



TEXAS RACING COMMISSION

**P. O. Box 12080
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Tuesday, September 13, 2022
4:00 p.m. to 7 p.m.
The Race Barn
35 Fair Drive
Fredericksburg, TX 78624

RULES COMMITTEE AGENDA

I. CALL TO ORDER

II. INVITED TESTIMONY

III. PROCEEDINGS ON RULES

- A. Discussion on specific rule request of the Texas Rules of the Racing:
 - 1. 16 TAC §303.92, Thoroughbred Rules
- B. Discussion on New Chapter 302:
 - 1. Subchapter A: Authority
 - 2. Subchapter B: Definitions
 - 3. Subchapter C: Commission Responsibilities
 - 4. Subchapter D: Executive Director, Agency, and Comptroller Responsibilities

IV. PUBLIC COMMENT

V. ADJOURN

Amy Cook
Executive Director
Texas Racing Commission
PO Box 12080
Austin, TX 78711

Dear Ms. Cook,

I would like to propose the following Rule change for consideration at the next meeting of the Texas Racing Commission:

Sec. 303.92 Thoroughbred Rules p. 18

(c) Procedure for Payment of Awards

(5) If ~~a share of the breakage~~ any Accredited Texas-Bred Incentive Awards funds cannot be distributed to the person who is entitled to a share, the breed registry shall retain ~~that share~~ those funds. Thereafter, a notice of the entitlement shall be published ~~in the Texas Thoroughbred magazine for the first three issues~~ on the Texas Thoroughbred Association website at www.texasthoroughbred.com for the first three months of the second calendar year after accrual of the entitlement. If the entitlement is not claimed before August 31 following such publication, the funds shall be transferred to the breed registry's general account. If the person entitled to the share thereafter makes a claim in a form acceptable to the breed registry, the breed registry ~~shall~~ may pay such person the amount of the share.

The reasoning prompting this proposal is threefold:

1. When first written, Accredited Texas-Bred Incentive Awards were primarily funded by breakage and a percentage of multiple wagers. With the inclusion of HIEA funds, I believe it is more accurate to use the recommended language.
2. The Texas Thoroughbred magazine is no longer published in either print or online form, so the website is the best means of publication, along with social media.
3. Since unpaid awards are to be transferred to the breed registry's general account, there is the likelihood that those funds may not be available to pay out after a longer period of time has elapsed, thus the change from "shall" to "may".

I will be happy to answer any questions.

Respectfully,

Mary Ruyle
Executive Director

From: [Mary Ruyle](#)
To: [Amy Cook](#); [Virginia Fields](#)
Cc: [Mary Ruyle](#); [Tracy Sheffield](#) ~~(mailto:tracy@tthba.com)~~
Subject: Request Rule Change for Unclaimed ATB Awards
Date: Tuesday, August 9, 2022 11:29:09 AM
Attachments: [REQUEST RULE CHANGE FOR UNCLAIMED ATB AWARDS.docx](#)
Importance: High

Amy and Virginia,

Previously, there has been a rule change request form on the TRC website that included sections relating to the effects of the change, but I did not find it.

Attached is a letter explaining my request that I would like to be considered at the next TRC meeting.

Please let me know if you have any questions.

Respectfully,

MARY RUYLE

Executive Director
Texas Thoroughbred Association
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TEXAS RULES OF RACING
WORKING DRAFT
CHAPTER 302: GENERAL PROVISIONS

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TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 302 GENERAL PROVISIONS

SUBCHAPTER A AUTHORITY

Rule 302.1 Authority

1. The Commission shall propose, adopt, amend, and repeal rules as authorized or required by law, including under the Act and under Chapter 2001, Government Code. (Old rule 303.2(b)). These rules are promulgated under the authority of the Texas Racing Act, TEX. OCC. CODE, Chapters 2021 and 2023-2035, and the TEX. GOV'T CODE, Chapters 2156, 2161, 2260 and 2261. (new)
2. The Texas Racing Commission is charged with implementing, administering, and enforcing the Act. It is the intent of the Commission that the rules be interpreted in the best interests of the public and the state. Through these rules, the Commission intends to provide for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing. (Old rule 303.1)

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 302 GENERAL PROVISIONS

SUBCHAPTER B DEFINITIONS

This is a rules review working document. It contains all definitions throughout the Texas Rules of Racing. If a definition is from a Chapter of the Rules other than Chapter 301, it is so noted. Yellow highlights are provided to draw attention to ARCI rules that may be a better definition for a particular racing word.

302.100 SEE OTHER WORKING DOCUMENTS

302.100(a) – old rule 301.1(a) and (b) Words and terms defined in the Act shall have the same meaning when used in this part unless otherwise defined below. The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Act--The Texas Racing Act, Subtitle A-1, Title 13, Texas Occupations Code.
- (2) Age of a horse--determined as beginning on the first day of January in the year in which the horse is foaled.
- (3) Application documents--documents submitted by an applicant for a license in support of the application.
- (4) Application period--a period designated by the Commission for the submission of application documents for a racetrack license.
- (5) AQHA--American Quarter Horse Association. **DEFINITION FROM CHAPTER 303**
- (6) Association - a horse racetrack association **DEFINITION FROM CHAPTER 303**
- (7) Association grounds--all real property approved by the Commission for use by an association in the conduct of a race meeting. **SEE ARCI DEFINITION**
- (8) ATB horse--a horse accredited by the TQHA as a Texas-bred quarter horse. **DEFINITION FROM CHAPTER 303**
- (9) Authorized agent--a person appointed in writing by the owner or trainer of a horse ~~or greyhound~~ to represent the owner or trainer at a racetrack.
- (10) Backstretch--the straightaway on the side of a track that is opposite to the finish line.
- (11) Betting interest--a single race animal or a group of race animals coupled pursuant to the Rules which the totalisator system designates as an interest on which a patron may wager. **DEFINITION FROM CHAPTER 321**
- (12) Bled – means that blood from one or both nostrils of a horse has been observed after exercise or the visualization of blood in the airways directly observed and validated by a regulatory veterinarian via endoscopic examination.

- (13) **Branding**--the act of a totalisator system imprinting a mutuel ticket with information that identifies the ticket as canceled or cashed and automatically making the appropriate notation in the system's memories.
- (14) **Bred**--a mare is considered to have been bred by a stallion if the physical act of breeding has occurred and the mare is listed on the stallion's Report of Mares Bred filed with the Jockey Club for a particular breeding season and is not subsequently bred during that breeding season to a stallion not accredited by the breed registry. A mare does not have to become pregnant or produce a live foal to be considered bred, so long as these criteria are met. **DEFINITION FROM CHAPTER 303**
- (15) **Breed Registry**--the Texas Thoroughbred Association, the official breed registry for thoroughbred horses as designated in the Act. **DEFINITION FROM CHAPTER 303**
- (16) **Breeder**--A person who is, at the time of conception, the owner of record of an ATB broodmare that foals an ATB horse. **DEFINITION FROM CHAPTER 303**
- (17) **Canceled ticket**--a mutuel ticket that represents a wager that has been canceled and withdrawn from the pari-mutuel pool.
- (18) **Cashed ticket**--a mutuel ticket that is paid for a winning wager.
- (19) **Chief veterinarian**--the chief veterinarian employed by the Commission.
- (20) **Claim means in the context of a Claiming Race the purchase of a horse for a designated amount.**
- (21) **Common pool**--a pool in which the wagers received at a receiving location are combined with the wagers received at a sending racetrack.
- (22) **Concussion means an injury to the brain that results in temporary loss of normal brain function.**
- (23) **Condition of a race**--a characteristic element of the race, such as the distance, qualifications of animal to enter, purse or stakes, or other special features.
- (24) **Coupled entry**--two or more horses entered in a race that, because of common ties of ownership may be joined to be a single betting interest in that race.
- (25) **Cushion**--the top level of a dirt racetrack.
- (26) **Dead heat**--a race in which **the noses of** two or more race animals reach **the finish line** at the same time.
- (27) **Entry**--a horse, or horses in the case of a coupled entry, made eligible to run in a race.
- (28) **Exclusion** – **the act of preventing a person from entering or remaining on the grounds of any association and/or simulcast facility under the jurisdiction of the Commission.**
- (29) **Exotic pool**--a mutuel pool that involves wagers on more than one entered horse ~~or greyhound~~ or on entries in more than one race.
- (30) **False start**—**when horse(s) exits prematurely through the front of the ages prior to the starter officially dispatching the field regardless of cause including, but not limited to, the failure of the starting gate or box doors to open simultaneously. This does not include a horse which exists through the front of the gaes and is subsequently reloaded. SEE ARCI DEFINITION**
- (31) **Foul**--an action by a horse or jockey that hinders or interferes with another horse or jockey during the running of a race.
- (32) **Growing medium**--the substance immediately below the grass on a turf track.
- (33) **Handle**--the total amount of money wagered at a racetrack during a particular period **from a race**.
- (34) **Horse**--an equine of any breed, including a stallion, gelding, mare, colt, filly, or ridgling. **SEE ARCI DEFINITION**
- (35) **Horse Race**--a running contest between horses for entry fees, purse, prize, or other reward, including the following:
- (A) **Claiming race**--a race in which a horse may be claimed in accordance with the Rules **of Racing**.
 - (B) **Derby race**--a race in which the first condition of eligibility is to be three years old.
 - (C) **Futurity race**--a race in which the first condition of eligibility is to be two years old.
 - (D) **Guaranteed race**--a race for which the association guarantees by its conditions a specified purse, which is the limit of its liability.
 - (E) **Handicap race**--a race in which the weights to be carried by the entered horses are adjusted by the racing secretary for the purpose of equalizing their respective chances of winning.
- MAIDEN NOT DEFINED – ARCI DEFINITION A contest restricted to non-winners of a race.**

(F) Match race--a race between only two horses that are owned by different owners.

SEE ARCI DEFINITION OF MATCH RACE - A race between two or more contestants under conditions agreed to by their owners.

(G) Maturity race--a race in which the first condition of eligibility is to be four years of age or older.

(H) Optional claiming race--a claiming race in which there is an option to have horses entered to be claimed for a stated price or not eligible to be claimed. **SEE ARCI DEFINITION**

(I) Progeny race--a race restricted to the offspring of a specific stallion or stallions.

(J) Purse or overnight race--a race for which owners of horses entered are not required by its conditions to contribute money toward its purse. **SEE ARCI DEFINITION**

(K) Stakes race--a race to which nominators of the entries contribute to a purse. **SEE ARCI DEFINITION**

(L) Starter race--an overnight race under allowance or handicap conditions, restricted to horses which have previously started for a designated claiming price or less, as stated in the conditions of the race.

(M) Walkover race--a stakes race in which only one horse starts or all the starters are owned by the same interest.

(N) Weight for age race--a race in which weights are assigned in keeping with the scale of weights in these rules.

(36) In today horse--a horse that is in the body of a race program which is entered into a race on the next consecutive race day.

(37) Locked in the gate--a horse ~~or greyhound~~ that is prevented from leaving the starting gate or box due to the failure of the front door of the gate or box to open simultaneously with the other doors.

(38) Maiden--a horse ~~or greyhound~~ that has never won a race at a recognized race meeting authorized by the Commission or by another racing jurisdiction. **SEE ARCI DEFINITION**

(39) Minus pool--a pool in which there are insufficient net proceeds to pay the minimum price to holders of the winning tickets. **SEE ARCI DEFINITION Minus Pool occurs when the payout is in excess of the net pool.**

(40) Multi-leg wager--a wagering pool that involves more than one race. **DEFINITION FROM CHAPTER 321**

(41) Mutuel field--a group of horses joined as a single betting interest in a race due to the limited numbering capacity of the totalisator.

(42) No race--a race that is **[declared no contest]** canceled after being run due to a malfunction of the starting gate or box or any other applicable reason as determined by the **[Stewards] Rules**.

(43) Nomination – means the naming of a horse to a certain race or series of races generally accompanied by the payment of a prescribed fee.

(44) Nominator – means the person or entity in whose name a horse is nominated for a race or series of races.

(45) Odds--a number indicating the amount of profit per dollar wagered to be paid to holders of winning pari-mutuel tickets.

(46) Off time--the moment when, on signal from the starter, the horses ~~or greyhounds~~ break from the starting gate or box and run the race.

(47) Paddock—the **[enclosure] area** in which horses ~~or greyhounds~~ **[scheduled to compete in a contest are saddled prior to racing] gather immediately before a race.**

(48) Pecuniary interest--includes a beneficial ownership interest in an association, but does not include bona fide indebtedness or a debt instrument of an association.

(49) Performance--the schedule of horse ~~or greyhound~~ races run consecutively as one program. ~~A greyhound performance consists of fifteen or fewer races unless approved by the executive secretary.~~

(50) Photofinish--the system of recording pictures or images of the finish of a race to assist in determining the order of finish.

(51) Place--to finish second in a race.

(52) Post position--the position assigned to a horse ~~or greyhound~~ in the starting gate ~~or box~~ **[from which a horse will leave the starting gate].**

(53) Post time--the *[scheduled]* time set for the arrival at the starting gate ~~or boxes~~ by the horses ~~or greyhounds~~ in a race.

(54) Purse--~~the cash portion of the prize for a race. [the total dollar amount for which a race is contested].~~
SEE ARCI DEFINITION

(55) Race date--a date on which an association is authorized by the Commission to conduct races.

(56) Race day--a day in which a numerical majority of scheduled races is conducted and is a part of the association's allocated race days.

(57) Race meeting--the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission.

(58) Racetrack facility--the buildings, structures and fixtures located on association grounds used by an association to conduct horse ~~or greyhound~~ racing.

(59) Racetrack official--an individual appointed by the Commission to officiate at a race meeting.

(60) Reasonable belief--a belief that would be held by an ordinary and prudent person in the same circumstances as the actor.

(61) Refunded ticket--a pari-mutuel ticket that has been refunded for the value of a wager that is no longer valid.

(62) Rules *[of Racing]*--the rules adopted by the Texas Racing Commission found in Title 16, Part VIII of the Texas Administrative Code.

(63) Schooling race--a practice race conducted under actual racing conditions but for which wagering is not permitted.

(64) Scratch--to withdraw an entered horse ~~or greyhound~~ from a race after the closing of entries.

(65) Scratch time--~~the closing time set by an association for written requests to withdraw from a race. [the deadline for withdrawal of entries from a scheduled performance.]~~

(66) Show--to finish third in a race.

(67) Simulcast -- *the live audio and video transmission of a race and pari-mutuel information for the purpose of pari-mutuel wagering at locations other than the licensed association where the race is run.*

(68) Specimen--a bodily substance, such as hair, blood, urine, saliva, or other bodily tissues taken for analysis from a horse, ~~greyhound,~~ or individual in a manner prescribed by the Commission.

(69) Stakes payments--the fees paid by subscribers in the form of nomination, entry, or starting fees to be eligible to participate.

(70) Starter--a horse ~~or greyhound~~ entered in a race when the doors of the starting gate ~~or box~~ open in front of the horse ~~or greyhound~~ at the time the official starter dispatches the horses ~~or greyhounds~~.

(71) Straight pool--a mutuel pool that involves wagers on a horse ~~or greyhound~~ to win, place, or show.

(72) Subscription--money paid to nominate, enter, or start a horse ~~or greyhound~~ in a stakes race.

(73) Tack room--a room in the stable area of a horse racetrack in which equipment for training and racing the horses is stored.

(74) Ticketless Electronic Wagering (E-wagering)--a form of pari-mutuel wagering in which wagers are placed and cashed through an electronic ticketless account system operated through a licensed totalisator vendor in accordance with § 52021.002 of this Act. Wagers are automatically debited and credited to the account holder.

DEFINITION FROM CHAPTER 321

(75) TIM--ticket-issuing machine. **DEFINITION FROM CHAPTER 321**

(76) TIM-to-Tote network--a wagering network consisting of a single central processing unit and the TIMs at any number of remote sites. **DEFINITION FROM CHAPTER 321**

(77) Totalisator--a machine or system for registering and computing the wagering and payoffs in pari-mutuel wagering.

(78) Totalisator system--a computer system that registers and computes the wagering and payoffs in pari-mutuel wagering. **DEFINITION FROM CHAPTER 321**

(79) Totalisator operator--the individual assigned to operate the totalisator system at a racetrack facility.

DEFINITION FROM CHAPTER 321

(80) Tote board--a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.

(81) Tote room--the room in which the totalisator equipment is maintained.

(82) Tote-to-tote network--a wagering network in which each wagering location has a central processing unit.

DEFINITION FROM CHAPTER 321

(83) TQHA--Texas Quarter Horse Association. **DEFINITION FROM CHAPTER 303**

(84) Trial--~~a race designed primarily to determine qualifiers for finals of a stakes race. [means a part of a series of contests in which horses participate for the purpose of determining eligibility for a subsequent contest].~~ SEE ARCI DEFINITION OF TRIAL RACE

(85) Unaffiliated trainer would be a trainer or an assistant trainer who is not related by blood, marriage, or domestic partnership, or who is not or was never employed by the trainer from whose care such horse(s) were transferred. Recommended ARCI definition

(86) Weigh in--the process by which a jockey is weighed after a race ~~or by which a greyhound is weighed before being placed in the lockout kennel.~~ SEE ARCI DEFINITIONS

(87) Weigh out--the process by which a jockey ~~or greyhound~~ is weighed before a race. SEE ARCI DEFINITIONS

(88) Win--to finish first in a race. SEE ARCI DEFINITIONS

(89) Winner:

- ~~(A) for horse racing, the horse whose nose reaches the finish line first, while carrying the weight of the jockey or is placed first through disqualification by the stewards; and~~
- ~~(B) for greyhound racing, the greyhound whose muzzle, or if the muzzle is lost or hanging, whose nose reaches the finish line first or is placed first through disqualification by the judges.~~

TITLE 16 ECONOMIC REGULATION
 PART 8 TEXAS RACING COMMISSION
 CHAPTER 302 GENERAL PROVISIONS

SUBCHAPTER C COMMISSION RESPONSIBILITIES

DIVISION 1 GENERAL PROVISIONS

Rule 302.200 Commission Responsibilities (A rewrite recommendation)

(a) The Commission shall have primary responsibility for policy-making activities including but not limited to:

- (1) issue racetrack licenses under Tex. Occ. Code Chapter 2025;
- (2) ~~renewal inactive racetrack licenses [issue training facility licenses];~~
- (3) setting fees;
- (4) adopting rules;
- (5) imposing sanctions and penalties; and
- (6) issuing final orders in contested cases.

(b) The Commission shall have the sole responsibility for the adoption of rules proposed by the agency or the Commission.

(c) The Commission shall employ an executive director who shall employ other employees necessary to implement, administer, and enforce the Act. **Old rule 303.7(a)**

(d) A Commission member may not act in the name of the Commission on any matter without the approval of a majority of the Commission. **Old rule 303.15**

(e) The Commission shall provide reasonable accommodations, as required by the Americans with Disabilities Act of 1990, Public Law 101-336 and any subsequent amendments, for the public to participate in the programs regulated by the agency. **New**

(f) Upon request, the Commission shall provide reasonable access to persons who do not speak English to the programs regulated by the agency. **New**

(g) The Commission may establish a branch office in any county in which the Commission determines a branch office is necessary. **Old Rule 303.3 subsection (c).**

Rule 302.201 – Commission Meetings – Procedures

(Rewrite recommendation)

(a) Every regular, special, or called meeting of the Commission shall be open to the public as provided by the Government Code, Chapter 551 ("the Open Meetings Act"). **(new)**

(b) Meetings will be conducted according to the current edition of *Robert's Rules of Order Newly Revised* in all instances to which they are applicable as long as they are not inconsistent with the constitution, the statutes and the rules of the Commission. Any *Robert's Rules of Order Newly Revised* may be modified as deemed necessary by the presiding officer for the proper conduct of the meeting subject to an objection by a Commission member. **(new)**

(c) The Chair or any four members of the Commission may call a special meeting of the Commission.

Old Rule 303.4(b).

~~(d) A quorum for the Commission is a majority of all the members of the Commission as designated by statute. When a quorum is present, a motion before the Commission is carried by an affirmative vote of the majority of the Commissioner members present that are participating in the vote. **(new)**~~

~~(e) The presiding officer may limit the number and length of comments provided on any item on the agenda subject to an objection from a Commission member. **(new)**~~

~~(f) As a member of the Commission, the presiding officer may make motions without the necessity of relinquishing the chair subject to an objection from a Commission member. **(new)**~~

(g) In January of even-numbered years, the Commission shall elect one of the members to serve as vice-chair for a term of two years. In the event of a vacancy in the office of vice-chair, the vacancy shall be filled for the unexpired term on majority vote of the Commission at the next regular meeting ~~of the Commission.~~

Old rule 303.6(a) and (b).

(h) In the absence of the chair and vice-chair from a meeting of the Commission, the remaining members shall elect a pro-tem presiding officer who shall serve until the conclusion of the meeting or until the arrival of the chair or vice-chair. **Old rule 303.6(c).**

(i) If a vacancy occurs on the Commission, the chairman shall call a special meeting to request the governor to appoint a new member to fill the vacancy. If the vacancy occurs in the office of the chairman, the vice chairman shall call the special meeting. **Old rule 303.11**

(j) The executive director shall prepare the agenda for each Commission meeting, subject to the approval of the Chair of the Commission. At the request of any two Commissioners, the executive director shall place an item on the agenda. If only one Commissioner requests that an item be placed on the agenda, the Chair shall review the request and, after consulting with the Vice-chair, determine whether to place the item on the agenda. **(Old rule 303.4(d)).**

(k) A licensee of the Commission or a member of the public may request that an item be placed on the agenda by filing a written request with the executive director not later than ~~14~~ **[21]** days before the date of the meeting. The party making the request must include all information, data, or other supporting materials relating to the request. After receiving a request under this subsection, the Chair shall review the request and, after consulting with the Vice-chair, determine whether to place the item on the agenda. **(Old rule 303.4(e)).**

Texas Racing Act 2022.014

(l) The Commission shall provide the public with a reasonable opportunity to appear before the Commission and to speak on any issue under the Commission's jurisdiction. Persons wishing to speak at a Commission meeting may sign in at the beginning of the meeting and may speak during the public comment portion of the meeting. **(new)**

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 302	GENERAL PROVISIONS

SUBCHAPTER C COMMISSION RESPONSIBILITIES

DIVISION 2 RACE DAYS AND OVERSIGHT

Rule 302.250 Allocation of Race Days Old rule 303.41

- (a) The Commission shall allocate live race dates, including charity days, to each association for such time periods and at such racing locations as the Commission determines in accordance with the Act and this section.
- (b) Upon its own motion or upon the request of any association, the Commission may designate an application period during which the Commission shall accept applications for race dates.
- ~~(c) The Commission shall establish the time period or periods for which it will consider granting race dates.~~
- (c) ~~(d)~~ Upon designation by the Commission of an application period under this section, the executive director shall publicize that application period to the affected ~~greyhound and~~ horse racing associations at least 30 days before the closing date of the period.
- (d) ~~(e)~~ The application must be on a form prescribed by the agency. After the request is filed, the executive director may require the association to submit additional information if the executive director determines the additional information is necessary to effectively evaluate the request.
- (e) ~~(f)~~ In allocating race dates under this section, the Commission may consider the following factors and the degree to which the association's proposed race meeting will serve to nurture, promote, develop, or improve the horse ~~or greyhound~~ industry in Texas:
- (1) the association's current ability to pay all fees and other amounts owed to the agency, to the state, and to local governments;
 - (2) the association's willingness and ability to comply and past performance in complying with the Rules and the Act;
 - (3) the current condition of the association's racetrack and facilities for patrons, race animals, and occupational licensees;
 - (4) the anticipated effect of the proposed race meeting on the continuity of racing during the year;
 - (5) the live race dates requested by other associations licensed to conduct races for the same species of animal;
 - (6) the anticipated overall economic effect to the state from the race meeting;
 - (7) the anticipated effect of the race meeting on ~~the greyhound or~~ horse breeding industry in Texas;
 - (8) the anticipated effect of scheduled race meetings in neighboring race states on the proposed race meeting; and
 - (9) the anticipated availability of race animals for the race meetings.
- (f) ~~(g)~~ The Commission shall approve the actual days awarded, and the total number of performances. The Commission may require a minimum number of races in a race meet.
- (g) The Commission may not grant overlapping live race dates for the same breed of horse at ~~Class 1~~ racetracks unless the overlapping is agreed to in writing by the affected ~~Class 1~~ racetracks.
- (h) An association shall conduct pari-mutuel racing on each race date granted under this section, and in accordance with the race date calendar approved by the Commission, unless the association receives the prior approval of the executive director.
- ~~(h) (i) If circumstances beyond the control of the association prevent the association from conducting a performance, the Commission may award a make-up performance.~~
- (i) ~~(j)~~ Change in Race Date Allocation.
- (1) The executive director may permit an association to request additional live race dates after its request under this section has been acted on by the Commission if the executive director determines that:
 - (A) the request includes evidence that granting the additional live race dates will enhance the breeding and training industries for horses ~~or greyhounds~~;

(B) the association's failure to request the live race dates initially was not due to the association's neglect; and

(C) if the request duplicates a request by the association that has already been denied by the Commission, changed circumstances exist that necessitate additional consideration by the Commission.

(2) An association may request a change to the live race dates granted by the Commission provided the association obtains the approval of all associations that are affected by the proposed change. This subsection applies to any proposed change to the number or format of live race dates.

(3) The executive director may approve an association's request to add, delete, or modify live race dates, provided that the request:

(A) does not add any live race dates that are more than fourteen calendar days preceding the start of the Commission-approved race meet or more than fourteen days following the end of the Commission-approved race meet;

(B) is supported in writing by each breed organization affected by the change;

(C) is supported in writing by each association that is affected by the change; and

(D) in the case of a horse racing association, is supported in writing by the horsemen's organization.

(4) In determining whether to approve a request under this subsection, the executive director may consider the effect that approving the request would have on the workload and budget status of the Commission.

(5) For purposes of this subsection, an allocation of live race performances may be changed in the same manner as a change in the allocation of live race dates.

(j) ~~(a)~~ An association shall conduct charity days as required by the Act. ~~A greyhound association shall conduct at least five charity race days each year.~~ A Class 1 or Class 2 horse racetrack shall conduct at least two and not more than five charity race days each year.

(k) ~~(b)~~ An association shall apply to the Commission not later than July 1 of each year for charity race dates to be conducted in the next calendar year. The application must be in writing and contain:

(1) the name of the charity;

(2) the name and address of each individual who serves as an officer or director of the charity or who owns an interest in the charity of 5% or more;

(3) a brief description of the activities or purposes of the charity; and

(4) a copy of an Internal Revenue Service letter of determination that qualifies the charity as an exempt organization for purposes of federal income tax.

(l) ~~(c)~~ An association shall pay to the charity at least 2% of the total pari-mutuel handle generated at the association's racetrack on live races and imported simulcast races on the charity race day.

(m) ~~(d)~~ One of the charity days must be conducted for a charity that directly benefits the persons who work in the stable or kennel area of the racetrack. At least one of the charity days shall be open to any charity that meets the requirements of subsection (k) ~~(b)~~(1) - (4) above.

Rule 302.251 **Approval of Charity Race Days** **Old rule 303.42**

~~(a) An association shall conduct charity days as required by the Act. A greyhound association shall conduct at least five charity race days each year. A Class 1 or Class 2 horse racetrack shall conduct at least two and not more than five charity race days each year.~~

~~(b) An association shall apply to the Commission not later than July 1 of each year for charity race dates to be conducted in the next calendar year. The application must be in writing and contain:~~

~~(1) the name of the charity;~~

~~(2) the name and address of each individual who serves as an officer or director of the charity or who owns an interest in the charity of 5% or more;~~

~~(3) a brief description of the activities or purposes of the charity; and~~

~~(4) a copy of an Internal Revenue Service letter of determination that qualifies the charity as an exempt organization for purposes of federal income tax.~~

~~(c) An association shall pay to the charity at least 2% of the total pari-mutuel handle generated at the association's racetrack on live races and imported simulcast races on the charity race day.~~

~~(d) One of the charity days must be conducted for a charity that directly benefits the persons who work in the stable or kennel area of the racetrack. At least one of the charity days shall be open to any charity that meets the requirements of subsection (b)(1)–(4) above. MOVED TO 302.250(j) above.~~

~~Rule 302.252 Allocation of Live Race Dates for Class 1 Racetracks Old rule 303.43~~

~~(a) The Commission may not grant overlapping live race dates for the same breed of horse at Class 1 racetracks unless the overlapping is agreed to in writing by the affected Class 1 racetracks. MOVED TO 302.250(g) above.~~

~~(b) For any year in which there are less than three Class 1 racetracks in Texas holding final non-appealable licenses, the Commission shall allocate to each such racetrack at least 17 consecutive weeks of live thoroughbred racing and at least 17 consecutive weeks of live quarter horse racing, unless otherwise agreed to by the appropriate breed registry. Each week of live racing shall consist of a minimum of four consecutive race days. If a Class 1 racetrack informs the Commission in writing that it does not desire the full number of weeks of racing for either breed, the Commission may allocate the extra weeks to another racetrack. Removed~~

~~(b)~~

Rule 302.251 Oversight of Use of Funds Generated by Pari-Mutuel Racing Old rule 303.44

(a) Subject to subsection (b), the Commission may suspend or withhold funds from an organization:

(1) that it determines has failed to comply with the requirements or performance measures adopted under Tex. Occ Code §2028.001; or

(2) for which material questions on the use of funds by the organization are raised following an independent audit or other report to the Commission.

(b) The Commission shall not withhold funds from an organization pursuant to subsection (a) unless:

(1) the agency has notified the organization of all outstanding requirements, performance measures, and material questions on the use of funds by the organization and has provided at least 30 days for the organization to address the issue(s); and

(2) the issues remain unresolved after the deadline indicated in the letter.

Rule 302.252 Seal Old rule 303.13

The seal of the Commission is a circle with the words “Texas Racing Commission” arranged on the inner edge of the circle. In the center of the circle is a five-pointed star, a live oak branch, and an olive branch, common to other official Texas state seals.

TITLE 16 ECONOMIC REGULATION
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SUBCHAPTER C COMMISSION RESPONSIBILITIES

DIVISION 3 RULEMAKING

Rule 302.270 Purpose Old rule 307.101

As authorized by the Act, §§2023.001(b) and 2023.002(b) and other laws,

Rule 302.271 Rulemaking Old rule 303.44

The Commission and the agency will follow the rulemaking procedures established in the Administrative Procedures Act (Texas Government Code, Chapter 2001) except when §302.271 of this subchapter is applicable.

Rule 302.272 Negotiated Rulemaking Old rules 307.101-105

- (a) It is the Commission's policy to engage in negotiated rulemaking procedures under Texas Government Code, Chapter 2008, when appropriate. When the Commission finds that proposed rules are likely to be complex, or controversial, or to affect disparate groups, negotiated rulemaking may be proposed.
- (b) When negotiated rulemaking is proposed, the Commission will appoint a convener to assist in determining whether it is advisable to proceed. The convener shall perform the duties and responsibilities contained in Texas Government Code, Chapter 2008.
- (c) If the convener recommends proceeding with negotiated rulemaking and the Commission adopts the recommendation, the agency shall initiate negotiated rulemaking according to the provisions of Texas Government Code, Chapter 2008.

Rule 302.273 Petition for Adoption of Rules Old rules 307.101-105

- (a) Any interested person may request adoption of a rule(s) by submitting a letter of request to the agency with a draft of the rule(s) attached. At a minimum the request should contain:
 - (1) items to be deleted bracketed or lined through;
 - (2) items added underlined; and
 - (3) the rationale for the requested rule change.
- (b) For purposes of this section, the term "interested person" shall have the meaning given in Government Code, §2001.021.
- (c) The agency shall respond to a letter of request for adoption of a rule in accordance with Government Code, §2001.

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SUBCHAPTER D EXECUTIVE DIRECTOR, AGENCY AND COMPTROLLER RESPONSIBILITIES

DIVISION 1 EXECUTIVE DIRECTOR AND AGENCY RESPONSIBILITIES

Rule 302.301 Commission Organization (A rewrite recommendation)

- (a) The Commission shall employ an executive director who shall employ other employees necessary to implement, administer, and enforce the Act. **Old rule 303.7(a)**
- (b) The executive director shall have primary responsibility to manage the operations and administration of the agency as provided by Texas Racing Act contained in the TEX. OCC. CODE, Chapters 2021 and 2023-2035 and other applicable law, including but not limited to:
 - (1) issuing occupational and training facility licenses;
 - (2) resolving complaints;
 - (3) conducting investigations and inspections;
 - (4) imposing agreed order sanctions and administrative penalties; and
 - (5) administering exams. **(new)**
- (b) The executive director may approve agreed orders in contested cases and shall have authority to issue other orders as provided by law or as delegated by the Commission. **(new)**

- (c) The executive director may propose rules for publication in the *Texas Register* as delegated by the Commission. **(new)**
- (d) The executive director may implement any emergency orders or proclamations issued by the Governor to suspend or amend existing statutes and rules. The executive director will notify the Commission of the agency's actions to comply with the Governor's emergency orders or proclamations. **(new)**
- (e) For any license that expires during a state of disaster declared by the governor under Texas Government Code, Chapter 418, or the following recovery period, the executive director may issue to the occupational license holder a temporary license under Texas Occupations Code §2025.260. The executive director may implement policies as necessary to administer this subsection. **(new)**
- (f) The executive director shall establish the organizational structure of the agency's employees, including the establishment of various divisions within the agency. The executive [director] ~~secretary~~ shall prescribe the duties and compensation for all other agency employees, subject to the Commission's approval of the budget. The executive director shall adopt personnel policies and other internal operating policies and procedures. The executive director shall develop the agency budgets to allocate expenditures within the agency based on the approved agency operating budget. **Old rule 303.8(c)**
- (g) The executive director shall prepare and file all agency reports required by law that are retrospective in nature, such as the annual financial report and periodic reports on performance measures. **Old rule 303.8(d)**
- (h) *The executive director shall enforce the Act, the rules, and the orders of the Commission, including determining the method of enforcement, the amount of penalties, the issuance of preliminary reports for administrative penalties, and the development of enforcement guidelines for use by the stewards and racing judges.* **Old rule 303.8(e)**
- (i) The executive director shall review all applications for racetrack licenses and licenses to conduct race meetings and make a report to the Commission regarding the issuance of such licenses. **Old rule 303.8(f)**
- (j) Except as otherwise provided by a rule of the Commission, if the Commission places a duty on the executive director, by rule or otherwise, the executive director may delegate that duty to another employee of the agency. **Old rule 303.8(g)**

Rule 302.302 – Commission and Executive Director – Imposing Sanctions and Penalties

- (a) The Commission or executive director may sanction a license holder, applicant, or other person, if the person:
- (1) obtains or attempts to obtain a license by fraud or false representation;
 - (2) falsifies any document submitted to the agency or Commission;
 - (3) refuses to permit inspection or interferes with an inspection or investigation by an authorized representative of the Commission or agency;
 - (4) permits the use or display of a license by a person not authorized by law to use that license;
 - (5) has been convicted of, or placed on deferred adjudication for, an offense identified in Texas Occupations Code, §53.021(a); or
 - (6) violates a law for the regulatory program administered by the agency, or a rule or order of the Commission or agency.
- (b) The Commission or executive director may:
- (1) issue a written reprimand;
 - (2) revoke, suspend, or deny the person's license;
 - (3) place on probation a person whose license has been suspended or revoked;
 - (4) issue a restricted license to the person in accordance with Texas Occupations Code, Chapter 2033, Subchapter D;
 - (5) refuse to renew the person's license; or
 - (6) impose administrative penalties against the person after considering the factors set forth in Texas Occupations Code, Chapters 2025 and 2033.

(c) If the suspension or revocation of a license is probated, the Commission or executive director may require the person to:

- (1) report regularly to the agency on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the Commission or executive director;
- (3) complete professional education until the person attains a degree of skill satisfactory to the Commission or executive director in those areas that are the basis for the probation; or
- (4) complete any other remedial actions agreed to by the parties.

(d) If a person has outstanding administrative penalties, the agency may place a hold on the person's license and the person may not renew the license until the administrative penalties are paid.

Rule 302.303 Right of Entry See Texas Racing Act 2023.007 Old Rule 303.32

(a) A member or authorized agent of the agency, a steward or judge, a Commissioned officer of the Agency of Public Safety who is assigned to work on racing investigations, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter an office, a racetrack, any area on association grounds, or any similar area or other place of business of an association at any time to enforce or administer the Act or Commission rules.

(b) An association or an officer, employee, or agent of an association may not refuse or deny a request to enter under this section and may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or Commission rules.

Rule 302.304 Subpoenas Old rule 303.33

(a) A member of the Commission, the executive director, an administrative law judge, or other person authorized by the agency in performing duties under the Act may take testimony and may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence, and other documents that the agency considers advisable.

(b) Subpoenas must be issued under the signature of the Commission, the executive director, an administrative law judge, or other person authorized by the executive director and may be served by any person designated by the executive director.

(c) A member of the Commission, the executive director, an administrative law judge, or other person authorized by the executive director may administer an oath or affirmation to a witness appearing before the agency or a person authorized by the agency.

(d) If a subpoena issued on behalf of the Commission is disobeyed, the Commission or executive director may invoke the aid of the appropriate state court in requiring compliance with the subpoena.

(e) For an individual compelled to appear before the agency under this section, the agency shall pay travel expenses in accordance with the provisions [in the Texas Civil Practice and Remedies Code §22.003]. The agency reserves the right to bill the expenses to parties requiring the appearance of the individual.

Rule 302.305 Access to Commission Programs See Old Rule 303.35

(a) Persons who do not speak English or who have a physical, mental, or developmental disability will be provided reasonable access to the agency and to the agency's programs.

(b) All agency facilities, including facilities on association grounds, will comply with Texas [Government Code, Chapter 469, and 16 TAC, Chapter 68], concerning architectural barriers and the policy of the State of Texas to encourage and promote the rehabilitation of disabled individuals. Each association licensed by the Commission is required to ensure accessibility to its facilities for disabled persons [pursuant to Texas Government Code, Chapter 469, and 16 TAC, Chapter 68, and these Rules of Racing].

(c) All testing, whether oral, in sign language, or in a foreign language, will be arranged when an examination is required for licensure. A hearing before the Board of Stewards/Judges or the State Office of Administrative Hearings will be arranged as needed if a question of fitness for a particular license should arise.

(d) Complaints against a person or entity regulated by the agency will be accepted in all forms under all circumstances and the agency will provide an interpreter with an investigator should a language problem

arise. The agency welcomes public input at Commission meetings. On prior reasonable notice to the agency, an interpreter will be provided to assist individuals in making presentations to the Commission.

Rule 302.306 Cooperation with Peace Officers and other Enforcement Agencies See Act 2023.056 and Old Rule 303.38

Agency employees and its licensees shall cooperate with all district attorneys, county attorneys, the Agency of Public Safety, the attorney general, and all peace officers who are enforcing a criminal law related to racing, the Texas Racing Act, or the Texas Rules of Racing.

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SUBCHAPTER D EXECUTIVE DIRECTOR, AGENCY AND COMPTROLLER RESPONSIBILITIES

DIVISION 2 COMPTROLLER RIGHT OF ENTRY, RECORDS AND RULES

Rule 302.320 Comptroller Right of Entry See Act 2024.003 and Old Rule 303.61

- (a) The comptroller or a person authorized by the comptroller may enter an office, racetrack, or other place of business of an association at any time to inspect the association's records required to be maintained by a rule of the Commission.
- (b) To assist the comptroller in gaining access to a place under this section, the executive director may issue a subpoena under §302.304 of this title.

Rule 302.321 Comptroller Records See Act 2024.002 and Old Rule 303.62

- (a) An association or other person required by a rule of the Commission to maintain records regarding the operation of a racetrack shall allow the comptroller or a person authorized by the comptroller to inspect the records.
- (b) Failure to allow the comptroller or a person authorized by the comptroller to inspect a record in accordance with this section is grounds for disciplinary action by the agency.

Rule 302.322 Comptroller Rules See Act 2024.001 and Old Rule 303.63

If the comptroller adopts rules for the enforcement of the comptroller's powers and duties under the Racing Act, a licensee's failure to comply with a rule of the comptroller is considered a violation of the Texas Rules of Racing and is grounds for disciplinary action by the agency.

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 302 GENERAL PROVISIONS

SUBCHAPTER E PROCUREMENTS

DIVISION 1 GENERAL PROVISIONS

Rule 302.401 Commission Vehicles Old rule 303.12

- (a) A motor vehicle owned by the Commission is state property and may be used for official agency business only. ~~A Commission motor vehicle may not be assigned to a specific employee but must be~~

~~available for use by all eligible employees. A Commission motor vehicle will be kept at the agency's Austin headquarters.~~

(b) A agency employee is eligible to use a Commission motor vehicle if the employee possesses a valid Texas driver's license and has a satisfactory driving record, as determined by the executive [director] **Secretary**.

(c) An employee operating a Commission motor vehicle must comply with all applicable state traffic laws and the agency's traffic safety policies. A violation of one of those laws or policies is grounds for disciplinary action.

Rule 302.402 Historically Underutilized Business Old rule 303.16

Pursuant to Texas Government Code, Chapter 2161, §2161.003, the Commission adopts by reference the rules of the Texas Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B.

Rule 302.403 Bid Opening and Tabulation New

(a) The Commission adopts by reference the rules of the Texas Comptroller of Public Accounts in 34 TAC §20.35. The adoption of this rule is required by Texas Government Code, §2156.005(d).

Rule 302.404 Protest Procedures Old rule 303.17

(a) A protesting party who wishes to submit a grievance regarding the solicitation, evaluation, or award of a contract may formally protest to the Chief Financial Officer. Such protests must be in writing and received by the Chief Financial Officer within 10 business days after the protesting party knows, or should have known, of the occurrence of the action which is protested. Filed protests must conform to the requirements of this subsection and subsection (c) and shall be resolved in accordance with the procedure set forth in subsection(d) - (j). Copies of the protest must be mailed, hand-delivered or sent by facsimile transmission to the Chief Financial Officer and other interested parties.

(b) In the event of a timely protest under this section, the agency shall not proceed further with the solicitation or with the award of the contract unless the executive director, after consultation with the Chief Financial Officer and the General Counsel, makes a written determination that the award of the contract without delay is necessary to protect the best interests of the agency and the State.

(c) Formal protest must be sworn and contain:

- (1) a specific identification of the statutory or regulatory provision(s) that the action complained of is alleged to have violated;
- (2) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in paragraph (1);
- (3) a precise statement of the relevant facts;
- (4) identification of the issue or issues the protesting party argues must be resolved;
- (5) argument and authorities the protesting party offers in support of the protest; and
- (6) a statement that copies of the protest have been mailed, hand-delivered or sent by facsimile transmission to the agency and all other identifiable interested parties.

(d) The Chief Financial Officer shall have the authority, prior to an appeal to the executive director to settle and resolve the dispute concerning the solicitation or award of a contract. The Chief Financial Officer may solicit written responses to the protest from interested parties.

(e) If the protest is not resolved by mutual agreement, the Chief Financial Officer may proceed, after consultation with the General Counsel, with the issuance of a written determination on the protest as follows:

- (1) The Chief Financial Officer may determine that no violation of rules or statutes has occurred and shall so inform the protesting party, the executive director, and any other interested parties by letter that includes the reasons for the determination.
- (2) If the Chief Financial Officer determines that a violation of the rules or statutes may have occurred in a case where a contract has not been awarded, the Chief Financial Officer shall so inform the protesting

party, the executive director and other interested parties by letter that includes the reasons for the determination and the appropriate remedial action.

(3) If the Chief Financial Officer determines that a violation of the rules or statutes may have occurred in a case where a contract has been awarded, the Chief Financial Officer shall so inform the protesting party, the executive director and other interested parties by letter that includes the reasons for the determination, which may include a declaration that the contract is void.

(f) The protesting party may appeal a determination of a protest by the Chief Financial Officer to the executive director. An appeal of the Chief Financial Officer's determination must be in writing and must be received in the agency's office no later than 10 business days after the date of the Chief Financial Officer's determination. The appeal shall be limited to a review of the Chief Financial Officer's determination. Copies of the appeal must be mailed or delivered by the protesting party to the Chief Financial Officer and other interested parties and must contain a certified statement that such copies have been provided.

(g) The executive director may confer with the General Counsel in a review of the matter appealed. The executive director has the discretion to consider documentation timely submitted by agency staff and interested parties. The executive director also has the discretion to refer the matter to the Commission for consideration at a regularly scheduled open meeting or may go forward with issuing a written decision on the protest.

(h) If a protest is appealed to the executive director under subsection (f) and thereafter is referred to the Commission by the executive director under subsection (g), specific requirements apply as follows:

(1) The executive director shall deliver copies of the appeal and responses of interested parties, if any, to the Commission.

(2) The Commission may consider documents that agency staff or interested parties have submitted and may confer with the General Counsel in their review of the appeal.

(3) The Commission's determination of the appeal shall be made on the record and reflected in the minutes of the open meeting and shall be final.

(i) A protest or appeal that is not filed timely will not be considered unless good cause for the delay is shown or unless the executive director determines that a protest or appeal raises issues significant to procurement practices or procedures.

(j) A decision issued either by the Commission in open meeting, or in writing by the executive director, shall be the final administrative action of the agency.

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 302	GENERAL PROVISIONS

SUBCHAPTER E PROCUREMENTS

DIVISION 2 NEGOTIATION OF CERTAIN CONTRACT DISPUTES

Rule 302.501 Applicability New

(a) Words and terms, when used in this subchapter, shall have the meaning assigned by Texas Government Code, Chapter 2260, unless the context clearly indicates otherwise.

(b) This subchapter applies to claims for breach of contract asserted by a contractor against the agency under Texas Government Code, Chapter 2260.

(c) This subchapter does not apply to contracts:

- (1) between the agency and the federal government or its agencies, another state, or another nation;
- (2) between the agency and another unit of state government;
- (3) between the agency and a local governmental body, or a political subdivision of another state;
- (4) between a subcontractor and a contractor;
- (5) within the exclusive jurisdiction of state or local regulatory bodies;

- (6) within the exclusive jurisdiction of federal courts or regulatory bodies; or
- (7) that are funded solely by federal grant funds.

Rule 302.502 Prerequisites to Suit New

The procedures contained in this subchapter and Subchapter G are exclusive and required prerequisites to suit against the agency under the Texas Civil Practice and Remedies Code, Chapter 107, and the Texas Government Code, Chapter 2260.

Rule 302.503 Sovereign Immunity New

This subchapter does not waive the agency's sovereign immunity to suit or liability.

Rule 302.504 Notice of Claim for Breach of Contract New

(a) A contractor asserting a claim of breach of contract under Texas Government Code, Chapter 2260, shall file notice of the claim as provided by this section.

(b) The notice of claim shall:

- (1) be in writing and signed by the contractor or the contractor's authorized representative;
 - (2) be delivered by hand, certified mail return receipt requested or certified mail with electronic return receipt, or other verifiable delivery service, to the agency officer designated in the contract to receive a notice of claim of breach of contract under Texas Government Code, Chapter 2260; if no person is designated in the contract, the notice shall be delivered to the agency; and
 - (3) state in detail:
 - (A) the nature of the alleged breach of contract, including the date of the event that the contractor asserts as the basis of the claim and each contractual provision allegedly breached;
 - (B) a description of damages that resulted from the alleged breach, including the amount and method used to calculate those damages; and
 - (C) the legal theory of recovery, i.e., breach of contract, including the relationship between the alleged breach and the damages claimed.
- (c) The notice of claim shall be delivered no later than 180 days after the date of the event that the contractor asserts as the basis of the claim.

Rule 302.505 Agency Counterclaim New

(a) If the agency asserts a counterclaim under Texas Government Code, Chapter 2260, the agency shall file notice of the counterclaim as provided by this section.

(b) The notice of counterclaim shall:

- (1) be in writing;
 - (2) be delivered by hand, certified mail return receipt requested or certified mail with electronic return receipt, or other verifiable delivery service to the contractor or representative of the contractor who signed the notice of claim of breach of contract; and
 - (3) state in detail:
 - (A) the nature of the counterclaim;
 - (B) a description of damages or offsets sought, including the amount and method used to calculate those damages or offsets; and
 - (C) the legal theory supporting the counterclaim.
- (c) The notice of counterclaim shall be delivered to the contractor no later than 60 days after the agency's receipt of the contractor's notice of claim.
- (d) Nothing herein precludes the agency from initiating a lawsuit for damages against the contractor in a court of competent jurisdiction.

Rule 302.506 Duty to Negotiate New

The parties shall negotiate in accordance with the timetable set forth in §302.407 to attempt to resolve all claims and counterclaims filed under this subchapter. No party is obligated to settle with the other party as a result of the negotiation. The parties may agree to mediate a claim in accordance with Subchapter G.

Rule 302.507 Timetable New

- (a) Following receipt of a contractor's notice of claim, the agency or designated representative shall review the contractor's claim and the agency's counterclaim, if any, and initiate negotiations with the contractor to attempt to resolve the claim and counterclaim.
- (b) Subject to subsection (c), the parties shall begin negotiations within a reasonable period of time, not to exceed 120 days after the date the agency receives the contractor's notice of claim.
- (c) The parties may conduct negotiations according to an agreed schedule as long as they begin negotiations no later than the deadline set forth in subsection (b).
- (d) Subject to subsection (e), the parties shall complete the negotiations that are required by this subchapter as a prerequisite to a contractor's request for contested case hearing no later than 270 days after the agency receives the contractor's notice of claim.
- (e) The parties may agree in writing to extend the time for negotiations on or before the 270th day after the agency receives the contractor's notice of claim. The agreement shall be signed by representatives of the parties with authority to bind each respective party.
- (f) The contractor may request a contested case hearing before the State Office of Administrative Hearings (SOAH) pursuant to §302.512 after the 270th day after the agency receives the contractor's notice of claim, or the expiration of any extension agreed to under subsection (e).
- (g) The parties may agree to mediate the dispute at any time before the 120th day after the agency receives the contractor's notice of claim and before the expiration of any extension agreed to by the parties pursuant to subsection (e). The mediation shall be governed by Subchapter G.
- (h) Nothing in this section is intended to prevent the parties from commencing negotiations earlier than the deadline established in subsection (b), or from continuing or resuming negotiations after the contractor requests a contested case hearing before the State Office of Administrative Hearings (SOAH).

Rule 302.508 Conduct of Negotiations New

- (a) A negotiation under this division may be conducted by any method, technique, or procedure authorized under the contract or agreed upon by the parties. The parties may conduct negotiations with the assistance of one or more neutral third parties. The parties may choose to mediate their dispute in accordance with Subchapter E, Division 2.
- (b) To facilitate meaningful evaluation and negotiation of the claims and any counterclaims, the parties may exchange relevant documents that support their respective claims, defenses, counterclaims, or positions.
- (c) The agency may also negotiate, mediate, or settle with a contractor concerning any assertion by a contractor which does not constitute either a notice of claim or a claim under this subchapter or Texas Government Code, Chapter 2260. Such actions by the agency do not constitute a waiver of sovereign immunity or of statutory or regulatory requirements for a notice of claim.

Rule 302.509 Settlement Approval Procedures New

The parties' settlement approval procedures shall be disclosed prior to, or at the beginning of negotiations. To the extent possible, the parties shall select negotiators who are knowledgeable about the subject matter of the dispute, who are in a position to reach agreement, and who can credibly recommend approval of an agreement.

Rule 302.510 Settlement Agreement New

- (a) A settlement agreement may resolve an entire claim or any designated and severable portion of a claim.
- (b) To be enforceable, a settlement agreement must be in writing and signed by the agency, or the agency's authorized representative, and a representative of the contractor who has authority to bind the contractor.

(c) A partial settlement does not waive a contractor's rights under Texas Government Code, Chapter 2260, as to the parts of the claim that are not resolved.

Rule 302.511 Cost of Negotiation New

Unless the parties agree otherwise, each party shall be responsible for its own costs incurred in connection with a negotiation, including, without limitation, the costs of attorneys' fee, consultant's fees, and expert's fees.

Rule 302.512 Contested Case Hearings for Contract Disputes New

(a) If a claim of breach of contract is not resolved in its entirety through negotiation or mediation in accordance with this subchapter or Subchapter E on or before the 270th day after the agency receives the notice of claim, or after the expiration of any extension agreed to by the parties pursuant to §302.507(e), the contractor may file a request with the agency for a contested case hearing before State Office of Administrative Hearings (SOAH).

(b) A request for a contested case hearing must state the legal and factual basis for the claim and must be delivered to the agency within 90 days after the 270th day or the expiration of any written extension agreed to pursuant to §302.507(e).

(c) The agency shall forward the contractor's request for contested case hearing to the SOAH within a reasonable period of time, not to exceed 30 days, after receipt of the request. Referral of a request for hearing to SOAH does not constitute waiver by the agency of statutory or regulatory requirements for the notice of claim, the claim, or the request for hearing.

(d) The parties may agree to submit the case to the SOAH before the 270th day after the notice of claim is received by the agency if they have achieved a partial resolution of the claim or if an impasse has been reached in the negotiations and proceeding to a contested case hearing would serve the interests of justice.

(e) Contested case hearings shall be conducted in compliance with Texas Government Code, Chapter 2260, this subchapter, and the rules and procedures of the SOAH applicable to hearings on contract claims.

(f) Provisions of Chapter 60 of this title, regarding requests for and conduct of contested case hearings, do not apply to hearings conducted under this subchapter.

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SUBCHAPTER E PROCUREMENTS

DIVISION 3 MEDIATION OF CERTAIN CONTRACT DISPUTES

Rule 302.601 Applicability New

(a) Words and terms, when used in this subchapter, shall have the meaning assigned by Texas Government Code, Chapter 2260, unless the context clearly indicates otherwise.

(b) This subchapter applies to claims for breach of contract asserted by a contractor against the agency under Texas Government Code, Chapter 2260.

(c) This subchapter does not apply to contracts:

- (1) between the agency and the federal government or its agencies, another state, or another nation;
- (2) between the agency and another unit of state government;
- (3) between the agency and a local governmental body, or a political subdivision of another state;
- (4) between a subcontractor and a contractor;
- (5) within the exclusive jurisdiction of state or local regulatory bodies;
- (6) within the exclusive jurisdiction of federal courts or regulatory bodies; or
- (7) that are funded solely by federal grant funds.

Rule 302.602 Prerequisites to Suit New

The procedures contained in this subchapter and Subchapter F are exclusive and required prerequisites to suit against the agency under the Texas Civil Practice and Remedies Code, Chapter 107, and the Texas Government Code, Chapter 2260.

Rule 302.603 Sovereign Immunity New

This subchapter does not waive the agency's sovereign immunity to suit or liability.

Rule 302.604 Mediation New

The parties may agree to mediate, through an impartial third party who is acceptable to both parties, a claim filed under Subchapter F. The parties may be assisted in the mediation by legal counsel or other individual.

Rule 302.605 Appointment of Mediator New

(a) For each claim referred for mediation, the ADR Administrator shall:

- (1) preside over the mediation proceeding;
- (2) assign a agencyal mediator;
- (3) appoint a mediator from another state agency; or
- (4) appoint a private mediator.

(b) A private mediator may be hired provided that:

- (1) the parties unanimously agree to use a private mediator;
- (2) the parties unanimously agree to the selection of the person to serve as the private mediator; and
- (3) the private mediator agrees to be subject to the direction of the ADR Administrator and to all time limits imposed by the ADR Administrator, statute, or regulation.

(c) If a private mediator or a mediator from another state agency is used, the costs for the services of the mediator shall be apportioned equally among the parties, unless otherwise agreed upon by the parties, and shall be paid directly to the mediator.

(d) Unless the parties agree otherwise in writing, each party shall be responsible for its own costs incurred in connection with the mediation, including without limitation, costs of document reproduction, attorney's fees, consultant fees and expert fees.

(e) The ADR Administrator may assign a substitute or additional mediator to a proceeding as the ADR Administrator deems necessary.

Rule 302.606 Qualifications of Mediator New

(a) All mediators must have completed a minimum of 40 hours of Texas mediation training as prescribed under Texas Civil Practices and Remedies Code, Chapter 154.

(b) All mediators shall subscribe to the ethical guidelines for mediators adopted by the ADR Section of the State Bar of Texas.

Rule 302.607 Disqualifications of Mediator New

(a) If the mediator is a State Office of Administrative Hearings ALJ, that person will not also sit as the ALJ for the case if the claim goes to hearing.

(b) If the mediator is an employee of the agency and the dispute does not settle, that mediator will not have any further contact or involvement concerning the claim.

Rule 302.608 Qualified Immunity of Mediator New

The mediator shall have the qualified immunity prescribed by the Texas Civil Practice and Remedies Code §154.005, if applicable.

Rule 302.609 Confidentiality of Mediation and Final Settlement Agreement New

(a) A mediation conducted under this division is confidential in accordance with Texas Government Code, §2009.054 and Texas Civil Practice and Remedies Code §154.053 and §154.073.

(b) The confidentiality of a final settlement agreement, to which the agency is a signatory that is reached as a result of the mediation is governed by the Public Information Act, Texas Government Code, Chapter 552.

Rule 302.610 Settlement Approval Procedures New

The parties' settlement approval procedures shall be disclosed by the parties prior to the mediation. To the extent possible, the parties shall select representative who are knowledgeable about the subject matter of the dispute, who are in a position to reach agreement, and who can credibly recommend approval of an agreement.

Rule 302.611 Initial Settlement Agreement New

Any settlement agreement reached during mediation shall be signed by representatives of the contractor and the agency and shall describe any procedures that the parties must follow to obtain final and binding approval of the agreement.

Rule 302.612 Final Settlement Agreement New

A final settlement agreement reached during or as a result of a mediation that resolves an entire claim or counterclaim, or any designated and severable portion of a claim or counterclaim, shall comply with §302.510.

Rule 302.613 Referral to State Office of Administrative Hearings (SOAH) New

If mediation does not resolve the claim to the satisfaction of the contractor, the contractor may request that the claim be referred to the State Office of Administrative Hearings (SOAH) in accordance with §302.512.

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 302 GENERAL PROVISIONS

SUBCHAPTER E PROCUREMENTS

DIVISION 4 CONTRACT MONITORING

Rule 302.701 Contract Monitoring Responsibilities New

(a) This section implements Government Code, §2261.202.

(b) Contract monitoring shall be conducted by staff of the financial services division, subject to the oversight of the Chief Financial Officer.

(c) Subject to the oversight of the Chief Financial Officer, internal auditors and staff of the financial services division shall perform any additional contract monitoring specifically directed by the audit committee of the Commission or warranted by the results of the agency's annual risk assessment.

Rule 302.702 Enhanced Contract Monitoring New

(a) This section implements Government Code, §2261.253(c).

(b) For each contract entered into by the agency, the Chief Financial Officer, or his or her designee, will determine if enhanced monitoring of the contract or the contractor's performance is required.

(c) In determining whether a contract requires enhanced monitoring, the following factors may be considered, to the extent applicable:

- (1) The estimated dollar amount of the contract;
- (2) The total contract period, including renewal options;
- (3) The extent and number of persons impacted by the contract;

- (4) The impact to the agency and the state if contract deliverables are delayed, or if the contractor fails to deliver as required in the contract;
 - (5) The complexity of funding sources for the contract;
 - (6) The complexity of requirements and resources to be managed pursuant to the contract;
 - (7) The extent of agency resources readily available to manage the contract;
 - (8) The impact of the contract on the health and safety of the general public;
 - (9) The impact on the agency's business processes;
 - (10) The complexity of the methodology for calculating and making payments under the contract;
 - (11) The extent of training required for end users as a result of the contract;
 - (12) The vendor's experience delivering the contracted goods or services, and, if applicable, the vendor's performance under previous agency contracts; and
 - (13) With regard to a technology contract, the level of software customization required and the impact on existing technology applications or infrastructure.
- (d) The Chief Financial Officer, or his or her designee, shall maintain a record of all contracts requiring enhanced monitoring. Contracts identified for enhanced monitoring shall be reported to the Commission at least quarterly.
- (e) The Chief Financial Officer shall notify the Commission immediately of any serious issue or risk that is identified with respect to a contract requiring enhanced monitoring.

Old Rule 303.3 Offices Repeal Texas Racing Act Sec. 2022.010

~~(a) The Commission's main office is located at 8505 Cross Park Drive, #110, Austin, Texas 78754-4594. The Commission mailing address is P.O. Box 12080, Austin, Texas 78711-2080. The telephone number is (512) 833-6699. The fax number is (512) 833-6907. Office hours are 8:00 a.m. to 5:00 p.m., Monday-Friday.~~

~~(b) The Commission may establish a branch office at any licensed racetrack in which the Commission determines a branch office is necessary.~~

~~(c) The Commission may establish a branch office in any county in which the Commission determines a branch office is necessary.~~ **New rule 302.100(e). Not really necessary but.....**

Old Rule 303.4 Meetings Repeal

~~(a) Except as otherwise provided by state law, Commission meetings are subject to the Texas open meetings law, Government Code, Chapter 551.~~ **New rule 302.201(a)**

~~(b) The Commission shall hold at least six regular meetings each year on dates set by the Commission. The Chair or any four members of the Commission may call a special meeting of the Commission.~~ **Texas Racing Act Sec. 2022.009.**

~~(c) Except as otherwise provided by state law or by the Rules, Robert's Rules of Order (Revised 1996) govern the proceedings of the Commission.~~

~~(d) The executive secretary shall prepare the agenda for each Commission meeting, subject to the approval of the Chair of the Commission. At the request of any two Commissioners, the executive secretary shall place an item on the agenda. If only one Commissioner requests that an item be placed on the agenda, the Chair shall review the request and, after consulting with the Vice chair, determine whether to place the item on the agenda.~~ **New Rule 302.201(f)**

~~(e) A licensee of the Commission or a member of the public may request that an item be placed on the agenda by filing a written request with the executive secretary not later than 14 days before the date of the meeting. The party making the request must include with the request an original and one copy of all information, data, or other supporting materials relating to the request. After receiving a request under this subsection, the Chair shall review the request and, after consulting with the Vice chair, determine whether to place the item on the agenda.~~ **New Rule 302.201(g)**

~~(f) The public is invited to comment regarding any agenda item or any issue under the jurisdiction of the Commission. Public comments may be limited to a reasonable number, frequency and length. All individuals~~

wishing to address the Commission must sign a registration form and make their remarks under oath. All individuals addressing the Commission are subject to questioning by the Commission and the Commission staff. (g) Before each regular Commission meeting, the executive secretary shall distribute the agenda and a summary of each rule scheduled for proposal at the meeting to each licensed racetrack, each official breed registry, the officially recognized horsemen's organization, and the Texas Veterinary Medical Association. An association shall post the agenda and rules in a prominent place that will ensure access by interested persons.

Old Rule 303.5 Quorum Repeal See New Rule 302.201(d)

(a) A majority of the Commission constitutes a quorum.
(b) When a quorum is present, a motion before the Commission is carried by an affirmative vote of the majority of the Commissioners present at the meeting.

Old Rule 303.6 Commission Officers Repeal See New Rule 302.201(g) and (h)

(a) In January of even numbered years, the Commission shall elect one of the members to serve as vice chair for a term of two years.
(b) In the event of a vacancy in the office of vice chair, the vacancy shall be filled for the unexpired term on majority vote of the Commission at the next regular meeting of the Commission.
(c) In the absence of the chair and vice chair from a meeting of the Commission, the remaining members shall elect a pro-tem presiding officer who shall serve until the conclusion of the meeting or until the arrival of the chair or vice chair.

Rule 303.7 Employees Repeal Texas Racing Act 2022.052

(a) The Commission shall employ an executive secretary who shall employ other employees necessary to implement, administer, and enforce the Act. **See new rule 302.100(c)**
(b) The Commission and the executive secretary may not employ or continue to employ a person:
–(1) who owns or controls a financial interest in a licensee of the Commission;
–(2) who is employed by or serves as a paid consultant to a licensee of the Commission, an official breed registry, or a Texas trade association, as defined by the Act, §2.071(c), in the field of horse or greyhound racing or breeding;
–(3) who owns or leases a race animal that participates in pari-mutuel racing in this state; or
–(4) who accepts or is entitled to a part of the purse or Texas bred incentive award to be paid on a greyhound or a horse in a race held in this state.
(c) The Commission and the executive secretary may not employ or continue to employ a person who is residentially domiciled with or related within the first degree by affinity or consanguinity to a person who is ineligible for employment under subsection (b) of this section.
(d) The Commission shall employ the executive secretary and other employees in a manner that reflects the diversity of the population in this state with regard to race, color, creed, handicap, sex, religion, age, and national origin.

Rule 303.8 Executive Secretary Repeal See new rule 302.202 Texas Racing Act 2022.051

(a) The executive secretary serves at the pleasure of the Commission on a full-time basis and may not hold other employment. The executive secretary shall administer the programs of the agency and has all powers necessary for such administration, as well as any specific duties assigned or functions delegated by the Commission.
(b) The executive secretary shall maintain the records of the Commission and ensure the agency's compliance with the open records and records retention laws.
(c) The executive secretary shall establish the organizational structure of the agency's employees, including the establishment of various divisions within the agency. The executive secretary shall prescribe the duties and compensation for all other Commission employees, subject to the Commission's approval of the budget. The executive secretary shall adopt personnel policies and other internal operating policies and procedures. The

executive secretary shall develop the agency budgets to allocate expenditures within the agency based on the approved agency operating budget.

~~(d) The executive secretary shall prepare and file all agency reports required by law that are retrospective in nature, such as the annual financial report and periodic reports on performance measures.~~

~~(e) The executive secretary shall enforce the Act, the rules, and the orders of the Commission, including determining the method of enforcement, the amount of penalties, the issuance of preliminary reports for administrative penalties, and the development of enforcement guidelines for use by the stewards and racing judges.~~

~~(f) The executive secretary shall issue occupational licenses and training facility licenses in accordance with the criteria established in the Act and the rules. The executive secretary shall review all applications for racetrack licenses and licenses to conduct race meetings and make a report to the Commission regarding the issuance of such licenses.~~

~~(g) Except as otherwise provided by a rule of the Commission, if the Commission places a duty on the executive secretary, by rule or otherwise, the executive secretary may delegate that duty to another employee of the Commission.~~

Rule 303.9 Records Repeal Texas Gov't Code Chapter 552

~~(a) Except as otherwise provided by the Act, Commission records are subject to the Texas Open Records law, Government Code, Chapter 552.~~

~~(b) To inspect Commission records, a person must make a request to the executive secretary. The executive secretary may require the request to be made in writing.~~

~~(c) A person may not remove an original record from the offices of the Commission without the approval of the executive secretary.~~

~~(d) A person requesting to inspect a Commission record must pay all costs involved in preparing or copying the record. The Commission adopts the suggested charges promulgated by the Texas Building and Procurement Commission for providing copies of public information at 1 TAC §111.63 and Government Code §552.261.~~

~~(e) If the Commission mails a copy of Commission record to a person requesting to inspect the record, the Commission may also charge the person for the appropriate amount of postage.~~

~~(f) The executive secretary may establish written procedures for inspection of Commission records consistent with the state's open records requirements.~~

Rule 303.10 Investigatory Files Repeal Texas Racing Act 2022.103, 2022.106

~~The Commission may create or maintain an investigatory file on any applicant or licensee. The investigatory file must relate to a background investigation, complaint, alleged violation or other regulatory matter.~~

Rule 303.11 Vacancies Repeal See new rule 302.201(i)

~~If a vacancy occurs on the Commission, the chairman shall call a special meeting to request the governor to appoint a new member to fill the vacancy. If the vacancy occurs in the office of the chairman, the vice chairman shall call the special meeting.~~

Rule 303.14 Unofficial Statements Repeal

~~An unofficial statement made by a Commission member or an employee of the Commission is not binding on the Commission.~~

Rule 303.15 Acts in the Commission's Name See new rule 302.100(d)

Rule 303.17 Vendor Protests See new rule 302.404

~~(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the Commission's chief fiscal officer.~~

The protest must be in writing and received in the Commission's main office in Austin not later than the 10th day after the date the aggrieved person knows, or should have known, of the occurrence of the action which is protested.

(b) The chief fiscal officer is authorized to settle and resolve the dispute concerning the solicitation or award of a contract. If the protest is not resolved by mutual agreement, the chief fiscal officer shall issue a written determination on the protest.

(c) Not later than the 10th day after receiving notice of the chief fiscal officer's determination, the protesting party may file a written appeal to the executive secretary. The executive secretary's decision on the appeal is final.

Rule 303.31 Regulation of Racing See Texas Racing Act 2023.002

The Commission shall regulate each live and simulcast race meeting conducted in this state and supervise the operation of racetracks and the persons other than patrons who participate in a race meeting.

Rule 303.34 Certified Documents See Texas Racing Act 2023.060

The Commission may require a document required to be filed with the Commission to be certified under penalty of perjury.

Rule 307.8 Negotiated Rulemaking and Alternative Dispute Resolution

(a) Policy. It is the Commission's policy to encourage the use of negotiated rulemaking and alternative dispute resolution procedures in appropriate situations.

(b) Negotiated Rulemaking. When the Commission finds that a rule to be proposed is likely to be complex, controversial, or affect disparate groups, the Commission may propose to engage in negotiated rulemaking in accordance with Government Code, Chapter 2008.

–(1) When negotiated rulemaking is considered, the Commission's general counsel, or designee, shall be the Commission's negotiated rulemaking convener.

—(A) The convener shall assist in identifying persons who are likely to be affected by a proposed rule, including those who oppose issuance of a rule. The convener shall discuss with those persons or their representatives the factors provided in Government Code §2008.052(c).

—(B) The convener shall then recommend to the Commission whether negotiated rulemaking is a feasible method to develop the proposed rule and shall report to the agency on the relevant considerations, including those listed in Government Code §2008.052(d).

–(2) Upon the convener's recommendation to proceed, the Commission may initiate negotiated rulemaking according to the provisions of Government Code, Chapter 2008, including the appointment of the negotiated rulemaking committee's members under Government Code §2008.054.

–(3) The executive secretary shall appoint the negotiated rulemaking committee's facilitator, subject to the requirements of Government Code §2008.055.

303.86 – Move to NEW Trust Administration Chapter 308

303.92-303.102 – Move to NEW Trust Administration Chapter 308

303.201-303.203 – Move to NEW Licensing moved to Chapter 304

303.321-303.325 – Move to NEW Trust Administration Chapter 308

307.8 ADR Section moved to Enforcement – Appellant Proceedings Chapter 310

Public Comments for New Rules

Name: Jeffery Brooks

Email: jbrooks71@gmail.com

Phone: (830) 305-8129

Select: CHAPTER 301. DEFINITIONS

Message: All implemented rules should be installed prior to the racing season not during the meet.

Checkbox: YES

(Received 8/27/22 @8:15AM)

Please find my Ch. 302 Comments/Questions below. Thank you for the opportunity to participate.

DEAD HEAT – Does TXRC not need the “noses” level of definition provided by ARCI?

FALSE START – TXRC definition seems to emphasize the operation of the racing gate over the action of the horse/jockey. Even though a disqualification of a runner is unlikely (dependent on the event), would mentioning it help make the TXRC definition more robust?

KENNEL AREA – Does TXRC definition fall under the “Kennel Compound” definition by ARCI? Does TXRC have jurisdiction in a kennel area vs. a kennel compound?

RECOGNIZED RACE MEETING - Would a further definition of “turf authority” be necessary here?

Respectfully,

John Farren

(Received 8/29/22 @7:51AM)

Running list of possible input:

"Bled" Should we include potential for the visualization of blood in the airways via endoscopic examination directly observed and validated by TXRC Regulatory Veterinarian? I hate to make a horse wait until they bleed from the nostrils for designation. Scoping a horse after a poor performance is not uncommon and could be scheduled or repeated for an appointment with the Regulatory Veterinarian by the Attending Veterinarian

"Bred. . . ." if a mare's previous foals can become Texas Qualified if she is bred back to a Texas Stallion - and there is no requirement to confirm pregnancy or even intent for pregnancy - is this an opportunity for fraud especially in QH who allow artificial insemination???

Encrypted.... "to any Person". Instead to any unauthorized person who has not been officially granted the decryption code and permissions by the transmitting entity or regulators

Export Simulcast. . . . Perhaps "A secure, encrypted, real time electronic transmission of a race for the purpose of simultaneous parimutuel wagering at the receiving facility"

Groom. . . . to tend to..... The care, nourishment, routine procedures involved in tending to the horse's overall health, non-medical management of normal sport related conditions and overall hygiene of the horse's environment and daily use equipment.

Handle. . . . Should we reference the amount of money ALSO wagered at Simulcast facilities that contributes to the total?

Maiden. .. Suggest- Any horse that has no record of finishing first in any official race in that horse's career. Is described under (68)

Out of Competition - Currently implies race day only - does that allow any time in the 24 hr period that includes the race or ONLY Post race testing at the discretion of the Stewards???? this could be a big issue

Paper/Program Trainer - BIG ISSUE- Are we going to make this arrangement illegal???? Are we going to make a stronger link of responsibility to an owner who runs a horse under a trainer under this ad hoc arrangement????

Recognized Race Meeting - suggest a race meeting approved by the Texas Racing Commission conducted at a specific location on specific dates and for specific breed(s) as delineated in application for approval. Variances in the execution of those dates due to weather or other

unforeseen circumstance must be requested by the Track management and only carried out under approval by the Commission Executive Director.

Rule Off. Deny all racing privileges to the individual . . . Suggest we add that ALL the ruled off individual's horses in training are ineligible for any official works, entries or removal from Veterinary Control Rosters until those horses are transferred to other unrelated non business affiliated or former employer/employee relationships.

Specimen. . , prescribed by the Commission and adequately witnessed, labeled and positively identified to the animal of origin to meet all laboratory directed handling and chain of custody standards.

(Received 9/5/22 @2:18PM from Commissioner McNabb)

Virginia,

I would like to Rule 302.401 Commission Vehicles modified to remove the section indicated on the attachment in red. Thanks

Rule 302.401 Commission Vehicles Old rule 303.12

(a) A motor vehicle owned by the Commission is state property and may be used for official agency business only. ~~A Commission motor vehicle may not be assigned to a specific employee but must be available for use by all eligible employees. A Commission motor vehicle will be kept at the agency's Austin headquarters.~~

(b) A agency employee is eligible to use a Commission motor vehicle if the employee possesses a valid Texas driver's license and has a satisfactory driving record, as determined by the executive [director] Secretary.

(c) An employee operating a Commission motor vehicle must comply with all applicable state traffic laws and the agency's traffic safety policies. A violation of one of those laws or policies is grounds for disciplinary action.

(Received 9/6/22 @10:04AM from Mike Fleming)

Name: jennifer wourms

Email: xxxxxxxxxx@kxotxxil.com

Phone: (713) 882-9998

Select: CHAPTER 303. GENERAL PROVISIONS

Message: Sec. 303.41. Allocation of Race Dates : We need more days of racing, for QH & mixed. Shrp only gets 25 QH (I believe it was 4 mixed races) Ret has 22 Lonestar has 31.

I don't understand why Thoroughbred get the preference for more days. TB total was 98 days vs QH 78 days

Checkbox: YES

(Received 8/8/22 @8:59PM)

Name: jennifer wourms

Email: xxxxxxxxxx@xxxxxxxxxx.com

Phone: (713) ~~882-5993~~

Select: CHAPTER 311. OTHER LICENSES

Message: Sec. 311.104. Trainers
Remove, TWO LETTERS OF RECOMMENDATION.

Checkbox: YES

(Received 8/8/22 @9:00PM)

Name: jennifer wourms

Email: xxxxxxxxxx@xxxxxxxxxx.com

Phone: (713) ~~882-5993~~

Select: CHAPTER 311. OTHER LICENSES

Message: Sec. 311.104. Trainers

During the trainers barn test, a neutral party needs to be present to make sure the trainer recommendation is fair and unbiased,

Checkbox: YES

(Received 8/9/22 @4:16PM)

Name: jennifer wourms

Email: [~~peewee@hixmail.com~~](mailto:peewee@hixmail.com)

Phone: (713) ~~882-5993~~

Select: NEW RULE PROPOSED

Message: You need to make it easier for potential new owners to claim a horse. You need to have a "bank" of trainers willing to put a little effort to help new owners in claiming horses. This will grow a new ownership pool, which in-turns helps racing become more successful.

Checkbox: YES

(Received 8/9/22 @4:48PM)

Here is what I have submitted. I realized I made a typo and did not want to jeopardize the submission.

Sec. 303.41. Allocation of Race Dates : We need more days of racing, for QH & mixed.

Sec. 311.104. Trainers

Remove, TWO LETTERS OF RECOMMENDATION.

Sec. 311.104. Trainers

During the trainers barn test, a neutral party needs to be present to make sure the trainer recommendation is fair and unbiased.

New rule proposal: You need to make it easier for potential new owners to claim a horse. You need to have a "bank" of trainers willing to put a little effort to help new owners in claiming horses. This will grow a new ownership pool, which in-turns helps racing become more successful.

Thank you,

Jennifer Wourms

(Received 8/9/22 @4:59PM)

Name: Robert Guercio **Email:**

Phone: (713) ~~306-0806~~

Select: NEW RULE PROPOSED

Message: Allow off track betting on electronic device, like the Texas Lottery app for phones (I think it's Jackpocket app). Time to generate additional revenue for the state.

Secondly, simulcast races in Texas to other states.

Checkbox: YES

(Received 8/24/22 @12:15PM)

From: James Leatherman <james.leatherman@xxxxxx.com>
Sent: Wednesday, September 7, 2022 2:11:02 PM
To: Virginia Fields <virginia.fields@xxxxxx.com>
Cc: Anne Alley <anne.alley@xxxxxx.com>
Subject: Meeting Materials for Tomorrow

Virginia, I just have a quick thought on tomorrows materials. 302.252 (b) Allocation of Live Race Dates for Class 1 Racetracks. I hope that this never comes into play but I think the associations would have a problem handling the allotment of 17 consecutive weeks of 4 consecutive days a week for each breed. If we keep the rule, maybe change the word "shall" to "may". I just don't see a world where the associations would or could support this situation of 61 days for each breed. Just a thought.

Thank you,

JAMES LEATHERMAN