shall return the investigation  
33 charge and hearing charge, as well as any part of the  
34 processing charge that exceeds the actual administrative  
35 costs to the Commission of processing the application. If  
36 the application is certified as complete, the Commission  
37 shall hold the investigation charge and hearing charge in  
38 the state treasury in a suspense account. Not later than  
39 five business days after the date the Commission order on  
40 the application is final and unappealable, the Commission  
41 shall transfer the remaining suspense funds due to the  
42 Commission to the Texas Racing Commission Fund. If the  
43 actual costs to the Commission of processing the  
44 application, conducting the investigation or paying for the  
45 hearing exceed the amount deposited for the applicable

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1 charge, the applicant shall pay the remaining amount not  
2 later than 10 business days after receipt of a bill from  
3 the Commission. If the costs of processing the application,  
4 conducting the investigation or paying for the hearing are  
5 less than the amount of the charge, the Commission shall  
6 refund the excess not later than 10 days after the  
7 Commission order on the application is final and  
8 unappealable.

9 (2) The amount to be deposited for the processing  
10 charge for a horse racetrack license application is:

- 11 (A) for a Class 1 racetrack, ~~\$50,000~~ \$150,000;
- 12 (B) for a Class 2 racetrack, ~~\$20,000~~ \$75,000;
- 13 (C) for a Class 3 racetrack, ~~\$3,000~~ \$25,000; and
- 14 (D) for a Class 4 racetrack, ~~\$1,500~~ \$10,000.

15 (3) The amount to be deposited for the investigation  
16 charge for a horse racetrack license application is:

- 17 (A) for a Class 1 racetrack, \$25,000;
- 18 (B) for a Class 2 racetrack, \$15,000;
- 19 (C) for a Class 3 racetrack, \$1,500; and
- 20 (D) for a Class 4 racetrack, \$1,000.

21 (4) The amount to be deposited for the hearing charge  
22 for a horse racetrack license application is:

- 23 (A) for a Class 1 racetrack, \$15,000;
- 24 (B) for a Class 2 racetrack, \$8,000;
- 25 (C) for a Class 3 racetrack, \$1,500; and
- 26 (D) for a Class 4 racetrack, \$1,000.

27 (5) The amount to be deposited for the processing  
28 charge for a greyhound racetrack license application is  
29 \$150,000.

30 (6) The amount to be deposited for the investigation  
31 charge for a greyhound racetrack license application is  
32 \$25,000.

33 (7) The amount to be deposited for the hearing charge  
34 for a greyhound racetrack license application is \$15,000.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1 **309.9. Denial, Suspension and Revocation of Licenses**

2 (a) (No change.)

3 (b) Grounds for Denying, Suspending, and Revoking Licenses.

4 (1)-(5) (No change)

5 (6) Minimum Age, or Otherwise Ineligible. A license  
6 may be denied, suspended or revoked if it is determined  
7 that the licensee:

8 (A) has not attained the minimum age necessary to  
9 purchase alcoholic beverages in Texas; ~~or~~

10 (B) is in the habit of using alcoholic beverages  
11 to an excess or uses a controlled substance as defined  
12 in Chapter 481, Health and Safety Code, or a dangerous  
13 drug as defined in Chapter 483, Health and Safety  
14 Code, or is mentally incapacitated;

15 (C) has improperly used a license certificate,  
16 credential, or identification card issued under this  
17 Act; or

18 (D) ~~(B)~~ through a change in ownership, would be  
19 ineligible to be issued a license.

20 (7) (No change.)

21 (8) Unqualified. A license may be denied, suspended or  
22 revoked if the Commission determines that the licensee is  
23 unqualified, by experience or otherwise, to perform the  
24 duties required of a licensee under the Act or the Rules.

25 (9) Moral Character and Reputation. A license may be  
26 denied, suspended or revoked if the Commission determines  
27 that the licensee is not of good moral character or the  
28 licensee's reputation as a peaceable, law-abiding citizen  
29 in the community where the licensee resides is bad.

30 (10) Ownership. A license may be denied, suspended or  
31 revoked if it results or would result in a person owning  
32 more than a five percent interest in more than three Texas  
33 racetrack licenses.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
General Provisions

1 **309.103. Construction and Renovation of Racetrack**  
2 **Facilities.**

3 (a) (No change.)

4 (b) Review of construction plan.

5 (1) At least ~~30~~ 60 days before the date an association  
6 proposes to start a racetrack construction project, the  
7 association shall submit a construction plan to the  
8 executive secretary. The construction plan must be in  
9 sufficient detail for the executive secretary to determine  
10 whether the proposed project complies with all applicable  
11 Commission rules.

12 (2)-(3) (No change.)

13 (c)-(e) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.111. Comfort and Safety.**

2 (a) An association shall ensure that the public areas of  
3 the association grounds are designed and maintained for the  
4 comfort and safety of the patrons and licensees.

5 (b) An association shall designate as a non-smoking area a  
6 portion of each of the public areas on association grounds.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.113. Accessibility by Disabled Persons.**

2 (a) An association shall ensure that all public areas of  
3 the association grounds are accessible by disabled persons  
4 in accordance with standards adopted for public buildings  
5 under Texas Government Code, Chapter 469. Civil Statutes,  
6 Article 9102.

7 (b) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.114. Restrooms.**

2 An association shall provide and maintain restroom  
3 facilities which are adequate in number, design,  
4 construction, and location for all persons on association  
5 grounds, including licensees within the restricted non-  
6 public areas of the enclosure. Restroom facilities shall  
7 conform to the general standards as detailed in the Texas  
8 Administrative Code, Title 25, Chapter 265, Department of  
9 State Health Services.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.115. Refreshments.**

2 An association shall provide an adequate supply of free  
3 drinking water ~~and other refreshments~~ for the patrons and  
4 licensees.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.116. Complaints.**

2 (a) An association shall provide an office to handle  
3 complaints. ~~regarding the association facilities or an~~  
4 ~~alleged violation of the Act or the Rules.~~

5 (b) An association shall respond promptly to all complaints  
6 by patrons and licensees. ~~regarding the association~~  
7 ~~facilities.~~

8 (c) An association shall promptly notify the executive  
9 secretary of a complaint regarding:

10 (1) an alleged violation of the Act or a rule of the  
11 Commission;

12 (2) an alleged violation of ordinances or statutes;

13 (3) accidents or injuries; or

14 (4) unsafe or unsanitary conditions for patrons,  
15 licensees or race animals.

16 (d) An association's responsibility to respond to  
17 complaints under subsection (b) of this section is  
18 independent of the association's responsibility to notify  
19 the executive secretary under subsection (c) of this  
20 section.

21 (e) ~~(d)~~ An association shall maintain a record of each  
22 complaint received and the action taken by the association  
23 regarding the complaint for two years.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.117. First Aid.**

2 (a) At all times that an association is open to the public,  
3 the association shall provide a first aid room equipped  
4 with appropriately qualified personnel and equipment  
5 suitable to respond to medical emergencies of its patrons  
6 and licensees. Qualified personnel are those individuals  
7 certified in basic cardiac life support and first aid in  
8 conformance with accepted guidelines for emergency care and  
9 resuscitation.

10 (b) During a live race meeting, a horse racing association  
11 shall provide a properly equipped and staffed ambulance for  
12 humans and the services of a certified paramedic at any  
13 time that the racetrack is open for racing or exercising.  
14 At a Class 1 or 2 racetrack, the ~~primary~~ ambulance must be  
15 a Mobile Intensive Care Unit (MICU) certified by the Texas  
16 Department of Health. If the MICU ambulance is used to  
17 transport an individual, the association may not conduct a  
18 race until the ambulance returns or is replaced by a  
19 properly equipped, staffed, and certified MICU ambulance.  
20 ~~by an ambulance approved by the executive secretary.~~ The  
21 ambulance must be parked at the entrance to the racing  
22 strip when not being used to transport an individual.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 **309.118. Regulatory Office Space and Equipment.**

2 (a) An association shall provide adequate office space for  
3 the use of the stewards or racing judges, occupational  
4 licensing personnel, the Commission's investigative unit,  
5 the pari-mutuel auditing staff and the staff employed by  
6 the comptroller, the Commission veterinary and drug testing  
7 staff, and the Department of Public Safety. The location  
8 and size of the office space, furnishings, electrical  
9 outlets, telephone lines, television monitors, and  
10 equipment required under this section must be approved by  
11 the executive secretary.

12 (b)-(c) (No change.)

13 (d) The office for the Commission's investigative unit must  
14 be located adjacent to the occupational licensing office  
15 and the Department of Public Safety office. The office must  
16 be furnished and be equipped with:

17 (1) a private telephone line; and

18 (2) a television monitor to monitor the events on the  
19 racetrack.

20 (e) The office space for occupational licensing personnel  
21 must consist of two rooms, one of which must be private.  
22 The room that is not private must be equipped with:

23 (1) a double counter;

24 (2) a fingerprint work area;

25 (3) a television monitor; and

26 (4) a private telephone line;-

27 (5) a private dedicated telephone line to be used by a  
28 fax machine;

29 (6) a private dedicated telephone line to be used by a  
30 credit card machine;

31 (7) the appropriate number of desks, file cabinets and  
32 chairs;

33 (8) locking file cabinets or other locking storage  
34 facilities adequate in size and number to store the  
35 licensing files and checks; and

36 (9) power outlets adequate in number and capacity to  
37 operate all of the Commission's electrical equipment  
38 located within the occupational licensing office.

39 (f) The office space for the pari-mutuel auditing staff and  
40 the staff employed by the comptroller must:

41 (1) provide an unrestricted view of the ~~totalisator~~  
42 ~~system operators and the pari-mutuel computers;~~

43 (2) permit unrestricted entry to the totalisator  
44 facilities;

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1 (3) be furnished with the appropriate number of desks  
2 and chairs;

3 (4) include locking file cabinets in the work area or  
4 other locking storage facilities, in which the auditors may  
5 store computer printouts or magnetic tape and that are  
6 large enough to store all state-controlled wagering records  
7 for the association that are needed for audits by the  
8 Commission or the comptroller;

9 (5) include a video and audio device that enables the  
10 auditors to receive, simultaneously with the patrons, the  
11 same information that the patrons receive;

12 (6) have at least ~~four~~ six power outlets to operate  
13 electrical equipment;

14 (7) include a private telephone line; and

15 (8) if requested by the Commission or the comptroller,  
16 have an additional voice line to support dial-up  
17 capabilities for a personal computer; and

18 (9) a private dedicated telephone line to be used by a  
19 fax machine.

20 (g) Commission Veterinarian's Office.

21 (1) An association shall provide a secured office area  
22 for the Commission veterinarians.

23 (2) The office must be adjacent to the drug testing  
24 area ~~barn~~ and the pre-race holding area.

25 (3) The office must consist of at least two rooms, one  
26 of which must be private. ~~The office must have a total~~  
27 ~~floor area of at least 200 square feet.~~

28 (4) At horse racetracks, ~~t~~The office must be  
29 constructed to allow a view of each of the adjacent areas.

30 (5) The office must be equipped with:

31 (A) a sink with hot and cold water built into a  
32 counter of a size required by the executive secretary;

33 (B) desks and filing cabinets, in numbers as  
34 required by the executive secretary, equipped with  
35 locks; a desk and two filing cabinets, both of which  
36 may be locked;

37 (C) at horse racetracks, refrigerators and  
38 freezers, in sizes and numbers as required by the  
39 executive secretary, equipped with locks; a  
40 refrigerator with at least 10 cubic feet of inside  
41 space and a freezer, in a size and number as required  
42 by the Commission, both equipped with locks; and

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

1           (D) at greyhound racetracks, a freezer in a size  
2 as required by the executive secretary; a storage  
3 area, which may be locked.

4           (E) a storage area, of a size required by the  
5 executive secretary, with a door approved by the  
6 executive secretary which may be locked.

7           (F) a private telephone line with a number of  
8 telephones required by the executive secretary;

9           (G) television monitors as required by the  
10 executive secretary; and

11           (H) at horse racetracks, a freestanding counter  
12 of a size required by the executive secretary.

13       (6) All locks must be of a type approved by the  
14 executive secretary.

15       (h) (No change.)

16       (i) All private telephone lines provided under this section  
17 must:

18           (1) be assigned a unique telephone number that is  
19 directly accessible by the public without the need to go  
20 through an automated call answering system;

21           (2) be able to make both local and long distance  
22 calls without the need to enter an access code;

23           (3) if requested by the executive secretary, be  
24 listed in the governmental section of the local telephone  
25 directory; and

26           (4) if requested by the executive secretary, be  
27 listed on the association's website. ~~have listings separate~~  
28 from the association.

29       (j) An association shall provide at its expense computer  
30 lines, phone equipment, and any necessary voice and data  
31 network cabling circuits, and network cabling in the  
32 offices of the state regulatory and law enforcement  
33 personnel as prescribed by the executive secretary. In  
34 addition, the association shall reimburse the Commission  
35 for the costs of any network or data circuits installed or  
36 caused to be installed by the Commission at the  
37 association's location.

38       (k) All costs of telecommunications for regulatory and law  
39 enforcement personnel provided under this section shall be  
40 paid by the association and the telecommunications service  
41 may not be interrupted at any time. To ensure minimal  
42 disruption to the Commission's regulatory functions, the  
43 association shall ensure the Commission staff has twenty-  
44 four hour access and keys to any telecommunications rooms

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

- 1 ~~adequate any access to the telecommunications equipment~~  
2 serving regulatory and law enforcement personnel as  
3 prescribed by the executive secretary.
- 4 (l) An association shall provide to the Commission a number  
5 of keys to the Commission offices as approved by the  
6 executive secretary.
- 7 (m) An association shall provide, inside the enclosure and  
8 in close proximity to the Commission's regulatory offices,  
9 adequate reserved parking for Commission staff.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

- 1 **309.120. Parking for Licensees.**
- 2 An association shall provide a lighted parking area for
- 3 licensees outside the stable or kennel area.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Facilities and Equipment

- 1    **309.123. Internal Communication System.**  
2    (a) An association shall provide a telephone extension  
3    and/or a two-way radio to the following: ~~an internal~~  
4    ~~telephone communication system with outlets in:~~  
5    (1) the stewards' or judges' stand;  
6    (2) the racing office;  
7    (3) the tote room;  
8    (4) the jockey room;  
9    (5) the paddock or lockout kennel;  
10   (6) the entrance to the kennel compound;  
11   (7) the pre-race holding area;  
12   (8) the Commission veterinarian's office;  
13   (9) the test barn;  
14   (10) the starting gate or boxes;  
15   (11) the finish line;  
16   (12) the video camera locations;  
17   (13) the clocker's stand;  
18   (14) the location of the ambulances; and  
19   (15) the outrider; other locations designated by the  
20   ~~executive secretary.~~  
21   (16) the chase truck;  
22   (17) the claims clerk;  
23   (18) the security office; and  
24   (19) other locations designated by the executive secretary.  
25   (b) The executive secretary may approve an alternative  
26   communication system in areas within the enclosure for  
27   which the executive secretary has determined telephone  
28   communication is impractical.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operation of Racetracks  
Operations

1 **309.168. Hazardous Weather.**

2 (a) An association shall establish and implement  
3 procedures, approved by the executive secretary, to protect  
4 race animals, licensees, employees, and patrons from  
5 hazardous weather conditions.

6 (b) During live racing the stewards or judges, and during  
7 non-live racing the association, shall order all  
8 individuals on association grounds to take shelter when  
9 hazardous weather occurs. The order to take shelter shall  
10 take place:

11 (1) before lightning-producing thunderstorms have  
12 moved to within 6 miles of the facility; or

13 (2) whenever the facility is within the affected area  
14 of a severe thunderstorm or tornado warning as announced by  
15 the National Weather Service.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

1 **309.250. Test Barn.**

2 (a) An association shall provide a test barn for taking  
3 specimens for testing. The barn must be adjacent to the  
4 Commission veterinarian's office.

5 (b) The barn must be shielded from the noise and excitement  
6 of the races.

7 (c) The barn must be clean, sanitary, adequately  
8 ventilated, and safe for the horses and the individuals who  
9 handle the horses.

10 (d) The barn must be equipped with:

11 (1) a walk ring large enough to accommodate eight  
12 horses;

13 (2) at least four enclosed stalls, equipped with dutch  
14 doors and observation windows;

15 (3) a washrack that is large enough to accommodate two  
16 horses at the same time; and

17 (4) eight disinfected water buckets for drinking  
18 water.

19 (e) An association shall provide restroom facilities for  
20 the test barn employees in close proximity to the test  
21 barn.

22 (f) The area must have only one entrance, which must be  
23 that is locked or guarded at all times. The area must have  
24 a security guard present on live race days prior to the  
25 first race and remaining until all race horses have been  
26 released. The guard shall:

27 (1) restrict access to the test barn to Commission  
28 personnel, test technicians, veterinarians, authorized  
29 licensees escorting race horses for testing, and  
30 Commission-escorted guests; and

31 (2) maintain an accurate log of all horses and  
32 licensees entering and leaving the test barn on a form  
33 approved by the executive secretary.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

1 ~~**309.251. Isolation Area.**~~

2 ~~(a) An association shall provide an isolation area for~~  
3 ~~treating a horse that may have a communicable disease.~~

4 ~~(b) The isolation area must be in a location and equipped~~  
5 ~~as approved by the executive secretary.~~

6 ~~(c) The isolation area must be cleaned and disinfected~~  
7 ~~regularly.~~

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

1 ~~309.252. Treatment Area.~~

2 ~~(a) An association shall provide a treatment area for~~  
3 ~~providing emergency care to a horse that is injured in~~  
4 ~~racing or training.~~

5 ~~(b) The treatment area must be in a location and equipped~~  
6 ~~as approved by the executive secretary.~~

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

- 1   **309.253. Postmortem.**  
2   (a) An association shall provide a postmortem area.  
3   (b) The area must be located in a secluded area and must  
4   allow access by an equine ambulance.  
5   (c) The area must be equipped with:  
6       (1) a cover;  
7       (2) a concrete or asphalt slab with a rough finish;  
8       (3) adequate drainage; and  
9       (4) hot and cold water and a hose. ~~and~~  
10      ~~(5) a locked storage area.~~  
11   (d) An association shall provide services for the disposal  
12   of a horse that dies at the racetrack.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

1 **309.254. Equine Ambulance.**

2 (a) An association shall provide an equine ambulance and  
3 trained personnel on association grounds on each day that  
4 the racetrack is open for racing or exercising.

5 (b) The ambulance must be properly ventilated and kept in  
6 the shade at an entrance to the racing strip when not in  
7 use.

8 (c) The ambulance must be a large, covered and enclosed  
9 vehicle that is low to the ground. The ambulance must be  
10 able to:

11 (1) navigate on the racetrack during all weather  
12 conditions; and

13 (2) transport a horse off the association grounds.

14 (d) The ambulance must be equipped with:

15 (1) large, portable screens to shield a horse from  
16 public view;

17 (2) ramps or a system to lower the ambulance to ground  
18 level to load a horse;

19 (3) adequate means of loading a horse that is down;

20 (4) a rear door and a door on each side;

21 (5) a padded interior;

22 (6) a movable partition to initially provide more room  
23 to load a horse and to later restrict a horse's movement;

24 (7) a shielded area for the individual handling the  
25 horse;

26 (8) a storage area for supplies;

27 (9) a front leg Kimzey brace or an equivalent approved  
28 by the Commission veterinarian; and

29 (10) a water supply to treat heat exhaustion.

30 (e) If the ambulance is being used to transport a horse,  
31 the association may not conduct a race until the ambulance  
32 is replaced.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Facilities for Horses

1 **309.255. Chase Vehicle.**

2 (a) An association shall provide a chase vehicle and driver  
3 for the commission veterinarian's use during each live  
4 performance.

5 (b) In addition to the driver, the association shall have  
6 at least one assistant starter accompany the commission  
7 veterinarian during each race.

8 (c) The chase vehicle must be able to navigate on the  
9 racetrack during all weather conditions.

10 (d) The chase vehicle must be large enough to provide:

11 (1) interior seating for at least four people; and

12 (2) room to store the portable screens used to shield  
13 a horse from public view.

14 (e) The chase vehicle shall be equipped with a five-gallon  
15 water container, a sponge, and a scraper.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Operations

1 **309.294. Starting Crew.**

2 An association shall provide a starting crew for each race  
3 to assist in handling the horses in the starting gates. The  
4 association shall provide one assistant starter for each  
5 horse to start in a race. ~~a sufficient number of assistant~~  
6 ~~starters for the number of horses to start in a race.~~

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter C. Horse Racetracks  
Operations

1 **309.296. Official Program.**

2 (a) For each race day, an association shall prepare an  
3 official program. The official program must contain the  
4 order of the races on that day and:

5 (1) for each race:

6 (A) the names of the horses in the race and their  
7 program number;

8 (B) the conditions of the race;

9 (C) the distance of the race;

10 (D) the probable odds on each horse;

11 (E) the value of the race;

12 (F) the claiming prices, if applicable; and

13 (G) the types of wagers to be offered for that  
14 race; and

15 (2) for each horse listed in the program:

16 (A) the post position;

17 (B) the age, color, sex, and breeding;

18 (C) the jockey, trainer, owner or stable name,  
19 and racing colors;

20 (D) the weight carried; ~~and~~

21 (E) if the horse is eligible for participation in  
22 the Texas Bred Incentive Program, the name or logo of  
23 the appropriate official breed registry;

24 (F) if the horse is a leased animal, the names of  
25 the lessee and lessor must appear on the program; and

26 (G) the city and state of the owner or the  
27 designated representative.

28 (b)-(c) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

1    **309.305. Starting Boxes.**

2    (a) An association shall provide and maintain at least two  
3    starting boxes approved by the executive secretary. Each  
4    starting box must be equipped with an automatic opener with  
5    a manual back-up.

6    (b) The association shall periodically inspect each  
7    starting box to ensure its safe and effective operation.  
8    ~~When the track is being used for racing or schooling, the~~  
9    ~~association shall have at least one person present on~~  
10   ~~association grounds who is skilled and qualified to~~  
11   ~~maintain the starting boxes.~~

12   (c) An association shall ensure that the starting box  
13   located at the five-sixteenths start is set back in the  
14   chute.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

1 **309.309. Lockout Kennel.**

2 (a) An association shall provide a lockout kennel that:

3 (1) is soundproof, to prevent noise from disturbing  
4 the greyhounds that are waiting to race;

5 (2) is air-conditioned sufficiently to maintain a  
6 temperature between 68 and 75 degrees Fahrenheit; and

7 (3) has sealed or ceramic floors and walls to permit  
8 proper cleaning and disinfection. ~~and~~

9 ~~(4) has a one-way viewing window to allow the trainers  
10 to view the interior of the lockout kennel.~~

11 (b) Each crate located in the lockout kennel must:

12 (1) be constructed of a smooth, hard material, such as  
13 stainless steel or tile;

14 (2) be at least three feet wide, four feet deep, and  
15 four feet high;

16 (3) be constructed so that the crate floor is not in  
17 direct contact with the concrete surface;

18 (4) be located on the floor level to prevent  
19 greyhounds from sustaining jumping injuries; and

20 (5) have a drop latch on the door.

21 (c) An association shall provide a comfortable room near  
22 ~~adjacent to~~ the lockout kennel in which a kennel owner or  
23 trainer may view the race. The association shall also  
24 provide kennel owners and trainers a method for monitoring  
25 the interior of the lockout kennel as approved by the  
26 executive secretary. ~~and view the interior of the lockout~~  
27 ~~kennel.~~

28 (d) An association shall provide an area adjacent to the  
29 lockout kennel in which a greyhound can wait to weigh-in  
30 and cool down following a race or wait for schooling races.  
31 The area must:

32 (1) be large enough to comfortably accommodate 100  
33 greyhounds and the leadouts and trainers;

34 (2) be adequately shaded and fenced to shield the  
35 greyhounds' view of the racetrack;

36 (3) have eight water faucets with hoses;

37 (4) have a disinfected dipping vat, approved by the  
38 Commission veterinarian, through which a greyhound may be  
39 walked to assist in cooling down following a race; and

40 (5) have adequate drainage.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

1 **309.311. Kennel Compound.**

2 (a) An association shall provide in the kennel compound  
3 area +

4 ~~(1) not more than 18 separate kennel buildings for the~~  
5 ~~kennel owners under contract with the association. + and~~  
6 ~~(2) a separate kennel building for greyhounds that will be~~  
7 ~~participating in stake races, designed to accommodate~~  
8 ~~several trainers and their greyhounds.~~

9 (b)-(d) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

1 **309.312. Turnout Pens.**

2 Each kennel building must have at least three turnout pens.

3 Each pen must:

4 (1) be free of any obstructions;

5 (2) measure at least 20 feet by 40 feet;

6 (3) have gates that connect to the other pens;

7 (4) have at least a 15 foot overhang from the

8 building;

9 (5) have at least two halogen lights of 300 watts each  
10 located at each end;

11 (6) be surrounded by a fence at least six feet high,  
12 of which the lower 32 inches is constructed of cinder block  
13 or a comparable material and the remaining portion is  
14 constructed of chain link;

15 (7) have a gate adequate to accommodate a vehicle to  
16 remove the sand and deposit new sand;

17 (8) have adequate water faucets and drainage; and

18 (9) have sand or a comparable material of a depth  
19 approved by the executive secretary that is maintained in a  
20 sanitary state. a minimum of 12 inches of sand or a  
21 comparable material that is replaced at least every 3  
22 months.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

1 **309.314. Sprint Path.**

- 2 An association shall provide, for every five ~~three~~ kennel  
3 buildings, a sprint path located adjacent to the kennel  
4 compound area. The sprint path must:
- 5 (1) be at least 30 feet wide and 400 feet long;
  - 6 (2) be divided down the middle by a chain link fence;
  - 7 (3) have at least one gate on each end for entering or  
8 exiting with greyhounds;
  - 9 (4) have a driveway along the side;
  - 10 (5) have a base and surface comparable to the  
11 racetrack surface; ~~and~~
  - 12 (6) have a highly visible material at both ends; and  
13 ~~be maintained by the association at all times.~~
  - 14 (7) be maintained by the association at all times.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter D. Greyhound Racetracks  
Facilities and Equipment

- 1 **309.317. Facilities and Equipment Maintenance Personnel.**
- 2 When the track is being used for racing or schooling, the
- 3 association shall have at least one person present on
- 4 association grounds who is skilled and qualified to
- 5 maintain the starting boxes, the racing surface, and all
- 6 track equipment.