

TEXAS RACING COMMISSION

P. O. Box 12080 ★ Austin, TX 78711-2080
8505 Cross Park, #110 ★ Austin, TX 78754-4552
(512) 833-6699 ★ Fax (512) 833-6907



AD-HOC COMMITTEE ON FINANCE AND COMMITTEE ON RULES

Tuesday, October 24, 2017
1:30 p.m.
Sam Houston Race Park
3rd floor, San Jacinto Suite
7575 N. Sam Houston Parkway W.
Houston, Texas 77064

Agenda

1. The Committee will discuss the proposed adoption of the following proposals, which have been published in the *Texas Register* and are eligible for adoption:
 - a. Proposed Amendment to Rule 309.8, Racetrack License Fees
 - b. Proposed Amendment to Rule 311.5, License Categories and Fees
2. The Committee will discuss the racetracks' proposal that "the Commission commit to a third-party review with industry input to be funded through additional fees if necessary and mutually agreed to...." This request includes the development of timelines and milestones for the process.
3. The Committee will discuss the following requests for rule amendments:
 - a. Request for Amendment to Rule 303.93, Quarter Horse Rules
 - b. Request for Amendment to Rule 321.320, Super Hi-Five
4. The Committee will discuss closing the rule reviews of Chapter 301, Definitions, Chapter 303, General Provisions, Chapter 319, Veterinary Practices and Drug Testing, and Chapter 321, Pari-mutuel Wagering.
5. The Committee will discuss opening the rule reviews of Chapter 309, Racetrack Licenses and Operations, and Chapter 311, Other Licenses.

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: 9/13/17

***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.

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:	Staff	Phone(s):	(512) 833-6699
E-mail address:	info@txrc.texas.gov	Fax number:	(512) 833 6907
Mailing address:	8505 Cross Park Drive, Suite 110, Austin, Texas 78754		

Check appropriate box(es):

Personal Submission *OR*

Submission on Behalf of Texas Racing Commission
(Name of Organization)

Proposed Change to (if known): Chapter: 309 Rule: 8

Proposed Addition to (if known): Chapter: 311 Rule: 5

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

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Statutory Authority for Proposed Change: §§5.01, 6.18, and 7.05

A. Brief Description of the Issue

The agency is facing a budget shortfall that jeopardizes its ability to continue regulating racing in Texas.

B. Discussion of the Issue and Problem

The agency recently lost \$690,000 in annual revenue due to the revocation of three Class 2 horse racetrack licenses, and five additional racetracks have refused to pay their annual fees, resulting in an additional loss of revenue of \$1.25 million. Unless these issues are addressed promptly, the agency will soon be unable to pay staff or continue operations past October 2017.

C. Possible Solutions and Impact

The agency has considered several options, including increases in annual racetrack fees and occupational licensing fees. However, none of these previous proposals have gained consensus support from the industry or from the Commission. However, on the next page is a proposal from nine of the licensed racetracks that does the following:

- Reduces the base number of live race days for horse tracks from 143 days to 68 days, and projects that the horse tracks will conduct a total of 143 days of racing instead of 2018's 182 days. The total number of race dates is subject to negotiation between the tracks and the horsemen.
- Increases the daily fee for live race days beyond the base from \$3,750 to \$6,313.
- Redistributes the annual fees among the racetracks by increasing the fees on the Class 1 tracks and decreasing the fees on all other classes of racetracks.
- Calls for additional revenue shortfalls to be met through increases on occupational license fees. Staff projects that occupational license fees would have to increase by 20% across the board to meet that need, assuming that the total number of occupational licenses remains constant.
- Calls for the agency to make further budget cuts in the current biennium.
- Calls for the agency to secure a third party review of its operations, with industry input, to be funded by additional fees if necessary and mutually agreed to.
- Calls for all the racetracks, including the five tracks that are currently withholding their payments, to begin monthly payments under the proposed fee schedule by September 22, 2017. This would allow the Commission to continue operations into Calendar Year 2018 and, depending on the number of occupational licenses issued and whether the agency is able to achieve any further budget reductions, possibly through the remainder of the biennium.

D. Support or Opposition

The proposal was discussed at the September 20 Commission meeting. It has the support of nine of the 10 licensed racetracks and is missing the concurrence of only Lone Star Park.

Various horsemen's organizations as well as individuals have expressed opposition to this proposal.

E. Proposal

See the following pages.

Texas Racing Commission Funding Proposal
9/5/2017

In an effort to preserve racing in the State of Texas, while operating at a competitive disadvantage with our surrounding states, all affected parties agree to the following points:

1. It is in the industry's best interests to keep all existing licenses in place and contributing to the racing economy. Furthermore, the license holders encourage the Texas Racing Commission to strongly consider the fees contributed by the inactive tracks as good faith efforts during the annual renewal of those licenses.
2. Effective immediately, the Texas Racing Commission MUST, within the parameters of the Texas Racing Act, improve the efficiency of the regulatory model in which they operate in order to cut the cost of regulation to correspond with the decline of activity in the Texas Racing Industry. Specifically, the Texas Racing Industry is half the size it was in 2004 and the TRC acknowledges the financial circumstances of the Industry as a whole are tenuous. Therefore the agency shall make all efforts necessary to find ways to curtail the expenses of the agency over the next two (2) years. Those cost savings shall be equitably passed along to the license holders as they are realized, within a reasonable timeframe to allow for rule changes. The industry would like the TRC to commit to a third party review with industry input to be funded through additional fees if necessary and mutually agreed to (for further discussion). After September 1, the Chairman will meet with industry to draft timelines and milestones for this process.

Given that the parties are agreeing to a process, and in an effort to ensure the orderly operation of the agency while pursuing the above-referenced goals and commitments, the license holders agree to support the following rule proposal to change the fee structure of all racetrack licenses for FY 2018 as follows:

<u>TRACK</u>	<u>2018 Fees</u>	<u>Base # Days</u>	<u>Add'l Days*</u>	<u>Total Payment</u>
Lone Star Park	\$700,000.00	20	35	\$920,955.00
Retama Park	\$700,000.00	20	12	\$775,756.00
Sam Houston RP	\$700,000.00	20	28	\$876,764.00
Gillespie County Fair	\$35,000.00	8	0	\$35,000.00
Gulf Greyhound Park	\$200,000.00	36	0	\$200,000.00
Gulf Coast Racing	\$200,000.00	0	0	\$200,000.00
Valley Race Park	\$200,000.00	0	0	\$200,000.00
Laredo Downs	\$125,000.00	0	0	\$125,000.00
Manor Downs	\$125,000.00	0	0	\$125,000.00
<u>Valle De Los Tesoros</u>	<u>\$125,000.00</u>	<u>0</u>	<u>0</u>	<u>\$125,000.00</u>
Track Total	\$3,110,000.00	68	75	\$3,583,475.00

Notes:

-The italicized (additional race dates) is optional and shall be negotiated between the Class I license holder and the officially recognized horsemen's organization.

*-*Horse race dates above 68 total statewide (20 per track) billed at \$6,313.*

In the event additional funds are necessary by the Texas Racing Commission in FY 2018, the TRC will consider rule changes related to occupational license fees at its next meeting. The license holders recognize this revenue is variable in nature.

There are numerous other points that can be made to persuade various parties to support this agreement. Not the least of which are:

1. It sets forth a mechanism to make meaningful reductions to the cost of regulation for everyone's benefit.
2. It saves important horse purse money. The purse money generated by three (3) of the five (5) litigating licenses will be preserved, thereby causing no further erosion of horse purses. That has historically been ~ \$1 million annually.
3. The increases in fees levied upon the Class I licenses are no more or less than will be levied upon them

when the five (5) litigating licenses surrender their licenses.

4. It stops the costly time and expenses for plaintiffs and TRC created by lawsuit
5. It brings certainty and stability to the industry and allows the parties to continue orderly business operations.
6. It prevents the further evaporation of licenses for the foreseeable future.

All license holders will begin paying monthly in good faith by 9/22, and thereafter the first of each month, based on above fee schedule with the understanding of consideration by full Commission at its next meeting on 9/20.

This proposal is subject to the approval by the full Texas Racing Commission. It is the understanding of all parties that the full Commission at its next meeting on 9/20 will consider this proposal.

Gillespie County Fair Association

Lone Star Park

Sam Houston Race Park

Retama Park

Gulf Greyhound Park

W. J. W. D. H.
per Steve LaMantia

Laredo Downs

Manor Downs

W. J. W. D. H.
per Steve LaMantia

Valle de los Tesoros

Valley Race Park

Gulf Coast Racing

1 **309.8. Racetrack License Fees**

2 (a) (No change.)

3 (b) Annual License Fee for State Fiscal Years Beginning
4 September 1, 2017, and thereafter. A licensed racing
5 association shall pay an annual license fee. The annual license
6 fee for each license type is as follows:

7 (1) for a Class 1 racetrack, \$700,000 [~~\$500,000~~];

8 (2) for a Class 2 racetrack, \$125,000 [~~\$230,000~~];

9 (3) for a Class 3 or 4 racetrack, \$35,000 [~~\$70,000~~]; and

10 (4) for a Greyhound racetrack, \$200,000 [~~\$360,000~~].

11 (c) Fee Payments for the State Fiscal Year Beginning September
12 1, 2017. Beginning on December 1, 2017, each association shall
13 pay its annual license fee by remitting to the Commission 1/9th
14 of the fee remaining due as of December 1, 2017, on the first
15 business day of each month of state fiscal year 2018.

16 (d) Fee Payments for State Fiscal Years Beginning September 1,
17 2018, and thereafter. [~~(2)~~] Each [~~An~~] association shall pay its
18 annual license fee by remitting to the Commission 1/12th of the
19 fee on the first business day of each month.

20 (e) [~~(e)~~] Adjustment of Fees.

21 (1) Annual fees are calculated using a projected base of 68
22 [~~143~~] days of live horse racing and 36 [~~270~~] performances of
23 live greyhound racing per calendar year. To cover the additional
24 regulatory cost in the event additional days or performances are
25 requested by the associations the executive secretary may:

26 (A) recalculate a horse racetrack's annual fee by
27 adding \$6,313 [~~\$3,750~~] for each live day added beyond the
28 base;

29 (B) recalculate a greyhound racetrack's annual fee by
30 adding \$750 for each live performance added beyond the
31 base; and

1 (C) review the original or amended race date request
2 submitted by each association to establish race date
3 baselines for specific associations if needed.

4 ~~[(2) If at any point the executive secretary determines the
5 total revenue from the annual fees is insufficient to pay the
6 Commission's costs during a fiscal year, the executive secretary
7 shall recommend to the Commission a supplemental fee, in
8 addition to the license fee, that each association would be
9 required to pay to generate the necessary revenue to pay the
10 Commission's costs.]~~

11 (2) ~~(3)~~ If the executive secretary determines that the
12 total revenue from the annual fees exceeds the amount needed to
13 pay those costs, the executive secretary may order a moratorium
14 on all or part of the annual license fees remitted monthly by
15 any or all of the associations. Before entering a moratorium
16 order, the executive secretary shall develop a formula for
17 providing the moratorium in an equitable manner among the
18 associations. In developing the formula, the executive secretary
19 shall consider the amount of excess revenue received by the
20 Commission, the source of the revenue, the Commission's costs
21 associated with regulating each association, the Commission's
22 projected receipts for the next fiscal year, and the
23 Commission's projected expenses during the next fiscal year.

1 **Sec 311.5 License Fees**

2 (a)-(c) (No change.)

3 (d) The fee for an occupational license is as follows:

4	Type of License	1 Year Fee	2 Year Fee	3 Year Fee
5	Adoption Program Personnel	<u>\$30</u> [\$25]		
6	Announcer	<u>\$42</u> [\$35]		
7	Apprentice Jockey	<u>\$90</u> [\$75]		
8	Assistant Farrier/Plater/Blacksmith	<u>\$30</u> [\$25]		
9	Assistant Starter	<u>\$30</u> [\$25]		
10	Assistant Trainer	<u>\$120</u> [\$100]		
11	Assistant Trainer/Owner	<u>\$120</u> [\$100]		
12	Association Assistant Management	<u>\$60</u> [\$50]		
13	Association Management Personnel	<u>\$90</u> [\$75]		
14	Association Officer/Director	<u>\$120</u> [\$100]		
15	Association Other	<u>\$90</u> [\$75]		
16	Association Staff	<u>\$42</u> [\$35]		
17	Association Veterinarian	<u>\$90</u> [\$75]		
18	Authorized Agent	<u>\$18</u> [\$15]		
19	Chaplain	<u>\$30</u> [\$25]		
20	Chaplain Assistant	<u>\$30</u> [\$25]		
21	Equine Dental Provider	<u>\$120</u> [\$100]		
22	Exercise Rider	<u>\$30</u> [\$25]		
23	Farrier/Plater/Blacksmith	<u>\$90</u> [\$75]		
24	Groom/Exercise Rider	<u>\$30</u> [\$25]		
25	Groom/Hot Walker	<u>\$30</u> [\$25]		
26	Groom/Pony Person	<u>\$30</u> [\$25]		
27	Jockey	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
28	Jockey Agent	<u>\$120</u> [\$100]		
29	Kennel	<u>\$90</u> [\$75]		
30	Kennel Helper	<u>\$30</u> [\$25]		
31	Kennel Owner	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]

1	Kennel Owner/Owner	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
2	Kennel Owner/Owner-Trainer	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
3	Kennel Owner/Trainer	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
4	Lead-Out	<u>\$30</u> [\$25]		
5	Maintenance	<u>\$42</u> [\$35]		
6	Medical Staff	<u>\$42</u> [\$35]		
7	Miscellaneous	<u>\$30</u> [\$25]		
8	Multiple Owner	<u>\$42</u> [\$35]	<u>\$84</u> [\$70]	<u>\$126</u> [\$105]
9	Mutuel Clerk	<u>\$42</u> [\$35]		
10	Mutuel Other	<u>\$42</u> [\$35]		
11	Owner	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
12	Owner-Trainer	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
13	Pony Person	<u>\$30</u> [\$25]		
14	Racing Industry Representative	<u>\$120</u> [\$100]		
15	Racing Industry Staff	<u>\$36</u> [\$30]		
16	Racing Official	<u>\$60</u> [\$50]		
17	Security Officer	<u>\$36</u> [\$30]		
18	Stable Foreman	<u>\$60</u> [\$50]		
19	Tattooer	<u>\$120</u> [\$100]		
20	Test Technician	<u>\$30</u> [\$25]		
21	Trainer	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
22	Training Facility Employee	<u>\$36</u> [\$30]		
23	Training Facility General Manager	<u>\$60</u> [\$50]		
24	Valet	<u>\$30</u> [\$25]		
25	Vendor Concessionaire	<u>\$120</u> [\$100]		
26	Vendor/Concessionaire Employee	<u>\$36</u> [\$30]		
27	Vendor/Totalisator	<u>\$600</u> [\$500]		
28	Vendor/Totalisator Employee	<u>\$60</u> [\$50]		
29	Veterinarian	<u>\$120</u> [\$100]	<u>\$240</u> [\$200]	<u>\$360</u> [\$300]
30	Veterinarian Assistant	<u>\$36</u> [\$30]		

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: 08/18/2017

***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.

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:	Rob Werstler	Phone(s):	512-458-5202
E-mail address:		Fax number:	512-458-1713
Mailing address:	706 W. 11 th St. Elgin, TX 78621		

Check appropriate box(es):

Personal Submission *OR*

Submission on Behalf of Texas Quarter Horse Association
(Name of Organization)

Proposed Change to (if known): Chapter: 303 Rule: 93

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

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

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Statutory Authority for Proposed Change: TRA § 9.01

A. Brief Description of the Issue

The current rule allows an Accredited Texas Bred Broodmare to leave the state but still maintain accreditation by returning to Texas no later than August 15. However, this date is too early to allow these mares to compete in some of the more prestigious races that run during September through December in other states.

B. Discussion of the Issue and Problem

By using embryo transfers and surrogate mares, breeders enable successful Quarter Horse mares to produce Texas-bred offspring while continuing to race throughout the calendar year. The TQHA believes that this activity is economically beneficial to the horse breeding industry and should be supported.

C. Possible Solutions and Impact

The proposal would change the date a Texas-bred Quarter Horse broodmare must return to Texas in order to keep its Texas-bred accreditation from August 15 to December 31.

D. Support or Opposition

This proposal is proposed and supported by the Texas Quarter Horse Association, and should have no adverse affect on any other horse breeds or breed organizations.

E. Proposal

See next page.

303.93. QUARTER HORSE RULES

(a) (No change.)

(b) Eligibility for Accreditation.

(1) (No change.)

(2) ATB Broodmares.

(A)-(C) (No change.)

(D) A mare may leave Texas for ~~breeding, medical, or~~ racing purposes without losing its accreditation provided the mare returns to Texas each year before December 31 [~~August 15~~] and remains in Texas until foaling. A mare may leave Texas for breeding or medical purposes without losing its accreditation provided the mare returns to Texas each year before August 15 and remains in Texas until foaling. All foals of an ATB broodmare are eligible to be accredited as ATB horses provided the mare is bred to an ATB stallion at least every other breeding. TQHA may require documentation regarding breeding activity to prove eligibility for accreditation.

(3) (No change.)

(c)-(f) (No change.)



August 22, 2017

Mark Fenner
General Counsel
Texas Racing Commission
8405 Cross Park Dr. #110
Austin, TX 78711

Mr. Mark Fenner:

Sam Houston Race Park is requesting to modify current language for Section 321.320 of the Rules of Racing, as outlined in the attached documents. I believe this change will allow for a consistent rule for all Texas tracks.

I look forward to discussing this with the Commission at your earliest convenience.

Sincerely,

Frank Hopf

Frank Hopf
Sr. Director of Racing Operations
Sam Houston Race Park/ Valley Race Park

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: 8/22/2017

***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.

Texas Racing Commission
8505 Cross Park Drive, Suite 110
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Phone: 512/833-6699 Fax: 512-833-6907
email: info@txrc.state.tx.us

Contact Information:

Name:	Frank Hopf	Phone(s):	281.807.8803
E-mail address:		Fax number:	281.807.8719
Mailing address:	7575 N. Sam Houston Pkwy W. Houston, TX 77064		

Check appropriate box(s)

Personal Submission *OR*

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

If known, Proposed Change to Chapter: Chapter: 321 Rule: 320

If known, Proposed Addition to Chapter: Chapter: _____ Rule: _____

If known, Other Rules Affected by Proposal: Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

A. Brief Description of the Issue

Under SEC 321.320 Subsection the rule does not allow for an unique payout option for the Super Hi-Five.

B. Discussion of the Issue and Problem

Provide background on the issue to build context. Address the following:

- Currently the option does not exist and this option would allow an association the opportunity to offer an "unique" payout.

C. Possible Solutions and Impact

Provide possible recommendations to solve the problem. Include details on each proposed solution such as:

- Add verbiage to the existing rule to offer a fourth payout option to the Super Hi-Five.

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, or others.)

- Support from Lone Star Park and Retama Park

E. Proposal

Provide rule language you are proposing. If you are proposing that current rule language be eliminated, please ~~strikeout~~ the language to be deleted. Please show new language with underlined text.

(a) no change

(b) no change

(c) no change

(d) Unique Winning Ticket Option

(1) The net super hi-five pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

(A) As a single price pool, including any applicable carry-over, to the holder of a unique winning ticket whose combination finished in correct sequence as the first five betting interests, but if there is no such unique winning ticket, then

(B) The net pool shall be divided into two separate pools. The major pool of the net pool shall be paid as a carryover into the next regularly scheduled Super hi-five pool. The remaining minor pool shall be paid as a Super hi-five consolation pool, which shall be equally divided among those ticket holders who correctly select the first five interests in exact order, but if there are no such wagers, then

(C) The entire net pool shall be carried over into the next regularly scheduled Super hi-five pool.

(2) Unique winning ticket, as used in this subsection (d), shall be defined as having occurred when there is one and only one winning ticket whose combination finished in correct sequence as the first five betting interests, to be verified by the unique serial number assigned by the totalisator company that issued the winning ticket. In the event that there is more than one winning ticket whose combination finished in correct sequence as the first five betting interests, ~~the~~ a unique winning ticket shall be deemed to not have occurred.

(3) The association shall specify the minimum monetary amount of a unique winning ticket wager with prior approval of the executive secretary.

(4) Prior to the start of the race meet, the association shall specify the percentages for a major and minor pool with prior approval of the executive secretary.

(5) A written request to distribute the Super hi-five pool plus any carryover on a specific date and performance may be submitted by the association to the executive secretary for approval. The request must be for a specified date no greater than one year from the date the request is submitted and contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the Super hi-five net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed using the method described in subsection (i).

(6) Unless otherwise stated in writing by the Commission under paragraph 5, on the last Super hi-five race on the final day of the meeting, the net pool, including any applicable carryover, shall be distributed using the method described in subsection (i).

(e) The minimum number of wagering interests required to offer super hi-five wagering in any one race shall be seven actual starters. If a race scratches below seven actual starters, then the super hi-five pool for that race shall be canceled.

(f) Super hi-five wagers on races in which wagering has been canceled or the race declared no contest shall be refunded. Any carryover pool added to the net pool of a super hi-five race which is canceled shall carry forward to be added to the next consecutive super hi-five wagering pool.

(g) If less than five animals finish and the race is declared official by the stewards or judges, then pay off shall be made to ticket holders selecting the finishing animals in order of finish as provided above. The balance of any selection on any ticket beyond the number of betting interests completing the contest shall be ignored.

(h) In the event of a dead heat in any finishing position, the wagers shall be paid as follows:

- (1) All wagers selecting either of the dead-heat positions with the correct non-dead-heat position shall be winners and share in the pool;
- (2) Payouts will be calculated by splitting the pool equally between each winning combination, then dividing split pools by the number of winning tickets. A dead heat will produce separate and distinct payouts respective to each winning combination.

(i) If on the final day of a race meeting or on a designated mandatory payout date the pool has not been distributed under subsection (b), (c), or (d) of this section, then the net pool for that performance plus any carryover from previous performances shall be paid out in the following manner:

- (1) To those who selected first-place, second-place, third-place, and fourth-place finishers in order. If there are no such wagers, then
- (2) To those who selected first-place, second-place, and third-place finishers in order. If there are no such wagers, then
- (3) To those who selected first-place and second-place finishers in order. If there are no such wagers, then
- (4) To those who selected the first-place finisher.

(j) If the final or designated mandatory payoff performance is canceled or the pool has not been distributed under subsection (i) of this section the pool shall be deposited in an interest-bearing account approved by the executive secretary. The pool plus all accrued interest shall then be carried over and added to the super hi-five pari-mutuel pool in the following race meeting on a date and performance designated by the executive secretary.

(k) If an animal is scratched or declared a nonstarter, no further tickets may be issued designating such animal and all super hi-five tickets previously issued designating such animal shall be refunded and the money deducted from the gross super hi-five pool.

(l) For purposes of statutory deductions and commissions, the net amount does not include any amounts carried over from any previous super hi-five pool.

(m) The association may select a distinctive name for the super hi-five, with prior approval of the executive secretary.

CURRENT RULE REVIEWS CHAPTERS 301, 303, 319 AND 321

Texas Government Code § 2001.039 requires state agencies to review all current rules to determine whether the reasons for initially adopting the rules continue to exist. The review must be conducted not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The state agency must readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

On December 15, 2015, the Commission opened the reviews of Chapter 301, Definitions, Chapter 303, General Provisions, Chapter 319, Veterinary Practices and Drug Testing, and Chapter 321, Pari-mutuel Wagering. Notice of the reviews was published in the March 31, 2017, edition of the *Texas Register* (42 *TexReg* 1801). The Commission received no comments on the rule review.

The Table of Contents for Chapters 301, 303, 319, and 321 are attached below.

Staff recommends that the Commission readopt the rules of these chapters.

CHAPTER 301 DEFINITIONS

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§301.1. Definitions

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**PROPOSED RULE REVIEWS
CHAPTER 309, RACETRACK LICENSES AND OPERATIONS,
AND CHAPTER 311, OTHER LICENSES**

Texas Government Code 2001.039 directs each state agency to review, and consider for readoption, each of its rules every four years. During the review, the Commission must assess whether the reasons for adopting the rules continue to exist.

To formally initiate the rule review process, the Commission must vote at a public meeting to publish notice in the *Texas Register* of the Commission's intention to review specific rules. After the time for public comment has passed, the Commission will take one of the following actions in regard to the rules in Chapters 309 and 311: readoption, repeal, or readoption with revisions.

If the Commission readopts a rule (with no changes), notice of the readoption will appear in the *Texas Register* "Rules Review" section, but the text of the readopted rule will not be published.

Any proposed repeal of a rule or any proposed amendment to a rule will be published in the "Proposed Rules" section of the *Texas Register*, and will be the subject of an additional 30-day comment period.

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