



TEXAS RACING COMMISSION
1801 N. Congress Ave
Austin, TX 78711-2080
(512) 833-6699
Fax (512) 833-6907

Texas Racing Commission
Wednesday, February 14, 2024, 10:30 a.m.
Texas Capitol Extension, Room E2.028
1100 Congress Avenue
Austin, Texas 78701

AGENDA

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGES (U.S. AND TEXAS)**
- IV. COMMISSIONER REMARKS**
 - A. Commission Chair
 - B. Commission Vice Chair
 - C. Commission Members
- V. PUBLIC COMMENTS**
- VI. STAFF REPORTS**
 - A. Executive Director Report
- VII. GENERAL BUSINESS**
 - A. Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) Interagency Agreement
- VIII. PROCEEDINGS ON THE HORSE INDUSTRY ESCROW ACCOUNT**
 - A. Discussion and possible action to allocate funds in the Horse Industry Escrow Account to state horse breed registries for events to further the horse industry under 16 TEX. ADMIN. CODE Chapter 303, Subchapter G.

Requests by the Texas Arabian Breeders Association.
Requests by the Texas Paint Horse Breeders Association.
Requests by the Texas Quarter Horse Association.

IX. PROCEEDINGS ON RULES

A. Discussion and possible action to adopt proposed rule amendments:

1. 16 TEX. ADMIN. CODE §311.101, Subchapter B, Horse Owners
2. 16 TEX. ADMIN. CODE §311.2, Application Procedure
3. 16 TEX. ADMIN. CODE §313.501, Training Facility License
4. 16 TEX. ADMIN. CODE §313.504, Operational Requirements.
5. 16 TEX. ADMIN. CODE §313.505, Workout Requirements.
6. 16 TEX. ADMIN. CODE §321.1, Definitions and General Provisions
7. 16 TEX. ADMIN. CODE §321.21 Certain Wagers Prohibited
8. 16 TEX. ADMIN. CODE §321.413, Duties of Guest Racetrack
9. 16 TEX. ADMIN. CODE §321.417, Emergency Procedures
10. 16 TEX. ADMIN. CODE §321.607, E-Wagering Plan

B. Discussion and possible action to approve posting proposed rule amendments in the Texas Register.

1. 16 TEX. ADMIN. CODE §303.201, Licensing Persons with Criminal Backgrounds
2. 16 TEX. ADMIN. CODE §303.202, Guidelines
3. 16 TEX. ADMIN. CODE §307.67, Appeal to the Commission
4. 16 TEX. ADMIN. CODE §311.4, Occupational License Restrictions.
5. 16 TEX. ADMIN. CODE §319.362, Split Specimen
6. 16 TEX. ADMIN. CODE § 309.361, Greyhound Purse Account and Kennel Account

X. RACETRACK PROCEEDINGS

A. Discussion and possible action on active racetrack licenses scheduled for review under Texas Occupations Code §§2025.104-106 and 16 TEX. ADMIN CODE §§309.51-309.53: Valley Race Park, Gulf Greyhound, Gulf Coast Racing, and Retama Park

B. Discussion and possible action to approve amendment to the totalisator contract for Retama Park.

XI. EXECUTIVE SESSION (AS NEEDED)

The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

- A. Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer.
- B. Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.
- C. Under TEX. OCC. CODE §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalisator contracts.

XII. NEXT COMMISSION MEETING

Wednesday, April 10, 2024, 10:30 a.m.

XIII. ADJOURN

AGENDA ITEM

VI. STAFF REPORTS

A. Executive Director Report

TEXAS GREYHOUND ASSOCIATION AUDIT



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

February 6, 2024

Texas Greyhound Association
Nick James, Executive Director
PO Box 40
Lorena, TX 76655

Subject: Texas Greyhound Association 2021 Audit Report

Dear Mr. James:

Under the Texas Racing Act, § 2028.002, the Texas Greyhound Association is directed to take the following steps to fully account and justify the collection, expenditures and distribution of pari-mutuel wagering funds received from all sources from September 1, 2019, to February 1, 2024, no later than March 31, 2024.

- Conduct a full, independent audit on each, and every transaction taken place within the identified time-period that involved any source of pari-mutuel wagering funds, including but not limited to racetrack association purses, purse supplements regardless of source, export simulcast, import simulcast, cross-species funds, and the Accredited Texas Bred (ATB) Program, and provide the results to the agency no later than March 31, 2024.
- Appear at the April 10, 2024, Commission meeting to answer any questions that the Commissioners may have with respect to the audit and other financial activities of the TGA, including, but not limited to a discussion of the audit documents, steps taken to voluntarily cease taking funds, return of funds on hand and steps TGA is taking to wind down its role as the state breed registry under the Texas Racing Act.
- Consult with the TGA Board of Directors no later than March 31, 2024, to determine whether the TGA would voluntarily cease taking funds derived from pari-mutuel wagering activities and turn over all funds on hand by taking the following steps:
 - 1) Notify Lone Star Park, Retama Park, Sam Houston Race Park and Gillespie County Fair & Festivals that TGA will no longer accept cross-species payments effective immediately;
 - 2) Return Accredited Texas Bred Program Funds on hand to the agency to return to the Texas Comptroller for deposit in the General State Operating and Disbursing Fund, Fund 001.
 - 3) Provide all funds derived from pari-mutuel wagering activities including, but not limited to: greyhound associations, import simulcast activities, export simulcast activities, purse supplements to the agency to be held in a conservatorship in the

agency suspense fund until such time that the Commission determines the appropriate method of distribution of funds accrued based on pari-mutuel wagering live and simulcast activities.

The independent audit must include the following information on all pari-mutuel fund activities for each year beginning in 2019, 2020, 2021, 2022, 2023, including, but not limited to:

- Complete Bank Account information and associated monthly and annual account statements.
- Date of receipt of funds and source of funds
- Expenditures of funds for administrative expenses with detail on the expenditures
- Distribution of funds to TGA members or other associated parties

Under the Texas Racing Act, § 2028.002 (d), the TGA is authorized to expend up to 20% cross-species fund to administer those funds. Based on the initial work of the Ad Hoc Greyhound Committee, the last date that live racing took place in Texas was February 2020, and no live racing is expected for the foreseeable future in Texas or any other state in the Nation. Therefore, there should have been minimal expenditure of funds by your organization over the past three years. You are authorized to expend funds to complete this audit but are cautioned that no further expenditures are deemed appropriate by the Commission, particularly since the Texas Legislature did not appropriate funds during the current biennium for the agency to regulate greyhound racing.

During the December 13, 2023, Commission meeting, agenda item VII A, Texas Greyhound Association Financial Presentation, your attorney, Kevin Vickers was asked by Chairman Pate about the Declaratory Judgment issued by the District Court in McLennan County on October 7, 2022, that permitted the distribution of \$707,697.99 in “*gross purse funds*” and \$13,140.62 in court costs and attorney’s fees.¹ The agency became aware of this court decision in November 2023, and provided a copy of the final judgment to the Commission for review as part of the materials of the December 13, 2023 meeting. The declaratory judgment states in part: “*The Texas Racing Commission has been advised of the resolution of TGA and the agreements between TGA and kennel owners reflected in Exhibit A and has disclaimed any authority over the distribution of gross purse funds or net purse funds, expressing no objection to the distribution of the Net Purse Funds as proposed therein.*”²

Based on Mr. Vicker’s assertion that Virginia Fields, then General Counsel for the Texas Racing Commission, had spoken for the Commission in this matter, I followed up with Mr. Vickers to request all supporting documents for the judgment including any communications from Ms. Fields. Mr. Vickers provided the requested documents on January 1, 2024, including an email sent by Virginia Fields on June 24, 2022, which reads in part: “*Specific approval by the agency is not required for these distributions; however, the agency certainly has no objections to the distributions consistent with the TGA board resolution.*”³ Ms. Fields’ staff assessment did not constitute approval of the declaratory judgment on behalf of the Texas Racing Commission, which would have required public discussion and an affirmative vote of the Commissioners.

It is clear from the documents on hand and the official meeting transcripts over the past several years the appropriate handling and distribution of funds by the TGA was in dispute. Given that the Attorney General Opinion, issued on September 20, 2022: KP-0412 (Permissible uses and distributions of escrowed purse funds the Texas Greyhound Association under section 2028.202 of the Occupations Code), specifically addressed this issue with respect to the cross-species funds and therefore, the TGA should not have pursued an action that appears to conflict with the OAG Opinion.⁴ After the Commission has an opportunity to review all information related to the financial activities of the TGA, a second OAG opinion may be sought to determine whether a bill of review is appropriate for the funds distributed through the declaratory judgment.

As outlined in the letters I sent you on March 16, 2023, and November 27, 2023, the Commission requires a detailed accounting of pari-mutuel wagering funds, which, to date, we have yet to receive. As the statutorily identified official greyhound breed registry in Texas, the TGA has the responsibility to account for all pari-mutuel wagering fundings and assist the Commission understanding the administration of pari-mutuel funds held by the TGA, as the official breed registry.⁵

The agency staff will make every effort to assist your organization in resolving financial liability issues that have resulted from the discontinuation of live racing. That said, we must abide by our current statutory framework and account for the funding to ensure sound fiscal stewardship of funds entrusted to the agency on behalf of the State of Texas.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

¹ See Enclosure 1 – Declaratory Judgment dated October 7, 2022

² See Enclosure 1 – Declaratory Judgment dated October 7, 2022

³ See Enclosure 2 – Declaratory Judgment dated October 7, 2022, with attachments.

⁴ See Enclosure 3 – Attorney General Opinion KP-0412 dated September 20, 2022

⁵ Texas Occupations Code § 2030.052

NO. 2022-2767-3

GULF GREYHOUND PARTNERS, LTD.
AND GULF COAST RACING, LLC,

Plaintiffs,

V.

TEXAS GREYHOUND ASSOCIATION,
INC.; FRED CURRID; JOHN DALTON;
RANDY FINEGAN; G. KIRK HARLAN;
NICK JAMES; JOHN P. LIBERATORE;
HANS LIMMER; PETER LIMMER; JAMES
PARKER; LESTER RAINES; KENNETH
TURNER; AND PAUL WATT,

Defendants.

IN THE DISTRICT COURT

74TH JUDICIAL DISTRICT

McLENNAN COUNTY, TEXAS

FILED
2022 OCT -7 PM 2:16
JOYNA GORTLE
CLERK OF DISTRICT COURT
74th JUDICIAL DISTRICT
MCLENNAN COUNTY, TEXAS

FINAL JUDGMENT

On this day came to be considered all claims by Plaintiffs Gulf Greyhound Partners, Ltd. and Gulf Coast Racing, LLC ("Plaintiffs") and Defendants Texas Greyhound Association, Inc. (the "TGA"), Fred Currid, John Dalton, Randy Finegan, G. Kirk Harlan, Nick James, John P. Liberatore, Hans Limmer, Peter Limmer, James Parker, Lester Raines, Kenneth Turner, and Paul Watt (collectively, "Defendants," who together with Plaintiffs are the "Parties") for final trial on the merits.

All Parties appeared herein, including by and through their respective counsel of record. All Parties announced ready for trial and a jury was not demanded and waived. The Court finds that the Parties have agreed to the terms and entry of this Final Judgment. After considering the pleadings, evidence, stipulations, and agreement of the Parties, the Court further finds as follows:

1. Plaintiffs jointly are in possession of funds pursuant to 16 TEX. ADMIN. CODE § 309.361 which have been held in trust, having been set aside and deposited with Plaintiffs as the

result of monies collected from wagering on certain live or simulcast greyhound races, which funds are in the total amount of \$707,697.99 (the "**Gross Purse Funds**") as of September 30, 2022.

2. Pursuant to 16 TEX. ADMIN. CODE § 309.361, Texas common law, and the facts before the Court as stipulated by the Parties, the Gross Purse Funds are to be distributed in full, less Plaintiffs' reasonable and necessary attorneys' fees and costs of court (the "**Net Purse Funds**"), in retroactive pro rata payments to kennel owners that contracted for bookings at, and participated in, the race meet held at the Gulf Greyhound Park racetrack in 2020.

3. Plaintiffs have reasonably and necessarily incurred \$12,780.50 in attorneys' fees and \$360.12 in recoverable costs of court, totaling \$13,140.62, and Defendants stipulate to these amounts.

4. Plaintiffs contemporaneously herewith and pursuant to this Final Judgment are tendering the Net Purse Funds to the registry of this Court in the total amount of \$694,557.37.

5. The Net Purse Funds should be distributed to their ultimate recipients through the TGA.

6. All Parties have agreed that in order to comply with any legal obligations and applicable regulations governing any right to the Net Purse Funds, Plaintiffs shall and do agree to deposit the Net Purse Funds now held in trust into the registry of this Court through the McLennan County District Clerk (the "**District Clerk**") for distribution by the District Clerk to TGA.

7. The Court finds that immediately upon Plaintiffs' tender of the Net Purse Funds to the District Clerk, Plaintiffs shall be released from all demands, claims, or liability, known or unknown, suspected or unsuspected, based in tort, contract, or any statute, arising in whole or in part from the possession, custody, control, or disbursement of the Gross Purse Funds or the Net Purse Funds, whether asserted now or in the future.

8. The Court finds that agreements have been reached between TGA and kennel owners regarding ultimate distribution of the funds referenced in those agreements that are to be received by

TGA, and the ultimate distribution resulting from said agreements is reflected in Exhibit A, attached hereto and incorporated herein by reference in full. The Court further finds that TGA should be authorized to distribute the Net Purse Funds upon receipt thereof from the District Clerk in accordance with the distribution set forth in Exhibit A.

9. The Office of the Attorney General of Texas ("OAG") has been properly notified in writing of this lawsuit and has disclaimed any interest in the Gross Purse Funds or Net Purse Funds, stating that no further action of the OAG will be taken as to this matter and that no further notice to the OAG is necessary.

10. The Texas Racing Commission has been advised of the resolution of TGA and the agreements between TGA and kennel owners reflected in Exhibit A, and has disclaimed any authority over the distribution of the Gross Purse Funds or Net Purse Funds, expressing no objection to the distribution of the Net Purse Funds as proposed therein.

11. Plaintiffs are anticipated to continue to receive funds that they are obligated to hold in trust that are subject to distribution pursuant to 16 TEX. ADMIN. CODE § 309.361(e)(2) (the "Future Purse Funds").

12. Distribution of the Future Purse Funds directly from Plaintiffs to the Texas Greyhound Association, Inc., and thereafter from the Texas Greyhound Association, Inc. as set forth in Exhibit A, is in compliance with the laws and regulations governing any use, ownership, and distribution of the Future Purse Funds, and in compliance with the agreements between the Parties.

13. Immediately upon Plaintiffs' distribution of the Future Purse Funds to TGA, Plaintiffs shall be released from all demands, claims, or liability, known or unknown, suspected or unsuspected, based in tort, contract, or any statute, arising in whole or in part from the possession, custody, control, or disbursement of the Future Purse Funds distributed to TGA, whether asserted now or in the future.

14. Defendants have agreed to and shall bear all responsibility for the management and disbursement of the Net Purse Funds and Future Purse Funds immediately upon receipt thereof from the District Clerk and Plaintiffs, respectively.

ACCORDINGLY, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. Plaintiffs shall deposit with the District Clerk the Net Purse Funds now held in trust and subject to distribution pursuant to 16 TEX. ADMIN. CODE § 309.361.
2. The District Clerk shall, upon receipt of the Net Purse Funds, pay those funds to the TGA.
3. The TGA shall, upon receipt of the Net Purse Funds from the District Clerk, pay and distribute those funds as set forth in Exhibit A.
4. Subject only to changes in any applicable laws, regulations or written instruction or direction from the Texas Racing Commission or other regulatory authority governing Future Purse Funds, Plaintiffs shall remit all Future Purse Funds directly to TGA on a semi-annual basis beginning June 30, 2023 and continuing thereafter.
5. TGA shall be deemed authorized to distribute all Future Purse Funds as set forth in Exhibit A upon receipt from Plaintiffs.
6. Plaintiffs shall be released from all demands, claims, or liability, known or unknown, suspected or unsuspected, based in tort, contract, or any statute, arising in whole or in part from the possession, custody, control, or disbursement of the Gross Purse Funds, Net Purse Funds, or Future Purse Funds whether asserted now or in the future when and as Plaintiffs remit them to the District Clerk or the TGA.

All relief not hereby granted is denied. This FINAL JUDGMENT disposes of all issues and is a final and appealable order.


Signed this 7 day of October 2022.



JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE

SIGNATURE FOR COUNSEL


Counsel for Plaintiffs



Derek Dumar
Dumar Law Firm
Counsel for Defendants


Att. for TGA

Exhibit A to Final Judgment, Cause No. 2022-2767-3,
74th Judicial District, McClennan County, Texas

Kennel	Percentage of Total
Currid Racing (Fred Currid)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc. and Fred Currid, dated July 27, 2022, as entered into evidence with the Court
Dalton/Raines Kennel (Lester Raines and John Dalton)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc., Lester Raines, and John Dalton, dated July 18, 2022, as entered into evidence with the Court
Harlan Kennel (G. Kirk Harlan)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc. and G. Kirk Harlan, dated July 16, 2022, as entered into evidence with the Court
Libby-Watt (John P. Liberatore and Paul Watt)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc., John P. Liberatore, and Paul Watt, dated July 16, 2022, as entered into evidence with the Court
Nick James, Inc. Kennel (Nick James)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc. and Nick James, dated July 16, 2022, as entered into evidence with the Court
Parker/Magic City Kennel (James Parker and Randy Finegan)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc., James Parker, and Randy Finegan, dated July 18, 2022, as entered into evidence with the Court
Rocket Racing Kennel (Kenneth Turner)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc. and Kenneth Turner, dated July 18, 2022, as entered into evidence with the Court
Rosebud & Nova Kennel (Peter Limmer and Hans Limmer)	6.25%, pursuant to the Transfer of Monies Agreement entered into by and between the Texas Greyhound Association, Inc., Peter Limmer, and Hans Limmer, dated July 19, 2022, as entered into evidence with the Court

Owner of Texas-bred Greyhound	Percentage of Total
Richard Armington, Jr.	1.219512195121951%
John Dalton Racing, LLC	1.219512195121951%
Vince Berland	1.219512195121951%
Diane Jorns	1.219512195121951%

Clayton Black	1.219512195121951%
John Liberatore	1.219512195121951%
Edward Bolton	1.219512195121951%
Tyler Liberatore	1.219512195121951%
Lonnie Boyle	1.219512195121951%
Peter Limmer	1.219512195121951%
Herbert Clayton, Jr.	1.219512195121951%
Babak Mirghafouri	1.219512195121951%
DC Racers, LLC	1.219512195121951%
Coleen Pace	1.219512195121951%
Timothy Ertl	1.219512195121951%
Jerry Patterson	1.219512195121951%
Joseph Frenette	1.219512195121951%
Norman L. Rader	1.219512195121951%
Joe Frey	1.219512195121951%
Lester Raines	1.219512195121951%
Joseph Fusaro	1.219512195121951%
Louie Rivera	1.219512195121951%
Billy Galbreath	1.219512195121951%
James Rosga	1.219512195121951%
Edward Gardner	1.219512195121951%
Steve Sarras	1.219512195121951%
Marshall Gramm	1.219512195121951%
Stephen Schlachter	1.219512195121951%
Charles Haliburton III	1.219512195121951%
Phyllis Shuffield	1.219512195121951%

Harlan Bros Kennel, Inc	1.219512195121951%
Green Smith	1.219512195121951%
G. Kirk Harlan	1.219512195121951%
TG Superior Services, Inc.	1.219512195121951%
David Hays	1.219512195121951%
Kenneth Turner	1.219512195121951%
Jason Hess	1.219512195121951%
James Watson	1.219512195121951%
Karen Hyde	1.219512195121951%
Lisa & Bailey Investments	1.219512195121951%
Garth Bolton	1.219512195121951%



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

March 16, 2023

Texas Greyhound Association
Nick James, Executive Director
PO Box 40
Lorena, TX 76655

Re: Texas Greyhound Association 2021 Audit Report

Dear Mr. James:

This letter serves as notification that the agency may suspend or withhold live or simulcast pari-mutuel payments that the agency makes to the Texas Greyhound Association, if we do not receive your annual audit by April 15, 2023.

Under the Texas Racing Act, § 2028.002, the agency has an obligation to determine whether any monies are being distributed to live racing and/or greyhound racetracks and, if so, what amounts are distributed to whom and when those distributions were made in 2021. Your 2021 audit was due on June 15, 2022, and the agency has not received it despite numerous email reminders to the TGA office staff.

Please be advised that the Texas Rules of Racing, Rule 303.44 provide that the Commission may (1) suspend or withhold funds from an organization if the Commission determines the organization has failed to comply with the requirements or performance measures adopted under the Texas Racing Act, 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 conducted in accordance with the Texas Rules of Racing, 16 TEX. ADMIN. CODE § 303.83, or other report to the Commission.

I appreciate the position that the greyhound industry finds itself in today and our agency will make every effort to assist your organization in resolving financial liability issues that have resulted from the discontinuation of live racing. That said, we must abide by our current statutory framework and account for the funding to ensure sound fiscal stewardship of funds entrusted to the agency on behalf of the State of Texas.

I look forward to your timely submission of the required 2021 audit documents.

Sincerely,

A handwritten signature in black ink that reads "Amy F. Cook". The signature is written in a cursive, flowing style.

Amy F. Cook
Executive Director



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

RQ-0442-KP

FILE# ML-49059-KP

I.D.# 49059

December 3, 2021

Office of the Texas Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Via email: opinion.committee@oag.texas.gov

Re: Opinion Request: Texas Racing Act, TEX. OCC. CODE § 2028.202(c)(2), and the Texas Rules of Racing, 16 TEX. ADMIN. CODE § 303.102(d)(1).

Dear Ladies and Gentlemen:

This is a formal request for an Attorney General Opinion on:

1. Whether the release and distribution of escrowed purse funds in retroactive pro rata proportions to the owners of kennels and Texas-bred greyhounds that participated in the last 2020 greyhound meet run in Texas is a permissible use of escrowed purse funds accrued from March 1, 2020, through August 31, 2021, or amounts should remain in escrow; and
2. Whether future distributions with the same retroactive pro rata proportions would be permissible when greyhound race days are granted and thereafter cancelled without any live racing or amounts should remain in escrow pursuant to TEX. OCC. CODE § 2028.202(c)(2) and 16 TEX. ADMIN. CODE § 303.102(d)(1).¹

BACKGROUND

Pursuant to the Texas Racing Act, the Commission conducts oversight of escrowed purse amounts allocated under TEX. OCC. CODE § 2028.202(c).² Horse racetracks are required to pay 5.5 percent of the interstate cross-species handle to the Texas Greyhound Association

¹ There is a discrepancy in the actual amount to be distributed. The TGA proffers the amount to be \$2,002,784. The bank record amount to be distributed is \$1,581,642.92. This discrepancy is likely due to amounts allowable to the TGA up to 20 percent to administer the allocation of the purse for use at racetracks in this state. See § 2028.202(d).

² See TEX. OCC. CODE § 2028.201. The Racing Act is located on the Texas Racing Commission website at <http://www.txrc.texas.gov/laws/10042021CodifiedTexasRacingAct.pdf>. The Rules of Racing are located on the Texas Racing Commission website at <http://www.txrc.texas.gov/laws/Jan2021Rules.pdf>.

(TGA) as escrowed purse amounts. The TGA holds those funds in escrow, with the recipients designated as participants in greyhound races run “at racetracks in this state”.³ The TGA is the official state greyhound breed registry paid the 5.5 percent of the total amount deducted from a wagering pool on an interstate cross-species simulcast race to be held in escrow.⁴ A large portion of the funds that are earned and accumulated via simulcast and live racing are from greyhounds and greyhound owners that are not based in the State of Texas.

Past practice has been that the TGA allocated escrowed purse amounts among the Texas racetracks with future meets scheduled, and amounts were paid out as added purses to race winners of those future meets. Although there are greyhound race dates in 2022 and 2023 currently approved and scheduled, the TGA now seeks to distribute escrowed purse funds as supplemental purses to past Texas-bred winners and kennel owners from 2020 because the August 2021 granted race dates for Valley Race Park were cancelled. TGA proposes a retroactive pro rata distribution to only Texas-bred winners and kennel owners that participated in the 2020 Gulf Greyhound Park race meet.

ANALYSIS

The granted 2021 Greyhound Race dates by the Texas Racing Commission as of October 29, 2019, were for Valley Race Park from August 20 to August 28, 2021.⁵ This race meet was cancelled. There are currently granted greyhound race dates by the Texas Racing Commission for 2022 and 2023.⁶ The Texas Rules of Racing provide that a greyhound racetrack association is entitled to 300 evening performances and 150 matinee performances per calendar year.⁷ “If, for a reason beyond a greyhound racetrack association’s control and not caused by the racetrack association’s fault or neglect, it is impossible for the racetrack association to conduct a race on a day authorized by the commission, the commission in its discretion and at the request of the racetrack association, as a substitute for the race, may: (1) specify another day for the racetrack association to conduct racing; or (2) add additional races to already programmed events.”⁸

The Act and Rules do not contemplate events where racing dates are granted by the Commission and are thereafter cancelled as specific grounds for distribution and allocation of escrowed purse amounts. Such ability to allocate and distribute funds prior to earning a purse at a scheduled meet is not expressed by any clear legislative intent. Hence the Texas Rules of Racing have no such rule adopted and implemented for application.

³ See TEX. OCC. CODE § 2028.202(c)(2), (d).

⁴ See TEX. OCC. CODE § 2040.052

⁵ The 2021 Commission granted Greyhound race dates are located on the Texas Racing Commission website at http://www.tsrc.texas.gov/racetracks/2021_GrantedGreyhoundRaceDates-103119.pdf.

⁶ The 2022 Commission granted Greyhound race dates are located on the Texas Racing Commission website at http://www.tsrc.texas.gov/racetracks/2022_Granted.Greyhound.Race.Dates..pdf. The 2023 Commission granted Greyhound race dates are located on the Texas Racing Commission website at <http://www.tsrc.texas.gov/racetracks/2023Granted.Greyhound.Race.Dates-as-of-7-27-2021.pdf>.

⁷ See TEX. OCC. CODE § 2029.051.

⁸ See TEX. OCC. CODE § 2029.053.

The statute differentiates between *interstate* cross-species simulcasts and *intrastate* cross-species simulcasts. The statute requires paying the 5.5 percent of *interstate* simulcasts into the escrow for purse funds.⁹ The statute requires paying the 5.5 percent of *intrastate* simulcasts purse amounts sent from the horse racetrack association directly “to the racetrack conducting the live race that is being simulcast.”¹⁰ The statute has only two clear directives regarding the use of the 5.5 percent escrowed purse amount. First, “a purse in the amount of 5.5 percent to be paid to the official state greyhound breed registry for use at racetracks in this state.”¹¹ Second, the TGA can use up to 20 percent of the escrowed purse amount to administer the allocation of the purse for use at racetracks in this state.¹²

The Texas Rules of Racing do provide for allocation and distribution of the escrowed purse funds in the event an association *ceases a live race meet before completion* of the live race dates granted by the commission.¹³ The Rule fails to address the same allowance for the statutorily escrowed purse funds distributed from wagers placed on interstate cross-species simulcasts. The statute only requires that escrowed purse funds from interstate cross-species simulcasts be “for use at racetracks in this state”. There is no corresponding rule requiring allocation of escrowed purse funds when race days are granted but never held as in 2021.

The Texas Rules of Racing provide the requirements for the TGA’s distribution of the escrowed purse funds “to enhance live racing opportunities at Texas greyhound racetracks” in 16 TEX. ADMIN. CODE § 303.102(d). Specifically:

(d) Distribution of purse money from cross-species simulcasting.

(1) To enhance live racing opportunities at Texas greyhound racetracks, TGA shall pay to each greyhound racetrack the purse money it collects pursuant to the Act, § 6.091(d)(2)¹⁴ from interstate cross-species simulcasting at Texas horse racetracks in accordance with an allocation approved by the Commission. TGA shall prepare a proposed allocation for consideration by the Commission. In preparing a proposed allocation, TGA shall consider:

⁹ See TEX. OCC. CODE § 2028.202(c)(2).

¹⁰ See TEX. OCC. CODE § 2028.202(e). “A racetrack association offering wagering on intrastate cross-species simulcast signal shall send the purse amount specified under Subsection (b)(4) or (c)(2), as appropriate, to the racetrack conducting the live race that is being simulcast.”

¹¹ See TEX. OCC. CODE § 2028.202(c).

¹² See TEX. OCC. CODE § 2028.202(d).

¹³ See 16 TEX. ADMIN. CODE § 309.361(e)(2). “If an association ceases a live race meet before completion of the live race dates granted by the commission, the funds in and due the greyhound purse account shall be distributed as follows:

- (1) first, payment of earned but unpaid purses;
- (2) second, retroactive pro rata payments to the kennel owners; and
- (3) third, subject to the approval of the TGA, transfer within 120 days after cessation of live racing of the balance in the greyhound purse account to the greyhound purse account for one or more other associations.”

¹⁴ Current version at TEX. OCC. CODE § 2028.202(c)(2).

- (A) the average price-per-point paid for purses at each greyhound racetrack during the preceding year;
 - (B) the purse payout at each greyhound racetrack during the preceding year; and
 - (C) the impact cross-species simulcasting has made on greyhound purse revenues at each greyhound racetrack during the preceding year.
- (2) Annually, the executive secretary shall establish a deadline by which the proposed allocation must be submitted. The executive secretary shall ensure each of the greyhound racetracks has notice of the proposed allocation and the date, time and location of the Commission meeting at which the proposed allocation will be considered for approval.”

The Racing Act provides that the commission “shall adopt reporting, monitoring, and auditing requirements or other appropriate performance measures” for funds distributed to and used by an organization “that receives funds generated by live or simulcast pari-mutuel racing.”¹⁵ When adopting the requirements or other appropriate performance measures, the commission must “consult with the affected organization” and “consider the concerns of the affected organization.”¹⁶ It is unclear whether the requirements include any distribution allocations other than as allocated escrowed purse amounts among the Texas racetracks with future meets scheduled, and amounts were paid out as added purses to all greyhound race winners of those future meets whether Texas-bred greyhounds or not.

CONCLUSION

Therefore, I respectfully request the Attorney General’s opinion on: (1) Whether the release and distribution of escrowed purse funds in retroactive pro rata proportions to the owners of kennels and Texas-bred greyhounds that participated in the last 2020 greyhound meet run in Texas is a permissible use of escrowed purse funds accrued from March 1, 2020, through August 31, 2021, or amounts should remain in escrow; and (2) Whether future distributions with the same retroactive pro rata proportions would be permissible when greyhound race days are granted and thereafter cancelled without any live racing or amounts should remain in escrow. I thank you in advance for your time and attention in this matter.

Very truly yours,



Amy F. Cook
Executive Director

¹⁵ See TEX. OCC. CODE § 2028.001(a).

¹⁶ See TEX. OCC. CODE § 2028.001(b).

INDEX OF ATTACHMENTS

1. 2020 Granted Greyhound Race Dates – as of September 10, 2019.
2. 2021 Granted Greyhound Race Dates – as of October 29, 2019.
3. 2022 Granted Greyhound Race Dates – as of September 29, 2020.
4. 2023 Granted Greyhound Race Dates – as of July 27, 2021.

2020 Granted Greyhound Race Dates (As of September 10, 2019)

	January							February							March														
	W	T	F	S	M	T	W	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T
Greyhound Race Park																													
Valley Race Park																													

	January							February							March														
	W	T	F	S	M	T	W	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T
Greyhound Race Park																													
Valley Race Park																													

	January							February							March														
	W	T	F	S	M	T	W	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T
Greyhound Race Park																													
Valley Race Park																													

	January							February							March														
	W	T	F	S	M	T	W	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T
Greyhound Race Park																													
Valley Race Park																													

	January							February							March														
	W	T	F	S	M	T	W	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T	W	T	F	S	M	T
Greyhound Race Park																													
Valley Race Park																													

Track	January							February							March														
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Greyhound Race Park																													
Valley Race Park																													
Total By Type																													
Total By Month	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5

2022 Granted Greyhound Race Dates as of September 29, 2020

		January							February							March													
		S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
Gulf Coast	M																												
Racing	E																												
Valley Race Park	M																												
	E																												

		April							May							June													
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Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
	E																												

		July							August							September													
		F	S	M	T	W	T	F	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
	E																												

		October							November							December													
		F	S	M	T	W	T	F	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
	E																												

		January							February							March												
		M	E						M	E					M	E						M	E					
Gulf Coast	M																											
Racing	M																											
Valley Race Park	M																											
	E																											

		April							May							June													
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Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
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		July							August							September													
		F	S	M	T	W	T	F	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
	E																												

		October							November							December													
		F	S	M	T	W	T	F	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
Gulf Coast	M																												
Racing	M																												
Valley Race Park	M																												
	E																												

Legend:
 M: Monday
 E: Evening
 S: Saturday
 F: Friday
 T: Tuesday
 W: Wednesday
 T: Thursday
 F: Friday
 S: Saturday
 M: Monday
 E: Evening



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 3, 2021

Ms. Amy F. Cook
Executive Director
Texas Racing Commission
Post Office Box 12080
Austin, Texas 78711-2080

Via E-Mail

Re: Permissible uses and distributions of escrowed purse funds by the Texas Greyhound Association under section 2028.202 of the Occupations Code (RQ-0442-KP)

Dear Ms. Cook:

We received your request for an attorney general opinion and have designated it as Request No. 0442-KP. Section 402.042 of the Government Code provides that the Attorney General shall issue an opinion not later than the 180th day after the date that an opinion request is received, unless before that deadline the Attorney General notifies the requesting person in writing that the opinion will be delayed. TEX. GOV'T CODE § 402.042(c)(2). We received your request on December 2, 2021, setting a due date for your opinion of May 31, 2022.

By copy of this letter we are notifying those listed below of your request and inviting them to submit briefing on your questions if they have a special interest or expertise in the subject matter. The Office of the Attorney General accepts briefing from any interested party. If you are aware of other individuals or entities with an interest in this issue, please forward this invitation for briefing to them or let us know, so that we may notify them as soon as possible. We ask that the briefs be submitted by January 3, 2022, to ensure that this office will have adequate time to review and consider arguments relevant to the request from all interested parties. Briefs may be submitted by e-mail to opinion.committee@oag.texas.gov. Please note that briefs and other correspondence are subject to the Public Information Act.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Virginia K. Hoelscher
Chair, Opinion Committee

VKH/som

Attachment: Request No. 0442-KP

cc: The Honorable Glenn Hegar, Comptroller
Ms. Victoria North, General Counsel, Comptroller of Public Accounts
Ms. Sally Briggs, General Manager, Gulf Coast Racing
Mr. Dwight Berube, Vice President & General Manager, Valley Race Park
Mr. Billy Galbreath, President, Texas Greyhound Association
Ms. Amy Cresap, General Counsel Division, Office of the Governor



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 20, 2022

Ms. Amy F. Cook
Executive Director
Texas Racing Commission
Post Office Box 12080
Austin, Texas 78711-2080

Opinion No. KP-0412

Re: Permissible uses and distributions of escrowed purse funds by the Texas Greyhound Association under section 2028.202 of the Occupations Code (RQ-0442-KP)

Dear Ms. Cook:

The Texas Racing Act requires horse racetracks to distribute certain funds to the Texas Greyhound Association (“TGA”). TEX. OCC. CODE § 2028.202(c)(2). You ask two questions about the TGA’s handling and use of those funds.¹ Both questions raise the fundamental issue of to whom the TGA may pay these funds.

The Texas Racing Act requires a horse racetrack to distribute certain funds it receives from interstate cross-species simulcasting to the Texas Greyhound Association.

The Texas Racing Act (“Act”), Occupations Code chapters 2021–2035, regulates greyhound and horse racing. *See id.* §§ 2021.001–2035.106. The Texas Racing Commission (“Commission”) implements, administers, and enforces the Act. *See, e.g., id.* § 2023.001(a) (providing “the commission may license and regulate all aspects of horse racing and greyhound racing in this state, regardless of whether that racing involves pari-mutuel wagering”).

The funds about which you ask derive from interstate cross-species simulcasting. *See* Request Letter at 1–2. In 1997, the Texas Legislature amended the Act to “allow bettors at horse tracks to wager on televised simulcast greyhound races, and bettors at greyhound tracks to wager on televised simulcast horse races.” Tex. House Research Organization, Bill Analysis, Tex. H.B. 1445, 75th Leg., R.S. (1997) at 4; *see also* Act of May 20, 1997, 75th Leg., R.S., ch. 1275, § 27, 1997 Tex. Gen. Laws 4840, 4855. The Act refers to this as a “cross-species simulcast.” TEX. OCC. CODE § 2021.003(12); *see also id.* § 2021.003(46) (defining “simulcast” as “the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a

¹*See* Letter from Amy F. Cook, Exec. Dir., Tex. Racing Comm’n, to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Dec. 3, 2021), <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2021/pdf/RQ0442KP.pdf> (“Request Letter”).

receiving location, for the purpose of wagering conducted on the race at the receiving location”). The Act identifies an out-of-state greyhound race (e.g., a race in Arkansas) simulcast at a horse track in Texas as an “interstate cross-species simulcast.” *Id.* §§ 2027.053–.056, 2028.202.

The Act requires a horse racetrack that receives an interstate cross-species simulcast to distribute to the TGA – as the official state greyhound breed registry – a percentage of the funds from each pool wagered on the simulcast race. *See id.* §§ 2028.202(c)(2), 2030.052 (providing the Texas Greyhound Association is the official state greyhound breed registry). Section 2028.202 provides, in relevant part, as follows:

(c) . . . a horse racetrack association that receives an interstate cross-species simulcast signal shall distribute the following amounts from each pool wagered on the signal at the racetrack: . . .

(2) a purse in the amount of 5.5 percent to be paid to the official state greyhound breed registry for use at racetracks in this state.

(d) The official state greyhound breed registry may use not more than 20 percent of the amount described by Subsection (c)(2) to administer that subsection.²

Id. § 2028.202(c)–(d).

The Texas Greyhound Association proposes to pay funds it receives from interstate cross-species simulcasting directly to kennel and greyhound owners.

You tell us the TGA holds interstate cross-species simulcast funds in escrow. *See* Request Letter at 2. You explain that, historically, the TGA allocated the funds “among the Texas racetracks with future meets scheduled, and amounts were paid out [by the racetracks] as added purses to race winners of those future meets.”³ *Id.* Prompted by the cancellation of races in 2021 and the closure of Gulf Greyhound Park racetrack, the TGA now proposes to distribute some of the escrowed funds as supplemental purses directly to certain kennel and greyhound owners⁴ that

²A “racetrack association” is “a person licensed under this subtitle to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering” and a “simulcast pari-mutuel pool” is “the total amount of money wagered by patrons at a racetrack in this state on the result of a particular simulcast race or combination of simulcast races.” TEX. OCC. CODE § 2021.003(42), (47). The Commission defines “purse” to mean “the cash portion of the prize for a race.” 16 TEX. ADMIN. CODE § 301.1(58) (Tex. Racing Comm’n, “Definitions”).

³*See also* Brief from Mr. Jim Dunnam, Dunnam & Dunnam, L.L.P., on behalf of TGA at 13 (Jan. 3, 2022) (on file with the Op. Comm.) (“TGA Brief”).

⁴The TGA explains that kennel owners execute contracts (“booking agreements”) with racetrack associations to provide dogs for races, and kennel owners may own the dogs or lease the dogs from other owners. *See id.* at 3, 6. The TGA also explains that “[i]n typical times, when races that are scheduled by racetrack associations and the TRC are actually run, kennel and greyhound owners recoup their monetary outlays by obtaining purses from their participation in the races.” *Id.* at 6. “[P]urses are the cash portion of prizes and are the most important source of income for Texas kennel and greyhound owners.” *Id.*

participated in the February 2020 Gulf Greyhound Park race meet. *See id.* at 2, 4; TGA Brief at 8–10, 16. You ask whether this proposal is permissible. *See* Request Letter at 1, 4. You also ask if the TGA may make similar distributions in the future if greyhound race days are granted by the Commission and thereafter cancelled by the racetrack without any live racing.⁵ *Id.*

As required by chapter 2028 of the Occupations Code, the Commission has adopted rules regarding the distribution of funds under section 2028.202.

Occupations Code section 2028.202(c)(2) requires the distributions from horse racetrack associations be paid to the TGA “for use at racetracks in this state.” TEX. OCC. CODE § 2028.202(c)(2). The Legislature charged the Commission with “overseeing the amounts allocated under” section 2028.202(c) and adopting related rules. *Id.* § 2028.201 (“The commission shall adopt rules relating to this subchapter and the oversight of the amounts allocated under Sections 2028.202(b) and (c).”). To that end, the Commission’s rules provide as follows:

To enhance live racing opportunities at Texas greyhound racetracks, *TGA shall pay to each greyhound racetrack* the purse money it collects pursuant to the Act, §6.091(d)(2) [predecessor to Occupations Code section 2028.202(c)(2)] from interstate cross-species simulcasting at Texas horse racetracks in accordance with an allocation approved by the Commission. TGA shall prepare a proposed allocation for consideration by the Commission. In preparing a proposed allocation, TGA shall consider:

- (A) the average price-per-point paid for purses at each greyhound racetrack during the preceding year;
- (B) the purse payout at each greyhound racetrack during the preceding year; and
- (C) the impact cross-species simulcasting has made on greyhound purse revenues at each greyhound racetrack during the preceding year.

16 TEX. ADMIN. CODE § 303.102(d)(1) (Tex. Racing Comm’n, “Greyhound Rules”) (emphasis added).

Consistent with section 2028.202, Commission rules require the Texas Greyhound Association pay funds accrued from interstate cross-species simulcasting to greyhound racetracks.

Courts and this office construe agency administrative rules pursuant to the rules used for statutory construction. *See Patients Med. Ctr. v. Facility Ins. Corp.*, 623 S.W.3d 336, 341 (Tex. 2021); *see also* TEX. GOV’T CODE § 311.002(4) (applying the Code Construction Act to

⁵The TGA asserts that the 2022 and 2023 greyhound race days approved by the Commission will likely be cancelled. *Id.* at 7.

rules). Like a court, we must strive to give effect to the agency's intent as reflected in the rules' plain language. *See Patients Med. Ctr.*, 623 S.W.3d at 341.

The term "shall" generally denotes a mandatory action. *See* TEX. GOV'T CODE § 311.016(2) (providing that the term "shall" imposes a duty unless the context necessarily requires a different construction or unless a different construction is expressly provided); *Garza v. Harrison*, 574 S.W.3d 389, 402 (Tex. 2019) ("The term 'shall,' as the Legislature has explained in the Code Construction Act, 'imposes a duty.'"). The term "racetrack" means "a facility licensed under this subtitle for the conduct of pari-mutuel wagering on horse racing or greyhound racing."⁶ TEX. OCC. CODE § 2021.003(41); *see* 16 TEX. ADMIN. CODE § 301.1(a) (Tex. Racing Comm'n, "Definitions") (providing that terms defined in the Act shall have the same meaning when used in the rules, unless otherwise defined in the rules); *see also id.* § 301.1(b)(62) (defining a "racetrack facility" to mean the buildings, structures and fixtures located on association grounds used by an association to conduct racing). Based on its plain language, and consistent with section 2028.202(c)(2), the Commission rule requires the TGA to pay the purse funds to only a greyhound racetrack, i.e., a facility licensed to conduct pari-mutuel wagering on greyhound racing. *See* 16 TEX. ADMIN. CODE § 303.102(d)(1) (Tex. Racing Comm'n, "Greyhound Rules"). Nothing in the context of the rule indicates the term "shall" is directory rather than mandatory. To the extent the TGA proposes to pay funds accrued from interstate cross-species simulcasting to a person other than a greyhound racetrack,⁷ a court would likely conclude the proposal is contrary to the rule and impermissible.

⁶"Pari-mutuel wagering" means "the form of wagering on the outcome of horse racing or greyhound racing in which persons who wager purchase tickets of various denominations on an animal or animals." TEX. OCC. CODE § 2021.003(34). "[A]ll wagers for each race are pooled and held by the racetrack association for distribution of the total amount, less the deductions authorized by this subtitle, to holders of tickets on the winning animals." *Id.*

⁷Whether any particular person is a greyhound racetrack is a fact question we do not determine. *See, e.g.*, Tex. Att'y Gen. Op. No. KP-0398 (2022) at 3 (refraining from opining on fact questions).

S U M M A R Y

The Texas Racing Act requires horse racetracks to distribute to the Texas Greyhound Association certain funds derived from interstate cross-species simulcasting. Section 2028.202(c)(2) of the Occupations Code requires the funds distributed to the Texas Greyhound Association be “for use at racetracks in this state.” Consistent with this statute, a court would likely conclude that the Texas Racing Commission’s rules require the Texas Greyhound Association to pay escrowed interstate cross-species simulcasting funds to greyhound racetracks.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas

BRENT E. WEBSTER
First Assistant Attorney General

LESLEY FRENCH
Chief of Staff

D. FORREST BRUMBAUGH
Deputy Attorney General for Legal Counsel

CHARLOTTE M. HARPER
Acting Chair, Opinion Committee

CHRISTY DRAKE-ADAMS
Assistant Attorney General, Opinion Committee

AGENDA ITEM

VI. STAFF REPORTS

A. Executive Director Report

**Request for OAG Opinion:
TVMDL Interagency Agreement**



TEXAS RACING COMMISSION
1801 N Congress Avenue, Suite 7.600
Austin, Texas 78701
512-833-6699

February 9, 2024

Office of the Attorney General (Via email: opinion.committee@oag.texas.gov)
Attention Opinion Committee
P. O. Box 12548
Austin, Texas 78711-2548

Subject: Request for Opinion: Texas Occupations Code Act § 2034.002; Medication and Drug Testing Procedures.

This is a formal request for an **expedited** Attorney General Opinion on behalf of the Texas Racing Commission (Commission) due to the time sensitive nature of the issue and the negative economic impact on the Texas horseracing industry.

Question Presented: Whether Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL), has the authority to unilaterally terminate race animal drug testing services designed to prevent unlawful influence on racehorses without Commission consent on August 25, 2024, thereby disrupting the Commission's ability to enforce the Texas Racing Act.

Background: On January 30, 2024, the Commission received notice from TVMDL Associate Director Stacey Morris that TVMDL intended to cease all testing for the Commission on August 25, 2024. Although the Commission was aware of concerns that TVMDL had beginning in October 2023, the position of the Commission is that the drug testing service that TVMDL has provided for over thirty (30) years must continue through August 31, 2027, to provide sufficient time for legislative appropriations and procurement authority to seek an alternative testing laboratory. The Commission is mandated by the Legislature as responsible for regulation, supervision and licensing related to horse racing in the state of Texas.¹ Part of that responsibility includes ensuring the health and safety of the race animals and jockeys, as well as the integrity of pari-mutuel wagering in the sport. The drug testing protocols have been executed through interagency contracts, updated annually with the last contract executed on August 22, 2023.² "To ensure continuity of the drug testing program in pari-mutuel racing" all terms of the interagency contract continue in effect until a new interagency contract is executed.³

Commission Authority: Under § 2034.002 (a)(2) and (b), the Commission has not had reason to contemplate selection of another laboratory because: 1) TVMDL was appropriated \$1,551,276.00 for Fiscal Years 2024-25 for drug testing services including 22,632 racehorses; ⁴ 2) TVMDL knows or should have known that it must honor the statutory relationship to prevent regulatory uncertainty for over 15,000 business and occupational licensees; and 3) There is no timely mechanism for the agency to request the appropriate additional funding and procurement authority to transition to another drug testing laboratory before the 89th Legislative Session.

TVMDL's attempt to terminate our statutory relationship without sufficient time and legislative guidance would cause severe disruption to the Commission's ability to perform its statutory mission. Without the drug testing program, no pari-mutuel wagering is permitted in Texas, which would require the cancellation of approved live race dates beginning in September 2024. Thank you for your assistance as we work through this time sensitive issue that affects all Texas horseracing constituents.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

¹ See Section 2023.001 of the Texas Occupations Code

² See Enclosure 1 (TXRC Interagency Contract with TVMDL dated August 22, 2023)

³ See page 10 of 10 of the Interagency Contract.

⁴ See HB 1 https://www.lbb.texas.gov/Documents/Appropriations_Bills/88/Conference_Bills/Conf_CCR_GAB_88R.pdf

"Excellence Starts Here"

**TEXAS RACING COMMISSION
INTERAGENCY CONTRACT FOR
TEXAS A&M VETERINARY MEDICAL DIAGNOSTIC LABORATORY**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This INTERAGENCY CONTRACT is made and entered into by and between the Texas Racing Commission (hereinafter referred to as TXRC), a Texas state agency with its principal office located at 1801 N. Congress Ave., Ste. 7.600, Austin, Texas 78701, and the Texas A&M Veterinary Medical Diagnostic Laboratory (hereinafter referred to as TVMDL), part of a state institution of higher education with its principal office located at 483 Agronomy Rd, College Station, TX 77843, acting by and through its authorized representative(s), pursuant to authority granted in TEX. GOV'T CODE, Chapter 771, §771.003 *et seq.*

I. PURPOSE

1.1 Pursuant to TEX. OCC. CODE Chapter 2034, § 2034.002, the Drug Testing Laboratory of TVMDL is to provide drug testing services on race animals for TXRC. The purpose of this INTERAGENCY CONTRACT is to delineate and specify the responsibilities and obligations of the parties in administering TXRC's race animal drug testing program.

II. DEFINITIONS

2.1 Definitions include the following:

- a. Association - A person or entity holding a pari-mutuel racetrack license under the Texas Racing Act to conduct pari-mutuel wagering and/or horse or greyhound racing issued by the Texas Racing Commission.
- b. Authorized individual(s) – Person(s) entitled to access to laboratory grounds based upon tier and access level(s).
- c. ELISA - Enzyme-linked immunosorbent assay (“immunoassay”).
- d. Executive Director - Texas Racing Commission Executive Director or designee.
- e. GC/MS - Gas Chromatography-Mass Spectrometry.
- f. ICP/MS - Inductively Coupled Plasma Mass Spectrometry.
- g. IC-MS - Ion Chromatography-Mass Spectrometry.
- h. LC-MS/MS - Liquid Chromatography-Tandem Mass Spectrometry.
- i. LC-HRAMS - Liquid Chromatography-High-Resolution Accurate Mass Spectrometry.
- j. LIMS – Laboratory Information Management System. Electronic software program that stores results and releases case reports for TVMDL testing.
- k. MU - Measurement Uncertainty.
- l. Specimen - Bodily substance, such as hair, blood, urine, saliva, or other bodily tissues collected for analysis from a horse or greyhound in a manner prescribed by the TXRC. Specimen sample may also include, but not limited to, substances contained in vials, loaded syringes, or other similar containers.

III. DESCRIPTION OF SERVICES

3.1 Duties of TVMDL: TVMDL agrees:

1. To provide sufficient security to control access to the TVMDL Drug Testing Lab or to areas where records and samples are stored including security measures such as extra access required in LIMS system, security permissions for backup instrument data, and locked laboratory doors.
2. To ensure only authorized persons handle samples or have access to TVMDL processes. There are two tiers of access for TVMDL employees.
 - a. There are four types of access for authorized individuals. Tier 1 authorized individuals perform the testing; includes Access A authorized individuals requiring fingerprinting, background check and annual conflict of interest statement. Tier 2 authorized individuals support testing; includes Access B, C, and D authorized individuals requiring an annual conflict of interest statement.
 - b. Access A: TVMDL employees who are trained to handle samples and perform testing in the laboratory (restricted to only TVMDL drug testing staff).
 - c. Access B: TVMDL employees who have unescorted access to laboratory space. Examples include, but are not limited to, TVMDL drug testing laboratory staff, TVMDL senior agency executives, TVMDL quality assurance staff, and TAMUS IT support.
 - d. Access C: TVMDL employees and LIMS vendor staff who have access to case information in LIMS (racing results require an extra access in LIMS so not all TVMDL employees fall in this category). Examples include, but are not limited to, TVMDL drug testing staff, TVMDL quality assurance staff, TVMDL employees who create accessions in LIMS, TVMDL employees that perform data entry in LIMS, TAMUS IT support, TVMDL finance staff, and LIMS vendor staff.
 - e. Access D: TVMDL employees and TAMUS IT support staff who have access to backup instrumentation data generated during the testing (instrument printouts, control charts, etc...).
3. To inspect each shipment of all specimen samples on arrival at TVMDL for any evidence of possible tampering or compromise to the integrity of any specimen sample. Any evidence of tampering or compromise of specimen sample integrity shall be properly recorded and reported to the Executive Director in writing.
4. To use chain-of-custody procedures to maintain integrity, control, and accountability of specimen samples during all testing stages from specimen sample receipt to storage and final disposition.
5. To accession all specimen samples from Associations to the TXRC account.
6. To provide secured storage conditions to maintain specimen sample integrity while specimen samples for testing and split specimen samples are in the possession, custody, and control of TVMDL.
7. To maintain and follow approved quality control Standard Operating Procedures within the oversight of the TVMDL Quality Management System.
8. To provide analyses for alleged performance-enhancing drugs in submitted contraband samples (e.g., vials, loaded syringes, tubes of paste) by TVMDL methods including, but not limited to, LC-MS/MS, GC/MS, LC-HRAMS, or ELISA as requested by TXRC.

9. To provide specimen sample testing and split specimen sample testing, upon trainer's request, for the presence of prohibited substances and controlled therapeutic medications on equine urine specimen samples as follows:

a. Instrumental analysis (e.g., LC-MS/MS, GC/MS, LC-HRAMS, ICP-MS and IC-MS) on each equine urine specimen sample.

b. Specific gravity determination on each equine urine specimen sample with an accompanying serum furosemide concentration in excess of 100 ng/mL.

c. Each specimen sample with the presence of a therapeutic medication, at levels as published by TXRC, that exceed the maximum permissible concentration level shall be reported by TVMDL to TXRC as a positive result with the quantitative level and MU of the therapeutic medication.

d. Upon request by TXRC, specimen samples shall be tested by TVMDL for arsenic. Testing for arsenic shall be performed using ICP/MS, and the regulatory threshold maximum permissible level for arsenic is published in TXRC Permissible Therapeutic Substances List.

10. To provide testing for the presence of prohibited substances and controlled therapeutic medications on equine blood samples as follows:

a. Furosemide LC/MS screening on each equine serum sample to ensure compliance with TXRC's Bleeders and Furosemide Program. Evidence of non-compliance will be documented and reported to the TXRC. TVMDL will report as positive each specimen sample in which the concentration of furosemide exceeds 100 ng/mL and a urine specific gravity of less than 1.010. TVMDL will issue a report for each specimen sample in which the concentration of furosemide exceeds 100 ng/mL of furosemide and a urine specific gravity of 1.010- 1.012, or when no urine sample was submitted for testing. TVMDL will issue a report for each specimen sample in which the equine received furosemide treatment, but furosemide was not detected in the specimen sample. TVMDL will issue a report for each specimen sample in which the equine did not receive furosemide treatment, but furosemide was detected in the sample.

b. Test for total carbon dioxide on specimen samples of equine blood as requested by TXRC. Each specimen sample exceeding the maximum permissible level as published by TXRC shall be reported as positive to TXRC including the quantitative level. Alternatively, TVMDL may recommend another qualified laboratory conduct testing for total carbon dioxide.

c. Instrumental analysis by either LC-MS/MS, GC/MS, LC-HRAMS, ICP-MS, IC-MS on each equine blood sample. Additionally, each equine blood sample will be extracted and screened independently by instrumental analysis for the presence of dimethyl sulfoxide (DMSO). Pooling of no more than 4 samples is permissible.

d. Each specimen sample with the presence of a controlled therapeutic medication, as published by TXRC, that exceeds the corresponding maximum permissible concentration level shall be reported as positive to TXRC with the quantitative level and MU of the

medication.

- e. Upon request by TXRC, samples shall be tested for cobalt in addition to or in lieu of the substances identified in Sections 9.a through 9.e. Testing for cobalt shall be performed using ICP/MS, and the regulatory threshold level for this element is as published in TXRC Therapeutic Substance List of the Endogenous, Dietary, or Environmental Substances Schedule (25 ppb in blood plasma or serum).
11. To perform testing for prohibited substance(s) including either a full comprehensive test panel or specified testing for beta-agonist drugs in equine hair samples by instrumental analysis as required or requested by TXRC.
 12. To perform testing for the presence of prohibited substance(s) in canine urine samples. Testing shall be by instrumental analysis, LC-MS/MS, LC-HRAMS, ELISA, on each canine urine sample, with an emphasis on drugs classified as Category I or II in the published TXRC Medication Classification.
 13. To perform confirmatory analysis on specimen samples whether equine or canine when a suspicious finding is identified in initial screening. At least one definitive analytical technique should be employed for the confirmatory analysis (e.g., mass spectrometry).
 14. To perform tests as required by the Thoroughbred Owners and Breeders Association (TOBA) for substances in specimen samples from equine that participate in graded stakes races and listed stakes races at the \$75,000 purse level or above.
 15. To expedite tests as requested for quarter horse trials with a goal of reporting test results to TXRC within five calendar days of receiving samples.
 16. To screen blood samples labeled as "Vet Work" by LC-MS/MS or LC-HRAMS for non-steroidal anti-inflammatory drugs (NSAIDs), corticosteroids, or other drugs as requested by TXRC. Results for Vet Work samples will be reported by TVMDL to TXRC electronically within 120 hours of the specimen sample receipt by TVMDL.
 17. To screen biological samples including, but not limited to, fresh tissue (e.g., muscle, liver and kidney, eye) collected as post-mortem tissue sampling in necropsy procedure(s) by instrumental analysis. Turnaround time depends upon the extent of confirmatory testing when the initial screening of a sample is deemed suspect but will not exceed ten business days. These samples results will be reported by TVMDL to TXRC electronically.
 18. To perform other testing as requested by TXRC with prior approval by utilizing the most effective state-of-the-art or appropriate technology or platform testing methods.
 19. To store all tested specimen samples and split specimen samples in secured conditions ensuring the specimens integrity before either disposal of or release to a third party (for various purposes). The minimum retention period for a negative specimen sample is five (5) calendar days after reporting to TXRC. The minimum retention period for a positive specimen sample is one (1) year after reporting to TXRC or until all legal proceedings concerning the sample conclude whichever is longer. The minimum retention period for all records is two years or until all legal proceedings concerning the specimen sample conclude whichever is longer.

20. To report negative test result(s) to TXRC within 120 hours from sample receipt, if possible. TVMDL will report positive test result(s) to TXRC within three weeks of TVMDL's receipt of specimen samples. On request by TXRC, TVMDL shall make available to TXRC a copy of the analytical case file results of any test conducted.
21. To provide qualified professional personnel to testify in an administrative hearing or other legal proceeding involving a test performed. TVMDL agrees to participate and assist with pretrial matters including, but not limited to, interrogatories and depositions.
22. To notify TXRC in writing at least thirty (30) days before implementing any change in analytical procedures which alters the detection sensitivity for any substance classified as Category III, IV, or V in the TXRC Medication Classification.
23. To participate in industry-recognized quality assurance program(s).
24. To refrain from disclosing any information relating to a specimen sample to any person other than specifically designated by TXRC to receive the information.
25. To maintain qualified Tier 1 and Tier 2 TVMDL staff with no financial interest in racehorses, racing greyhounds, a racetrack, or with any conflict of interest within the racing industry. All TVMDL laboratory personnel must be employees of the Texas A&M Veterinary Medical Diagnostic Laboratory, a member of the Texas A&M University System, and subject to the rules and policies of the A&M System as promulgated by the Board of Regents of the A&M System or the TVMDL Director.
26. To consent to background investigation for all Tier 1 TVMDL staff involved in the TXRC drug testing program under this agreement including, but not limited to, fingerprinting conducted by the Texas Department of Public Safety on behalf of TXRC.
27. To allow access by TXRC to all TVMDL records of drug testing services performed pursuant to this agreement.
28. To issue an electronic report to TXRC for all samples tested through this agreement.
29. To invoice TXRC for all samples tested through this agreement. TVMDL will make reasonable efforts to collect payment from TXRC after thirty (30) days from presentment to TXRC and will notify the Executive Director of any charges that are unpaid thirty (30) days after invoicing.

3.2 TXRC Duties. TXRC agrees:

1. To fund and directly provide all necessary supplies to Associations for the collection and shipment of specimen samples to TVMDL including, but not limited to, sample cards, sample jars, blood tubes, seals, labels, vacutainer sleeves, collection needles, and shipping containers.
2. To supervise the specimen sample collection site at each Association to ensure the site has the necessary personnel, supplies, equipment, facilities, and supervision to provide for the identification of animals and humans in the chain of custody and to collect, identify, secure, store, and ship each specimen sample to TVMDL.

3. To submit specimen samples from approximately 9,500 race animals per year. TXRC will make every effort to sample two (2) equine specimen samples per horse race and 0.9 canine specimen samples per greyhound race for testing at TVMDL. If the number of racing performances changes during the calendar year, the number of specimens may be adjusted accordingly. The TXRC Executive Director will notify the TVMDL Director as soon as practicable of changes in the number of racing performances. If the number of equine specimen samples, canine specimen samples, and/or racing performances decreases by more than 10% during the calendar year, TVMDL reserves the right to adjust test fees and agrees to notify the TXRC Executive Director at least thirty (30) days before any fee adjustments are made in writing.
4. To require each Association to deliver all samples to TVMDL in a secure manner ensuring specimen sample integrity in accordance with a TVMDL-approved delivery schedule at the Association's expense.
5. To apprise and update TVMDL in a timely manner of all drugs on the Medication Classification and Therapeutic Substance Lists and all changes in medication rules, policies, and procedures.
6. To promptly and completely submit payment for samples tested pursuant to this agreement to TVMDL. Payment is expected within thirty (30) days of the monthly invoice date.

IV. COST OF SERVICES

1. Except as otherwise provided in Section IV of this agreement, TVMDL agrees to charge, and TXRC approves, a per-specimen charge of \$150.00 for each blood and urine equine specimen sample tested [*#1031, Drug Screen - Racing Equine Basic (LC/MS)*].
2. TVMDL agrees to charge and TXRC approves, a charge of \$50.00 for each canine specimen sample tested pursuant to Article III, Sections 10 and 11 [*#1030, Drug Screen-Racing Canine (LC/MS)*].
3. TVMDL agrees to charge and TXRC approves, an \$8.00 accession fee for each race day from each racetrack to receive samples, enter test requests, and data [*#PROCESS01, Accession Fee*].
4. For total carbon dioxide tests conducted by TVMDL, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$28.50, unless TVMDL recommends a different laboratory conduct the testing for total carbon dioxide in which case the charge shall be separately determined.
5. For tests conducted pursuant to Article III, Sections 8.d. (arsenic) and 9.e. (cobalt), TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$23.00 [*#1006, Arsenic (ICP/MS), #1015 Cobalt (ICP/MS)*].
6. For tests conducted pursuant to Article III, Section 10, TVMDL agrees to charge, and TXRC approves, a per-sample hair specimen charge of \$145.00 for beta-agonist drug screening [*#1021, Drug Screen-Beta Agonists in Hair or Feathers (LC/MS)*].
7. For tests conducted pursuant to Article III, Section 13 (TOBA tests), TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$250.00 for each blood and each urine specimen sample respectively [*#1033, Drug Screen-Racing Equine Comprehensive (LC/MS)*]. TVMDL agrees to charge, and TXRC approves, the hair specimen sample charges in Item 6 above, if necessary.

8. For tests conducted pursuant to Article III, Section 15 (vet work/medical clearance), TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$90.00 [#1034, *Drug Screen – Racing Equine Medical Clearance (LC/MS)*].
9. For ocular fluid tests conducted pursuant to Article III, Section 16, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$60.00 [#1032, *Drug Screen – Racing Equine Breakdown (LC/MS)*].
10. For fresh tissue, muscle, liver, and kidney organ tests conducted pursuant to Article III, Section 16, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$110.00 [#1544, *Drug Screen – Unknowns (LC/MS)*].
11. For necropsy racing mortality tests conducted, TVMDL agrees to charge, and TXRC approves, a charge of \$190.00 [#1350, *Necropsy- Racing Mortality*].
12. For tests conducted pursuant to Article III, Section 17 (other testing as requested), TVMDL and TXRC will mutually agree on the per-sample charge depending on the methodology and platform employed for testing.
13. Upon request by TXRC, TVMDL agrees to charge and TXRC approves, a per-sample charge of \$88.00 for each serum or urine specimen sample tested for beta-agonists [#1023, *Drug Screen – Beta Agonists in Serum/Urine/Feed (LC/MS)*].
14. Upon request by TXRC, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$86.25 for each serum or urine specimen sample tested for corticosteroids [#1024, *Drug Screen – Corticosteroids (LC/MS)*].
15. Upon request by TXRC, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$80.00 for each contraband sample including each vial, loaded syringe, and paste tube [#1018, *Drug Identification- Medications (LC/MS)*].
16. Upon request by TXRC, TVMDL agrees to charge, and TXRC approves, a charge of \$250.00 per sample for comprehensive racing equine testing [#1033, *Drug Screen – Racing Equine Comprehensive (LC/MS)*].
17. Upon request by TXRC and trainer, TVMDL agrees to charge and TXRC approves, a charge of \$25.50 for each split sample referred to package and ship a split sample forwarded to another approved laboratory for testing [#REFER03, *Referral Lab - Forwarding Fee*].
18. For storage of specimen samples, split samples, and discarding of samples beyond retention periods pursuant to Article III, Sections 1, 4 and 18, TVMDL agrees to charge, and TXRC approves, a flat annual charge of \$1,000 [#ADDL22, *Sample Storage*].
19. TVMDL agrees to charge and TXRC approves, a charge of \$108 per literature packet requested for use at a TXRC hearing [#PROCESS11, *Literature Packet*].

20. Pursuant to TEX. OCC. CODE § 2034.003, the Associations are responsible for payment of these charges. TVMDL will invoice TXRC, and TXRC agrees to pay TVMDL for the testing charges on behalf of each racetrack Association. Thereafter, TXRC will invoice the respective racetracks for payment of their portion of TVMDL costs incurred.

Code	Name	FY 2024	Notes
PROCESS01	Accession Fee	\$8.00	Fee is per submission.
PROCESS11	Literature Packet	\$108.00	Fee is per packet prepared for TXRC Hearing.
ADDL22	Sample Storage	\$1,000.00	Fee to store TXRC original and split samples. Flat rate charged annually.
REFER03	Referral Lab – Forwarding Fee	\$25.50	Fee is per sample packaged and referred.
1006	Arsenic (ICP/MS)	\$23.00	Fee is per sample tested.
1015	Cobalt (ICP/MS)	\$23.00	Fee is per sample tested.
1018	Drug Identification – Medications (LC/MS)	\$80.00	Fee is per sample tested.
1021	Drug Screen – Beta Agonists in Hair or Feathers (LC/MS)	\$145.00	Fee is per sample tested.
1023	Drug Screen – Beta Agonists in Serum/Urine Feather/Feed (LC/MS)	\$88.00	Fee is per sample tested.
1024	Drug Screen – Corticosteroids (LC/MS)	\$86.25	Fee is per sample tested.
1030	Drug Screen – Racing Canine (LC/MS)	\$50.00	Fee is per sample tested.
1031	Drug Screen – Racing Equine Basic (LC/MS)	\$150.00	Fee is per sample tested.
1032	Drug Screen – Racing Equine Breakdown (LC/MS)	\$60.00	Fee is per sample tested.
1033	Drug Screen – Racing Equine Comprehensive (LC/MS)	\$250.00	Fee is per sample tested.
1034	Drug Screen – Racing Equine Medical Clearance	\$90.00	Fee is per sample tested.
1350	Necropsy – Racing Mortality	\$190.00	Fee is per animal.
1544	Drug Screen – Unknowns (LC/MS)	\$110.00	Fee is per sample tested.

V. MODIFICATION OF CONTRACT

1. Except when the terms of this INTERAGENCY CONTRACT expressly provide otherwise, any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both TVMDL and TXRC.

2. It is understood and agreed by the parties hereto, that changes in state and federal rules, regulations, or laws applicable hereto may occur during the term of this INTERAGENCY CONTRACT and that any such changes shall be automatically incorporated into this INTERAGENCY CONTRACT without written amendment and shall become a part of this agreement as of the effective date of the change in the rule, regulation, or law.

VI. NOTICES

Any notice required or permitted to be given under this INTERAGENCY CONTRACT shall be sufficient if given at the mailing addresses set forth below or to any other address of which written notice of change is given in writing:

Texas A&M Veterinary Medical Diagnostic Laboratory
Attn: Director
PO Drawer 3040
College Station, TX 77841-3040

Texas Racing Commission
Attn: Executive Director
1801 N. Congress Ave., Ste 7.600
Austin, TX 78701

VII. VENUE AND GOVERNING LAW

Venue of any court action brought directly or indirectly by reason of this INTERAGENCY CONTRACT shall be in Travis County, Texas. This INTERAGENCY CONTRACT is made and is to be performed in Travis County, Texas and is governed by the laws of the State of Texas.

VIII. ENTIRE AGREEMENT

This INTERAGENCY CONTRACT, including any Exhibits, embodies the final and entire agreement of the parties hereto, superseding all oral or written, previous and/or contemporaneous, agreements between the parties and relating to matters in this INTERAGENCY CONTRACT. No other agreements, oral or otherwise, regarding the matters of this INTERAGENCY CONTRACT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date herein and executed by the parties.

IX. LEGAL AUTHORITY

The signers of this INTERAGENCY CONTRACT represent, warrant, and guarantee that the signor has full legal authority to execute this INTERAGENCY CONTRACT and to bind the respective party to all the terms, conditions, provisions, and obligations contained in this agreement.

X. SEVERABILITY

If any clause or provision of this INTERAGENCY CONTRACT is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, then it is the intention of the parties that such invalidity, illegality, or unenforceability does not affect any other clause or provision and that the remainder of this INTERAGENCY CONTRACT shall be construed as if such invalid, illegal, or unenforceable provision was never contained in this agreement. It is also the intention of the parties that in lieu of each provision of this INTERAGENCY CONTRACT that is determined to be invalid, illegal, or unenforceable that there be added as part of the INTERAGENCY CONTRACT, a provision similar in terms to such invalid, illegal, or unenforceable provision, as may be possible, to make the provision legal and enforceable.

XI. EXECUTION

The Parties agree to use due diligence in the exercise of their responsibilities as outlined in this INTERAGENCY CONTRACT. The term of this INTERAGENCY CONTRACT is from the date of Commission approval or September 1, 2023, whichever is later, through August 31, 2024. To ensure the continuity of the drug testing program in pari-mutuel racing, all terms of this INTERAGENCY CONTRACT continue in effect until a new INTERAGENCY CONTRACT is executed with the understanding that TVMDL reserves the right to adjust fees prior to execution of the new INTERAGENCY CONTRACT and will notify the TXRC Executive Director in writing at least 30 days in advance of fee adjustments. If either Party determines that events have changed and significantly affected a material term of the INTERAGENCY CONTRACT including, but not limited to, the closing of a racetrack or a significant increase in the cost of drug testing or testing supplies, the Parties agree to renegotiate the terms of this INTERAGENCY CONTRACT prior to the date of termination.

For the faithful performance of this agreement, this agreement is executed by the undersigned persons in their capacities described below. This agreement takes effect on the date of approval by the Commissioners of the Texas Racing Commission or September 1, 2023, whichever is later.

Amy F. Cook

August 22, 2023

Amy F. Cook, Executive Director
TEXAS RACING COMMISSION

Date

Amy Swinford

Amy Swinford (Aug 24, 2023 14:17 CDT)

August 22, 2023

Dr. Amy K. Swinford, Director
TEXAS A&M VETERINARY MEDICAL DIAGNOSTIC LABORATORY

Date

AGENDA ITEM

VII. GENERAL BUSINESS

A. Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) Interagency Agreement



TEXAS RACING COMMISSION
1801 N Congress Avenue, Suite 7.600
Austin, Texas 78701
512-833-6699

February 5, 2024

Chancellor John Sharp
Texas A&M University System
301 Tarrow Street
College Station, Texas 77840

Subject: Texas Veterinary Medical Diagnostic Lab (TVMDL) Interagency Agreement

Dear Chancellor Sharp:

On behalf of the Chair of the Texas Racing Commission, this letter serves as an invitation for you to attend the Commission's next meeting scheduled for February 14, 2024, at 10:30 a.m., at the Texas Capitol Extension, 1100 Congress Avenue, Room E2.028, Austin, Texas 78701. The agency received a notice from Ms. Stacey Morris, TVMDL Associate Agency Director, on January 30, 2023, informing us that TVMDL intends to cease all testing for the Texas Racing Commission on August 25, 2024. As you may be aware, the Texas Racing Act § 2034.002 requires TVMDL to conduct medication and drug testing performed on racing animals, unless the Commission selects an approved alternate laboratory after consulting with TVMDL, which, to date, has not taken place.

Further, the current interagency agreement in effect from September 1, 2023-August 31, 2024, states in part: "*If either party determines that events have changed and significantly affected a material term of the interagency contract including, but not limited to, the closing of a racetrack or a significant increase in the cost of drug testing or testing supplies, the parties agree to renegotiate the terms of this interagency contract prior to the date of termination.*"¹ Therefore, it is critical that the Commissioners and the regulated industry hear directly from you about why Texas A&M is attempting to break its statutory relationship with not only a fellow state agency, but with over 15,000 racetrack associations, horseman's organizations, business, and occupational licensees.

As Chairman Pate outlined in his remarks in the last Commission meeting, in December 2023, it is difficult to believe that a research university like Texas A&M with an annual budget of equating to billions of dollars a year, would not be able to meet the legislative intent of the Texas Racing Act or be able to support a leading-edge Texas equine safety and medication testing program supporting over 14,000 racehorses, that is the centerpiece of the integrity program for Texas horseracing.

While the financial terms of the contract could be adjusted to meet any needs the lab may have, our agency does not have the financial bandwidth or procurement capabilities in this biennium to solicit bids for a replacement contract to continue our legislative mission. Additionally, if such authorization existed, the prospect of having to transport laboratory samples across state lines has the potential to undermine the State of Texas' current legal position in ongoing and pending federal litigation. The expertise and professionalism that TVMDL has brought to the Texas racing community and the citizens of Texas is an integral part of our mission, therefore continuation of this thirty-three (33) year relationship is in everyone's best interest. If you need any additional information on the meeting details or location, please let me know.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

cc: The Hon. Robert C. Pate, Chair, Texas Racing Commission
The Hon. Connie McNabb, D.V.M., Vice Chair, Texas Racing Commission
The Hon. William Mahomes, Jr., Chairman of the Board of Regents, Texas A&M University System
The Hon. John Bellinger, Regent, Texas A&M University System
Mr. Gabe De Ochoa, Policy Advisor, Office of the Governor

¹ See *Interagency Contract dated August 24, 2023*



TEXAS RACING COMMISSION
1801 N Congress Avenue, Suite 7.600
Austin, Texas 78701
512-833-6699

November 29, 2023

Chancellor John Sharp
Texas A&M University System
301 Tarrow Street
College Station, Texas 77840

Dear Chancellor Sharp:

I write to you regarding the partnership between the Texas Veterinary Medical Diagnostic Lab (TVMDL), which was created by the Texas Legislature in 1991, and ask you to delay any decisions that may impact the mission of the Texas Racing Commission until August 31, 2027.¹

A joint effort between our organizations to find solutions to continue the relationship or modify it as appropriate to mitigate any concerns, is most appropriate for the State of Texas, and should involve our executive and legislative leadership. I understand that there may be cost concerns that are affecting TVMDL's ability to continue our interagency partnership beyond August 31, 2024. Although we have had discussions regarding fees and the current interagency agreement reflects known fee changes – the attached white paper describes additional cost concerns that are time sensitive involving qualified staff and modernized, redundant equipment capabilities. Although these items were not part of current interagency agreement signed in August 2023, we may be able to resolve these issues with a modification to the interagency agreement.

From our perspective, modifying or concluding our statutory relationship without sufficient time and legislative guidance would be detrimental to the Texas Racing Commission and the industry it regulates because it would:

- Create regulatory uncertainty for over 14,000 business and occupational license holders.
- Impair our ability to effectively address Sunset Commission concerns issued in 2021.
- Require cancellation of approved live race dates set in place for September 2024-December 2024.

An additional risk consideration is that we have no other viable options other than TVMDL because all other racing laboratories have been commandeered by the Horseracing Integrity and Safety Authority (HISA). As you may know, we are currently engaged in a federal lawsuit, in part, because HISA, a federal created private entity, took steps to commandeer our agency as well as the TVMDL racing laboratory in 2022.² In this biennium, even if there were available laboratory alternatives, we do not have sufficient fiscal or procurement authority to solicit bids for a replacement contract estimated to cost twice the amount we currently pay (an estimated \$6 million dollars). Our current annual budget is 5.1 million dollars, which is a limiting factor in any effort to effectively pursue alternatives, and we would need a separate appropriation that can only be achieved in legislative session to have the resources and time required to even consider an alternative solution.

We have made remarkable progress in modernizing the operations of the agency, which has enabled additional economic prospects for horseracing in Texas. It is my hope that we can continue the positive, professional relationship we currently have and strengthen both of our organizations while providing more joint opportunities for innovation in the future.

Amy F. Cook

Amy F. Cook
Executive Director

cc: Judge Robert Pate, Chair, Texas Racing Commission
Dr. Connie McNabb, Vice Chair Texas Racing Commission
Office of the Governor, Budget & Policy, Mr. Gabe De Ochoa

¹ See *Texas Occupations Code Chapter § 2034.002*.

² See *NHBPA v. Black* (Texas OAG represents us in challenging the constitutionality of the federal statute)

AGENDA ITEM

VIII. PROCEEDINGS ON THE HORSE INDUSTRY ESCROW ACCOUNT

- A. Discussion and possible action to allocate funds in the Horse Industry Escrow Account to state horse breed registries for events to further the horse industry under 16 TEX. ADMIN. CODE Chapter 303, Subchapter G.**

Requests by the Texas Arabian Breeders Association.

Requests by the Texas Paint Horse Breeders Association.

Requests by the Texas Quarter Horse Association



TEXAS RACING COMMISSION

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT) (Must be accompanied by Form HIEA-1, General Information)

APPLICANT NAME: Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2024 QH Meet @ RETAMA - Accredited Texas Bred (ATB)
Owners, Breeders & Stallion Owner Awards

Event Date(s) or Approximate Date(s): 6/27-8/17

Total Amount Requested For this Event: \$353,000

When Are Funds Needed? *If funding can be provided in multiple phases, please explain.*
August 1, 2024

Project Background

Project Summary

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

TQHA proposes increasing incentive money to the breeders and stallion owners of accredited Texas-bred horses that finish first, second or third in a Texas pari-mutuel race during the 2024 Retama Park QH meeting..

These funds will supplement the current accredited Texas-bred incentive award payouts, mandated by the Texas Racing Act Sec. 2030.004. These funds will give incentives for those in the horse racing and breeding industry to stay in Texas

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Texas- bred horses finishing within the top 3 places in a Texas pari-mutual race at Retama Park will be eligible for the following enrollment incentive breakdown:

\$350,000 ATB Awards:

70% Breeder Award

30% Stallion Owner Award

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

By increasing Accredited Texas Bred awards to breeders, and stallion owners of Accredited Texas Bred horses, Texas will be in a much better position to be able to compete with surrounding states where state bred awards are supplemented by Slot machine revenue.

The addition of the Accredited Texas Bred Breeder and Stallion Owner Awards will incentivize the increase of ATB horses over the next breeding cycle and beyond. The increased ATB awards will attract new breeders to Texas as well as see the return of many breeders who left the state for larger purses. Texas will benefit from the direct and indirect costs related to participate in the Agriculture and Equine industry, in particular rural Texans. Funds will be put back into the Texas economy through such purchases as horse feed, bedding, equipment, grooming products, insurance, facility expenses, veterinary services, farrier services, and labor, fuel etc.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Rob Werstler, Executive Director of the Texas Quarter Horse Association along with Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*

- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.
- (6) expenses related to litigation.
- (7) professional association fees or dues for the breed registry or an individual.
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or
- (9) fundraising.

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$350,000.00
Race Award Supplements/Prizes	\$
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$3,000.00
	\$
	\$
	\$
	\$
Total Direct Costs	\$353,000.00
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	<u>\$353,000.00</u>

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$ total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

Advertising (\$ total) Provide an explanation of advertising costs.

Donations (\$ _____ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _ _____ (\$3000 total) Provide a detailed description of any other category of direct expenses.

-Software for ATB pay-out specific to HIEA grant & reporting.
Checks, envelopes, IRS Reporting, copier paper, postage for checks; postage for letters to ATB recipients who need additional paperwork to complete transaction such as SS#, etc

Other direct expenses – second category _ _____ (\$ _____ total)
Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _ _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Administrative Expenses/Capital Assets (\$ _____ total; may not exceed 5% of total) Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.



TEXAS RACING COMMISSION

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)

APPLICANT NAME: Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Texas Summer Showdown

Event Date(s) or Approximate Date(s): July 26, 2024

Total Amount Requested For this Event: \$240,000

When Are Funds Needed? *If funding can be provided in multiple phases, please explain.*
July 1, 2024

Project Background

Project Summary

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

The Texas Summer Showdown is an event similar to events in other states where state bred American Quarter Horses are showcased. This event is not only a marketing tool for Texas breeders but also an event where Texas owners and breeders are encouraged to keep their horses racing in Texas.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Texas Summer Showdown-One night of Stakes races showcasing Accredited Texas-bred's held at Retama Park. The goal of the project is to incentivize breeding, owning and racing Accredited Texas-Bred Quarter Horses, while attracting new owners and breeders as well as breeding stallions & mares that left Texas for other states.

\$50,000 to the TQHA 250 Stakes

\$60,000 to the TQHA Classic

\$50,000 to the TQHA 550

\$50,000 to the Benny Pennington Memorial Stakes

\$30,000 to the Jones Bloodstock Stakes

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

Due to this event, TQHA has seen an increase in the number of Accredited Texas-Bred Racing Stock. We have also seen an increase in horses purchased by new owners in order to race in Texas. We also expect Texas foaled horses that left Texas to race in surrounding states to return to race in Texas. The expected results will be measured by the number of starters compared to previous years, as well as increased attendance and handle. Also, direct and indirect costs of more horses and related agriculture businesses in the State.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Scott Sherwood, TQHA Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Race Award Supplements/Prizes	\$240,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$240,000.00

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$ total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$50,000 to the TQHA 250 Stakes
- \$60,000 to the TQHA Classic
- \$50,000 to the TQHA 550
- \$50,000 to the Benny Pennington Memorial Stakes
- \$30,000 to the Jones Bloodstock Stakes

Advertising (\$ total) Provide an explanation of advertising costs.

Donations (\$ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _ _____ (**\$** _____ **total**) *Provide a detailed description of any other category of direct expenses.*

Other direct expenses – second category _ _____ (**\$** _____ **total**) *Provide a detailed description of any other category of direct expenses.*

Other direct expenses – third category _ _____ (**\$** _____ **total**) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (**\$** _____ **total**; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT) (Must be accompanied by Form HIEA-1, General Information)

APPLICANT NAME: Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2024 Retama Stakes Program

Event Date(s) or Approximate Date(s): June 27-August 17

Total Amount Requested For this Event: \$325,000

When Are Funds Needed? *If funding can be provided in multiple phases, please explain.*
June 15

Project Background

Project Summary

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

This funding will allow Retama Park to offer a more lucrative stakes program which will attract more competitive horses and increase attendance and handle. The increased stake amounts will allow Retama to sell their simulcast signal to an increased number of outlets, which will increase handle.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Improving stakes program with an emphasis on Texas-bred races through signature race days:
\$200,000 to the TQHA Sales Futurity
\$75,000 to the Sires' Cup Futurity
\$50,000 to the Sires' Cup Derby

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

The primary driver of all events is to bring exposure to Texas racing. Fiscal measurements for all proposed elements will be demonstrated in the racing product via entries and handle

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Rob Werstler, Executive Director of the Texas Quarter Horse Association along with Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and*

(2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Race Award Supplements/Prizes	\$325,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$325,000.00

Event Production Costs (\$ _____ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$325,000 total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

\$200,000 to the TQHA Sales Futurity

\$75,000 to the Sires" Cup Futurity

\$50,000 to the Sires" Cup Derby

Advertising (\$ _____ total) Provide an explanation of advertising costs.

Donations (\$ _____ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _____ (\$ _____ total) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$ _____ total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

1 of 2

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)**APPLICANT NAME:** Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2024 QH Meet @ SHRP - Accredited Texas Bred (ATB) Owners, Breeders & Stallion Owner Awards**Event Date(s) or Approximate Date(s):** 2024 Texas Pari-mutual races - April 19 - June 15**Total Amount Requested For this Event:** \$505,000.00**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
March 31, 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved as a result of this funding.

TQHA proposes increasing incentive money to the breeders and stallion owners of accredited Texas-bred horses that finish first, second or third in a Texas pari-mutuel race during the 2024 Sam Houston QH meet (April 19- June 15). These funds will supplement the current accredited Texas-bred incentive award payouts, mandated by the Texas Racing Act Sec. 2030.004.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Texas- bred horses finishing within the top 3 places in a Texas pari-mutual race at SHRP will be eligible for the following enrollment incentive breakdown:

\$500,000 ATB Awards:

70% Breeder Award

30% Stallion Owner Award - For currently Accredited Texas stallions domiciled in Texas through the conclusion of the Sam Houston Quarter Horse race meeting.

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

By increasing Accredited Texas Bred awards to breeders, and owners of stallions of Accredited Texas Bred horses, Texas will be in a much better position to be able to compete with surrounding states where state bred awards are supplemented by Slot machine revenue.

The addition of the Accredited Texas Bred Breeder and Stallion Owner Awards will incentivize the increase of ATB horses over the next breeding cycle and beyond. The increased ATB awards will attract new breeders to Texas as well as see the return of many breeders who left the state for larger purses. Texas will benefit from the direct and indirect costs related to participate in the Agriculture and Equine industry, in particular rural Texans. Funds will be put back into the Texas economy through such purchases as horse feed, bedding, equipment, grooming products, insurance, facility expenses, veterinary services, farrier services, and labor, fuel etc.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Rob Werstler, Executive Director of the Texas Quarter Horse Association along with Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements;*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;*

- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;
- (6) expenses related to litigation;
- (7) professional association fees or dues for the breed registry or an individual;
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or
- (9) fundraising.

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Purse Supplements/Prizes	\$500,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$5,000.00
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$0.00
Total	\$505,000

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Purse Supplements/Prizes (\$ total) Provide a breakdown of purses/purse supplements, prizes, and Texas-bred supplements from HIEA funding.

Advertising (\$ total) Provide an explanation of advertising costs.

Donations (\$ _____ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _ _____ (**\$5000 total**) Provide a detailed description of any other category of direct expenses.

software for ATB pay-out specific to HIEA grant & reporting. Envelopes, IRS Reporting, copier paper, postage for checks; postage for letters to ATB recipients who need additional paperwork to complete transaction such as SS#, etc

Cost related to TQHA annual audit completed by CPA firm.P

Other direct expenses – second category _ _____ (**\$ _____ total**) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _ _____ (**\$ _____ total**) Provide a detailed description of any other category of direct expenses.

Administrative Expenses/Capital Assets (\$ _____ total; may not exceed 5% of total) Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.



TEXAS RACING COMMISSION

2 of 2

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form HIEA-1, General Information)**APPLICANT NAME:** Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2024 Sam Houston Race Park (SHRP) Stakes**Event Date(s) or Approximate Date(s):** April 19- June 15, 2024**Total Amount Requested For this Event:** 270,000**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
March 31, 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved as a result of this funding.

. TQHA is providing opportunities to keep and attract more horsemen and horses to the state by enhancing focus on the stakes program with an emphasis on Texas-bred horses. The increased stakes structure will allow SHRP to sell their simulcast signal to an increased number of outlets, which will increase handle.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Improving stakes program with an emphasis on Texas-bred races through signature race days:

\$50,000 Jesse Yoakum Memorial 870

\$40,000 Miss Sam Houston Stakes

\$40,000 John Buchanan Memorial

\$50,000 Houston 550

\$50,000 Houston 250

\$40,000 Leon Bard Memorial

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

The primary driver of all events is to bring exposure to Texas racing and increase the breeding & raising of horses in Texas. Fiscal measurements for all proposed elements will be demonstrated in the racing product via entries and handle increases

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements;*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;*
- (6) expenses related to litigation;*
- (7) professional association fees or dues for the breed registry or an individual;*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Purse Supplements/Prizes	\$270,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$270,000.00

Event Production Costs (\$ _____ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Purse Supplements/Prizes (\$270000 total) Provide a breakdown of purses/purse supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$50,000 Jesse Yoakum Memorial 870
- \$40,000 Miss Sam Houston Stakes
- \$40,000 John Buchanan Memorial
- \$50,000 Houston 550
- \$50,000 Houston 250
- \$40,000 Leon Bard Memorial

Advertising (\$ _____ total) Provide an explanation of advertising costs.

Donations (\$ _____ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _____ (\$ _____ **total**)
Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _____ (\$ _____ **total**) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$ _____ **total; may not exceed 5% of total**) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

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APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)**APPLICANT NAME: TEXAS ARABIAN BREEDERS ASSOCIATION**

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Arabian Six Shooter at SHRP 2024**Event Date(s) or Approximate Date(s):** Arabian Six Shooter March 8th or 9th**Total Amount Requested For this Event:** \$67,500**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
Feb 28 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

\$60,000 for the Arabian Six Shooter. This race will be run for the first time on the Turf.
\$1000.00 for suite rental for first meeting for new members and any new Board members will be introduced. \$2500.00 for promotional activities managed by TABA promotional manager.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Promotional manager will use social media, E-blast and advertisements to get owners and race enthusiast to the track and promote the event. The participation in this event demonstrates the effect of our promotional efforts. The \$60,000 will be used for purse funds for the running of the Arabian Six Shooter stake

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

It will increase the race fields and make for a more exciting race and bring more people to the track due to race will be on the turf. The purse size will attract more owner from around the country to participate.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Jon Henningsgard President and Sam Vasquez Stakes Chairman

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and*
- (2) the purchase of capital assets.*

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$2000.00
Race Award Supplements/Prizes	\$60,000.00
Advertising	\$2,500.00
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$3,000.00
Total	\$67,500.00

Event Production Costs (\$2,000 total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Rental of suites for holding annual membership meeting and for new and old members.
Recognize newly elected board members and discuss plans for 2024 race season.

Race Award Supplements/Prizes (\$60,000 total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.
\$60,000 for the Arabian Six Shooter

Advertising (\$2,500 total) Provide an explanation of advertising costs.

TABA has hired a promotion manager for our promotions which include special event coverage, video production and other promotion and advertising including social media and eblast.

Donations (\$0 total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category \$0_____ (\$ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category \$0_____ (\$0 total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category \$0_____ (\$0 total) Provide a detailed description of any other category of direct expenses.

Administrative Expenses/Capital Assets (\$3000.00 total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*
CPA audited financials, D&O insurance, Office supplies.



TEXAS RACING COMMISSION

1 OF 1

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)**APPLICANT NAME: TEXAS ARABIAN BREEDERS ASSOCIATION**

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Arabian Yellow Rose at SHRP 2024**Event Date(s) or Approximate Date(s):**
Arabian Yellow Rose March 30th**Total Amount Requested For this Event: \$ 68,000****When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
March 1st 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

\$60,000 for the Arabian Yellow Rose. This race will be run for the first time on the Turf.
\$5000.00 for promotional activities managed by TABA promotional manager.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Promotional manager will use social media, E-blast and advertisements to get owners and race enthusiast to the track and promote the event. The participation in this event demonstrates the effect of our promotional efforts. The \$60,000 will be used for purse funds for the Arabian Yellow Rose

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

It will increase the race fields and make for a more exciting race and bring more people to the track due to race will be on the turf. The purse size will attract more owner from around the country to participate.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Jon Henningsgard President and Sam Vasquez Stakes Chairman

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and*
- (2) the purchase of capital assets.*

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Race Award Supplements/Prizes	\$60,000.00
Advertising	\$5,000.00
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$3000.00
Total	\$68,000.00

Event Production Costs (\$0 total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$60,000 total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.
\$60,000 for the Arabian Yellow Rose

Advertising (\$5,000 total) Provide an explanation of advertising costs.
TABA has hired a promotion manager for our promotions which include special event coverage, video production and other promotion and advertising including social media and eblast.

Donations (\$0 total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _0_____ (\$0 total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _0_____ (\$0 total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _0_____ (\$0 total) Provide a detailed description of any other category of direct expenses.

Administrative Expenses/Capital Assets (\$3000.00 total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount. CPA audited financials, D&O insurance and office supplies.*



TEXAS RACING COMMISSION

1 OF 1

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form HIEA-1, General Information)**APPLICANT NAME: TEXAS ARABIAN BREEDERS ASSOCIATION**

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Texas Arabian Stallion Classic presented by Lip Chip G1
Event Date(s) or Approximate Date(s): November 10th**Total Amount Requested For this Event:** \$73,500**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
November 1 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

60,000 will be used in the purse for the Texas Arabian Stallion Classic presented by Lip Chip. Promotional manager will use \$5,000 for promotional activities to bring attention to the richest Arabian race in North America. TABA will use the \$5,000.00 to host a "Welcome to Arabian Racing in Texas" event to promote the benefits of Lip Chip and the financial benefits of Owning/Breeding Arabian Race horses in Texas. We will invite all horseman and potential horseman to attend. We anticipate to have large representation from all over Texas and other parts of the US including internationally.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Promotional manager will use social media, emails and other advertisement to showcase the richest Arabian race in North America being run in TX. Promotional manager will produce pre-race promotional content and videos of points leaders and potential race qualifiers. He will promote "Welcome to Arabian Racing in Texas" event being held the day of the Championship race.

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

This will bring a great deal of attention to Arabian Horse Racing in Texas from around the United States and internationally. It will encourage more participation in all other Texas stake races to gain points to qualify for the Championship. With the Lip Chip partnership we have the added benefit of promoting the health of the race horse using Lip chip and better overall horse management. During this event we will better explain the ATB program and how it applies to Arabians. We believe all of this will lead to more owner and breeds of Arabian race horses.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Jon Henningsgard President TABA, Sam Vasquez Stakes Chairman

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the

breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$5,000.00
Race Award Supplements/Prizes	\$60,000.00
Advertising	\$5,000.00
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$3,500.00
Total	\$73,500.00

Event Production Costs (\$5,000 total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Rental of suite for the "Welcome to Arabian Racing in Texas" event. Production of handouts and other educational material.

Race Award Supplements/Prizes (\$60,000 total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

Funds will be added to the stake purse.

Advertising (\$5,000 total) Provide an explanation of advertising costs.

To be used for promotional activities managed by Promotional Manager

Donations (\$0 total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category \$_____ (total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category 0 (\$ **total**) *Provide a detailed description of any other category of direct expenses.*

Other direct expenses – third category 0 (\$ **total**) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$3500.00 total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*
Bookkeeping, General administration cost and office supplies.



TEXAS RACING COMMISSION

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)**APPLICANT NAME:** Texas Paint Horse Breeders Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2024 APHA World Championship Show**Event Date(s) or Approximate Date(s):** June 21 - July 7, 2024**Total Amount Requested For this Event:** \$138,000**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
June 1, 2024**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved as a result of this funding.

The APHA World Championship Show is the title event for the American Paint Horse Association (APHA) held at the Will Rogers Memorial Center in Fort Worth, Texas. In 2023, 384 classes were offered with 243 World Championship titles awarded to Open, Amateur and Youth competitors exhibiting a total of 1,193 horses. We anticipate approximately 100 more horses to participate in 2024.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

To be awarded in its entirety at the 2024 APHA World Championship Show:

\$75,000 - Reining Challenge added purse money

\$36,000 - Ranch and Roping Sweepstakes and Sidepot added purse money

\$16,000 - Working Cow Horse Challenge added purse money

\$11,000 - to be used as prizes/awards in APHA World Championship classes

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

With 1,193 horses participating in the 2023 APHA World Championship Show and an estimated increase of approximately 100 horses for 2024, the estimated increase in economic impact for 2024 due to this funding is \$532,741. The total estimated economic impact of the 2023 APHA World Championship Show was \$6,355,605 of direct expenditures subject to eligible Texas taxes as projected in an economic impact projection report for the City of Fort Worth.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Holly Slaughter - Senior Director of APHA Events

Holly will be onsite daily managing the show and will ensure payouts are promoted and paid out as outlined.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements;*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;*
- (6) expenses related to litigation;*
- (7) professional association fees or dues for the breed registry or an individual;*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Purse Supplements/Prizes	\$138,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$138,000.00

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Purse Supplements/Prizes (\$138,000 total) Provide a breakdown of purses/purse supplements, prizes, and Texas-bred supplements from HIEA funding.

1. \$75,000 - added purse money to Reining Challenge purses
2. \$36,000 - added purse money to Ranch and Roping Sweepstakes and Sidepots
3. \$16,000 - added purse money to Working Cow Horse Challenge purses
4. \$11,000 - to be used as additional prizes awarded to the top 15 finalists in APHA World Championship classes. Classes will receive additional HIEA funding towards the purchase of awards that include but are not limited to buckles, jackets, vests, halters, tack, gear, neck sashes, medallions and ribbons.

All money to be paid in accordance with the 2024 APHA World Show Premium Book.

Advertising (\$ total) Provide an explanation of advertising costs.

Donations (\$ _____ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.

Other direct expenses – first category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _____ (\$ _____ total) Provide a detailed description of any other category of direct expenses.

Administrative Expenses/Capital Assets (\$ _____ total; may not exceed 5% of total) Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.



TEXAS RACING COMMISSION

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)

APPLICANT NAME: TEXAS PAINT HORSE BREEDERS' ASSOCIATION

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): The Cowgirl Gathering

Event Date(s) or Approximate Date(s): May 09-12, 2024

Total Amount Requested For this Event: \$130,000

When Are Funds Needed? *If funding can be provided in multiple phases, please explain.*
Funds are needed by March 1, 2024. Approval of funds is needed by January 1, 2024, for marketing and promotion purposes.

Project Background

Project Summary

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved as a result of this funding.

The American Paint Horse Association (APHA) will oversee the development, organization, and execution of a premier series of events in May 2024 showcasing women and horses. The events will be billed as The Cowgirl Gathering. The highlights of the event will be barrel racing, breakaway roping, all-women team roping, and a personal/professional growth and development educational summit designed to enlighten all levels of horseman/horsewomen in their personal lives and professional careers.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

The APHA envisions this to be the fifth annual Cowgirl Gathering hosted in Fort Worth, Texas at both the Fort Worth Stockyards and Will Rogers Memorial Complex. It is important that we plan and execute a manageable number of activities over this four day period to build on the enthusiasm and momentum for future editions of "Cowgirls and the horses they rode in on." For the 2024 event, the planned activities during the festivities include:

- Equine and Western Industry female expert summit, educational TED talk-type speakers' series (Cowboy Channel Studios or TBD - May 10-11, 2024)
- \$30,000 Added 5D Barrel Racing Competition (Will Rogers Memorial Coliseum, exact date TBD)
- \$21,000 Added 5D Breakaway Roping Competition paired with WCRA and the American Rodeo (Will Rogers Memorial Coliseum, exact date TBD)
- \$10,000 Added All-Girl Team Roping (Will Rogers Memorial Coliseum, exact date TBD)
- Opportunities for Equine Programs to promote their programs to Stockyards guests to drive engagement (Fort Worth Stockyards)

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

The APHA partnered with Texas Thoroughbred Association, Texas Quarter Horse Association, and Texas Paint Horse Breeders' Association feel the economic impact of this event based on 2023 numbers will bring at least 1,100 horses at \$350 per horse = \$385,000 equine impact. 1,100 horses at 3 people per horse at \$100 + 10,000 spectators at \$35 = \$680,000 economic impact.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Taylor Breeding, APHA senior director of marketing and Marked For Greatness Properties, will oversee the event. Each event will be treated as an event within an event, all working under The Cowgirl Gathering umbrella. Each event will be precisely planned and executed to insure the best production.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements;*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;*

- (6) expenses related to litigation;
- (7) professional association fees or dues for the breed registry or an individual;
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or
- (9) fundraising.

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$25,000.00
Purse Supplements/Prizes	\$65,000.00
Advertising	\$11,000.00
Donations (include most recent IRS Form 990 for any non-profit)	\$0.00
Other Direct Expenses (itemize below):	\$0.00
Contract Labor	\$14,000.00
Educational Speakers	\$15,000.00
	\$0.00
	\$0
Total Direct Costs	\$130,000.00
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$130,000.00

Event Production Costs (\$25,000 total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Venue, footing, and Equipment Rental

Purse Supplements/Prizes (\$65,000 total) Provide a breakdown of purses/purse supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$21,500 added 3D Breakaway Roping Competition paired with WCRA
- \$3,500 added 5D Paint Barrel Race Incentive Program
- \$3,500 added 5D Texas Bred Incentive Program
- \$26,500 added 5D Barrel Racing Competition
- \$10,000 added to the All-Cowgirl Team Roping Competition

Advertising (\$11,000 total) *Provide an explanation of advertising costs. Digital and print advertising including signs, social media, etc.*

Donations (\$0 total) *For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.*

Other direct expenses – first category Contract Labor (\$14,000 total)
Provide a detailed description of any other category of direct expenses.
Contract labor to produce the event, including the announcer, event and arena staff, etc.

Other direct expenses – second category Educational Speakers
(\$15,000 total) *Provide a detailed description of any other category of direct expenses.*
Equine and Western Industry female expert summit, educational TED talk-type speakers' series and breakout sessions/small group workshops

Other direct expenses – third category _____ (\$0 total) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$0 total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Quarter Horse Association

Mailing Address: 14 N. Main Street, Suite B Street Address

Elgin TX 78621 Bastrop City State Zip Code County

Physical Address: Same Street Address

City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Rob Werstler Mr. Ms. Dr. Other

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: (512) 468 - 5566

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Scott Sherwood Mr. Ms. Dr. Other

Position Title: Director of Racing

Email Address: ssherwood@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: () -

(3) Name of Authorized Official *(This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)*

Full Name: Rob Werstler Mr. Dr.
First Last Ms. Other _____

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. _____ Alt #: (512) 468 - 5566

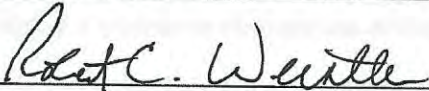
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct.
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions.
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TXRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TXRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TXRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: *(Person listed in Section B.3)*

x	 Signature	<u>1/31/2024</u> Date
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This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Paint Horse Breeders Association

Mailing Address: PO Box 895 Street Address

Decatur TX 76234 Wise City State Zip Code County

Physical Address: 510 W. Walnut St. Street Address

Decatur TX 76234 Wise City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Lex Smurthwaite Mr. Dr. Ms. Other

Position Title: Executive Secretary

Email Address: lex@tphba.com

Phone: (817) 781 - 5980 Ext. Alt #:() -

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Holly Slaughter Mr. Dr. Ms. Other

Position Title: Sr. Director of APHA Events

Email Address: hslaughter@apha.com

Phone: (817) 222 - 6446 Ext. Alt #:() -

(3) Name of Authorized Official *(This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)*

Full Name: Lex Smurthwaite Mr. Dr.
First Last Ms. Other _____

Position Title: Executive Secretary

Email Address: lex@tphba.com

Phone: (817) 781 - 5980 Ext. _____ Alt #:(_____) - _____

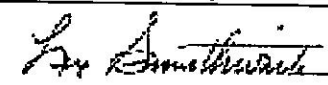
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct;
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions;
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TxRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TxRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TxRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: *(Person listed in Section B.3)*

x		11/29/2023
	Signature	Date

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Arabian Breeders Association

Mailing Address: 46326 Austin Branch Rd
Street Address

Hempstead TX 77445 Waller
City State Zip Code County

Physical Address: 46326 Austin Branch Rd
Street Address

Hempstead Tx 77445 Waller
City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact *(This person can answer day-to-day questions about the organization and the project.)*

Full Name: Jon Henningsgard Mr. Dr.
First Last Ms. Other _____

Position Title: President

Email Address: Jon.uptownranch@yahoo.com

Phone: (503) 367 - 6890 Ext. _____ Alt #:(_____) - _____

(2) Secondary Program Contact *(This person can answer day-to-day questions about the organization and the project.)*

Full Name: Ed Wilson Mr. Dr.
First Last Ms. Other _____

Position Title: Secretary

Email Address: wetaba@swbell.net

Phone: (972-564-9430 Ext. _____ Alt #:(_____) - _____

(3) Name of Authorized Official (This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)

Full Name: Jon Henningsgard Mr. Dr.
First Last Ms. Other _____

Position Title: President

Email Address: Jon.uptonwrench@yahoo.com

Phone: (503) 367 - 6890 Ext. _____ Alt #:(_____) - _____

Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct.
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions.
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TXRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TXRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TXRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: (Person listed in Section B.3)

X	<i>Jon R Henningsgard.</i>	12-24-2023
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Signature

Date

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)

AGENDA ITEM IX. A.: PROCEEDINGS ON RULES

A. Discussion and possible action to adopt proposed rule amendments:

1. 16 TEX. ADMIN. CODE §311.101, Subchapter B, Horse Owners
2. 16 TEX. ADMIN. CODE §311.2, Application Procedure
3. 16 TEX. ADMIN. CODE §313.501, Training Facility License
4. 16 TEX. ADMIN. CODE §313.504, Operational Requirements.
5. 16 TEX. ADMIN. CODE §313.505, Workout Requirements.
6. 16 TEX. ADMIN. CODE §321.1, Definitions and General Provisions
7. 16 TEX. ADMIN. CODE §321.21 Certain Wagers Prohibited
8. 16 TEX. ADMIN. CODE §321.413, Duties of Guest Racetrack
9. 16 TEX. ADMIN. CODE §321.417, Duties of Guest Racetrack
10. 16 TEX. ADMIN. CODE §321.607, E-Wagering Plan

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter B, § 311.101 concerning specific licensing provisions for horse owners. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to address the changes in the Texas Racing Act made during the 88th Legislative Session. Effective September 1, 2023, the Texas Occupations Code § 2025.260, Temporary Licenses was repealed, and the statute was amended to conform with licensing standards found in Chapter 53, Texas Occupations Code, which, among other standards applies the requirements for a criminal background check before a license is issued. The proposed rule changes bring the agency into compliance with its statute and allows the agency to conform with the provisions of Texas Occupations Code § 2025.251-262.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §311.101 to update the language to conform with the updated version of the Texas Racing Act, specifically, the provisions of Texas Occupations Code § 2025.251-262.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the licensing process by encouraging licensees to become licensed before a horse is entered in a race (typically a week before the race is scheduled) rather than waiting until the horse has been entered and causing the horse to be removed from the race because the owner failed to meet the requirement for a criminal background check (which typically take 10 business days) and the availability of agency staff to accept, review and process the new or renewed license (which can from 21-60 days).

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§ 311.101. Horse Owners

(a) General Provisions.

(1) The owner of a horse, as listed on the animal's registration paper, must obtain an owner's license from the Commission. Except as otherwise provided by §313.301(a)(2) of this title (relating to Officials and Rules of Horse Racing), a person may not be licensed as an owner if the person is not the owner of record of a properly registered horse that the person intends to race in Texas. A person who meets the qualifications for a trainer's or assistant trainer's license may also be licensed as an owner if the person intends to be the owner of record of a properly registered horse during the time of licensure. Except as otherwise provided by this subsection, the owner or designated trainer acting on behalf of the owner, must be licensed [~~one hour prior to the post time of the first race of the day in which the owner intends to race the animal~~] before making a request to enter a horse eligible under 16 TAC § 313.103.

(2) If the owner is not an individual, each individual who is a director, officer, or partner of the owner or who has an ownership interest in the horse of 5.0% or more must be licensed by the Commission.

(3) If the owner is not an individual, the owner must provide to the Commission:

(A) a sworn statement by the chief executive officer of the owner or by one of the partners of the owner that the officer or partner represents the owner and is responsible for the horse;

(B) a statement that the owner is authorized by law to do business in Texas; and

(C) a list of the names and addresses of all individuals having an ownership interest in the horse.

(4) If the owner is not an individual, the ownership entity must:

(A) designate a representative; or

(B) file an authorized agent form with the Commission and pay the prescribed fee.

(5) If the registered owner of a horse is a minor, a financial responsibility form approved by the executive [~~secretary~~] director must be signed by the parent or guardian of the owner assuming financial responsibility for the debts incurred for the training and racing of the horse.

(b) Stable Names.

(1) An owner that wants to participate in racing using a stable name must register with the Commission by filing an application on a form prescribed by the executive [~~secretary~~] director and paying the prescribed fee. A person may not use the real name of an owner of a race animal as a stable name. A stable name which has already been registered with the Commission may not be registered by another owner.

(2) Registering a stable name with the Commission does not affect a person's obligation to file or register a fictitious name as provided by the laws of Texas.

(3) An application to register a stable name must disclose the real names of all interests participating in the stable and the percentage of ownership interest of each, including the interest owned by a corporation, general partnership, limited partnership, trust, estate or individual.

(4) A stable name may be changed by registering a new stable name. A stable name may be abandoned by giving written notice to the Commission. A change of 5.0% or more in ownership of a stable registered under a stable name shall be immediately reported to the Commission.

(5) A licensee who has registered a stable name under this section may not use the licensee's real name for racing purposes except on approval of the stewards.

(c) Change of Ownership.

(1) If the owner of an interest in a horse housed on an association's grounds transfers that interest to another person, both parties to the transaction shall give written notice of the transfer to the stewards officiating for that association. Notice under this section must be submitted to the appropriate officials not later than 24 hours after the agreement to transfer the interest is made.

(2) A licensee of the Commission may not transfer an ownership interest in a horse to avoid disqualification of the horse.

(d) Change of Trainer. An owner may change the trainer of his or her horse registered at a licensed race meeting provided:

(1) the request to change trainers is submitted for approval to the stewards on a form provided by the association and approved by the [~~stewards~~] executive director;

(2) the trainer from whom the horse is being transferred signs the form releasing custody of the horse;

(3) the trainer to whom the horse is being transferred signs the form accepting responsibility for the horses; and

(4) the stewards approve the transfer.

(e) Owner/Trainer. A person licensed as an owner/trainer who is training horses at a racetrack may not have any horse owned by the owner/trainer under the care, custody, or control of another trainer at that racetrack.

(f) Restrictions on Racing. An owner may not enter a horse or cause a horse to be entered in a race at a racetrack if:

(1) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

~~[(g) Emergency License.~~

~~-(1) If an owner is unable to complete an application for an owner's license because of absence or illness, the licensed trainer desiring to enter a horse in a race may apply for an emergency owner's license on behalf of the absent owner.~~

~~-(2) The trainer applying for an emergency owner's license on behalf of an absent owner must submit a written statement with the license application specifying the reasons the owner is unable to complete the application.~~

~~-(3) The trainer applying for an emergency owner's license must submit at least the following information: the owner's full name, home or business address, and telephone number. At the time of application, the appropriate licensing fee must be paid to the Commission. Failure to provide all of the foregoing information is grounds for denial of an emergency owner's license.~~

~~-(4) If an owner submits an incomplete application for an owner's license, the application will remain in pending status until:~~

~~—(A) the owner submits any additional information required to process the application;~~

~~—(B) the application expires in accordance with the term of the applied for license; or~~

~~—(C) a horse is entered in the owner's name or in the name of a multiple owner of which the owner is a member, in which case the pending license will be presumed to be a request for an emergency license.~~

~~-(5) A license issued under this section expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain only one emergency license per year. An emergency license cannot be issued if the owner failed to complete the prior licensing process.~~

~~-(6) An owner granted an emergency license is prohibited from withdrawing any funds from his/her horseman's bookkeeper account until the owner complies with all licensing procedures provided by subsection (a) of this section.]~~

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter A, Division 1, Occupational Licenses, § 311.2, Application Procedure, concerning the occupational licensing application procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to address the changes in the Texas Racing Act made during the 88th Legislative Session. Effective September 1, 2023, the Texas Occupations Code § 2025.260, Temporary Licenses was repealed, and the statute was amended to conform with licensing standards found in Chapter 53, Texas Occupations Code, which, among other standards applies the requirements for a criminal background check before a license is issued. The proposed rule changes bring the agency into compliance with its statute and allows the agency to conform with the provisions of Texas Occupations Code § 2025.251-262.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §311.2 to update the language to allow for online license submissions as well as provide notice that applicants must go through a qualification process including a criminal background check before they are licensed.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the licensing process by encouraging licensees to become licensed before a horse is entered in a race (typically a week before the race is scheduled) rather than waiting until the horse has been entered and causing the horse to be removed from the race because the owner failed to meet the requirement for a criminal background check (which typically take 10 business days) and the availability of agency staff to accept, review and process the new or renewed license (which can from 21-60 days).

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§311.2. Application Procedure.

(a) General Requirements. To request a license from the Commission, a person must apply to the Commission on forms prescribed by the executive director [~~secretary~~].

(b) Application Submission [~~Site~~].

(1) [~~Except as provided in paragraphs (2) and (3) of this subsection, an~~] An applicant for an occupational license must file the appropriate application form and related documents at the licensing office at a licensed racetrack or through an online process established by the executive director. All applications must be submitted to the agency before the applicant engages in an activity that requires an occupational license under 16 TAC § 311.1.

[~~(2) An applicant for the following occupational license types may file the appropriate application form and related documents by mail to the main office of the Commission in Austin; kennel owner, kennel owner/owner, kennel owner/owner/trainer, kennel owner/trainer, owner, owner/trainer, trainer, multiple owner/stable/farm registration, training facility employee, and training facility general manager/CEO.~~]

[~~(3) An applicant for an occupational license that is available through the Texas OnLine portal may submit the required application information through the Texas OnLine portal.~~]

(2) [~~(c)~~] Examinations. The Commission may require the applicant for an occupational license to demonstrate the applicant's knowledge, qualifications, and proficiency for the license applied for by an examination prescribed by the Commission.

(c) [~~(d)~~] Issuance of License.

(1) The executive director [~~stewards or racing judges~~] may review any application to determine eligibility for an occupational license and deny a license based on eligibility factors set forth in the enabling statute or if the executive director or designee [~~the stewards or racing judges~~] determines:

(A) grounds for denial of the license exist under §311.6 of this title (relating to Denial, Suspension, and Revocation of Licenses); or

(B) if the applicant or a member of the applicant's family or household currently holds a Commission license, after considering the nature of the licenses sought or held by the applicant, issuing a license to the applicant would create a conflict of interest that might affect the integrity of pari-mutuel racing.

(2) An occupational licensee may not act in any capacity other than that for which he or she is licensed.

(3) The stewards or racing judges may issue a license subject to the applicant satisfying one or more conditions, as specified by the stewards, or racing judges, which reasonably relate to the applicant's qualifications or fitness to perform the duties of the license sought.

(d) ~~(e)~~ License Badge.

(1) The Commission shall issue a certificate identification card in the form of a license badge to each individual licensed under this subchapter.

(2) The badge must bear the seal of the Commission.

(3) The badge must contain:

(A) the licensee's full name;

(B) the licensee's photograph;

(C) the category of license;

(D) the month and year in which the license expires;

(E) a color code that designates whether the licensee has access to the stable or kennel area; and

(F) the license number assigned by the Commission.

(4) If a badge issued under this section is lost or stolen, the licensee shall immediately notify the Commission and may apply for a duplicate badge with the same terms as the original badge. To apply for a duplicate badge, the licensee must:

(A) file a sworn affidavit stating that the badge was lost, stolen, or destroyed;

(B) surrender any remaining portion of the badge; and

(C) pay a duplicate badge fee in an amount set by the Commission.

(e) ~~[(f)]~~ License provisions for military service members, military spouses, and military veterans.

(1) The terms "military service member," "military spouse," and "military veteran" shall have the same meaning as those terms are defined in Texas Occupations Code, Chapter 55.

(2) Credit for Military Service. Military service members and military veterans will receive credit toward any experience requirements for a license as appropriate for the particular license type and the specific experience of the military service member or veteran.

(3) Credit for holding a current license issued by another jurisdiction. Military service members, military spouses, and military veterans who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the license in this state will receive credit toward any experience requirements for a license as appropriate for the particular license type.

(4) Supporting documentation must be submitted with the license application.

(5) The executive director may waive any prerequisite to obtaining a license for an applicant who is a military service member, military veteran, or military spouse, after reviewing the applicant's credentials.

(6) Expedited license procedure. As soon as practicable after a military service member, military veteran, or military spouse files an application for a license, the commission will process the application and issue the license to an applicant who qualifies under this section.

(7) License application and examination fees will be waived for the initial application of an applicant who qualifies under this subsection.

(8) Military spouse acting under out-of-state license. A military spouse who holds a racing license issued by another jurisdiction and who wishes to participate in racing in Texas under that license shall submit to the Commission the information required by Section 55.0041 of the Texas Occupations Code. Upon receipt of such information, the Commission shall determine whether the requirements of Section 55.0041 are satisfied and notify the military spouse that the person is authorized to act under that section if it confirms, through communication with the other jurisdiction or through other means, that:

(A) the jurisdiction that issued the license on which the military spouse is relying to act in Texas has substantially equivalent license requirements; and

(B) the military spouse is licensed in good standing in the other jurisdiction.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 313, Subchapter E, Training Facilities § 313.501, Training Facility License, concerning the training facility licensing requirements and costs. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to reduce training facility licensing costs to offset any costs required by rule amendments to § 313.504 and § 313.505, which require increased safety protocols for equine and human athletes participating in Texas horseracing.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends § 313.501(a) to reduce training facility licensing costs, and §313.501(d) to allow licensed Class 1 racetracks to operate as a training facility without going through an additional licensing process.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall number of injuries to equine and human athletes. The agency removed the cost of the training facility license fee (\$1800.00) to provide resources to pay for the additional cost as well as extended the period for which the license is effective. In addition, Class I racetracks, upon request and without further application may now be licensed as training facilities.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§ 313.501. Training Facility License.

(a) A training facility must be licensed by the Executive [~~Commission~~] Director in accordance with this section to provide official workouts. Except as otherwise provided by this subchapter, an official workout obtained at a training facility licensed under this section satisfies the workout requirements of §313.103 of this title (relating to Eligibility Requirements).

(b) A training facility license expires [~~one year~~] two years after the last day of the month in which the license was issued. [~~An applicant for a training facility license must submit with the application documents the license fee of \$1,800.~~]

(c) A training facility license is personal to the licensee and may not be transferred.

(d) A Class 1 racetrack licensed by the Commission may also operate a training facility without an additional license requirement if the racetrack association operating the Class 1 racetrack submits a request for training facility dates with its annual race date application form and the request is approved by the Executive Director.

The Texas Racing Commission (TXRC) proposes rule amendments of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 313, Subchapter E, Training Facilities, § 313.504, Operational Requirements. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to implement increased safety protocols for Texas horseracing. As of November 1, 2023, there have been nine (9) equine catastrophic breakdowns during live racing events, and eight (8) additional breakdowns during training events that have also resulted in head and collarbone injuries to jockeys and exercise riders. The proposed rule changes require Mobile Intensive Care Unit capabilities for human athletes and two functional Equine Ambulances with veterinary staffing for equine athletes to respond to serious injuries.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends § 313.504(d) to require a comparable level of emergency response capabilities to address serious injuries that are currently required at licensed racetracks during live racing at training facilities when the activities performed, including schooling races, official works and exercise riding are performed in preparation for a live racing event. The requirement for an e-wagering plan to address the prohibition on wagering at training facilities is including § 313.504(d). Additional language changes update the term "executive secretary" to "executive director" for consistency throughout the Texas Rules of Racing.

GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall number of injuries to equine and human athletes. The agency removed the cost of the training facility license fee (\$1800.00) in a related rule amendment to §313.504 to provide resources to pay for the additional cost as well as extended the period for which the license is effective. In addition, Class I racetracks, upon request and without further application may now be licensed as training facilities.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§313.504 Operational Requirements.

(a) The primary business of a training facility must be the training of racehorses. The training facility must be available to provide official workouts on a schedule approved by the executive director ~~[secretary]~~, but at least three days per week.

(b) A training facility licensee shall prohibit any wagering at the facility and shall promptly eject any person who is found to be wagering. All training facilities located at licensed racetracks shall have an e-wagering plan approved by the Executive Director, as set out in Sec. 321.603, before the first date of an approved official work schedule.

(c) A training facility licensee shall ensure that veterinary services and facilities are available to the training facility in close enough proximity to permit a response time of one hour or less. The veterinary services and facilities are subject to the approval of the executive ~~[secretary]~~ director.

(d) A training facility licensee shall comply with the requirements of Sec. 309.117, First Aid and Sec. 309.254, Equine Ambulance, during the period where the racetrack association allows occupational licensees to conduct official works or exercise horses on the racetrack.

(e) ~~(d)~~ A training facility licensee shall maintain records regarding the management and operation of the training facility and the records are subject to inspection by the executive ~~[secretary]~~ director. A training facility licensee shall cooperate fully with and promptly provide any information requested by the Executive Director in the regulation of training facilities. ~~[Commission, the executive secretary, and the Department of Public Safety] in the regulation of training facilities [and shall promptly provide any information requested by the Commission, the executive secretary, or the Department of Public Safety.]~~

(f) ~~(e)~~ A training facility licensee shall post in [in a prominent place] a condition book approved by the executive director with any conditions imposed by the racetrack association along with a list of the dates and times that official workouts may be obtained.

(g) ~~{(f)}~~ A training facility licensee shall comply with all the requirements of this subchapter. Failure to continuously comply with those requirements is grounds for disciplinary action by the ~~[Commission]~~, executive director including suspension or revocation of the training facility license.

(h) ~~{(g)}~~ The facilities and operations of a licensed training facility are subject to inspection and verification by the executive ~~[secretary]~~ director at any time. If the executive ~~[secretary]~~ director determines that inappropriate or unsafe conditions exist at the training facility or that the integrity of workouts obtained at the facility are in question, the executive ~~[secretary]~~ director may immediately notify the pari-mutuel racetracks in this state that workouts obtained at the facility may not be accepted as official workouts. The executive ~~[secretary]~~ director shall notify the general manager or chief executive officer of the licensed training facility of the executive director ~~secretary's~~ findings and specifically describe the corrective action necessary to make the facility's workouts official, to rectify the inappropriate condition, or to make the conditions safe. The training facility may take the necessary corrective action or request a hearing with the Commission on the executive ~~[secretary's]~~ director findings.

(i) ~~{(h)}~~ A training facility licensee may not, unless otherwise approved by the executive director,

- (1) conduct a race at its facility; or
- (2) allow its facility to be used for a race.

The Texas Racing Commission (TXRC) proposes rule amendments of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 313, Subchapter E, Training Facilities, § 313.505, Workout Requirements. The purpose of these rule amendment is to implement increased safety protocols for Texas horseracing. As of November 1, 2023, there have been nine (9) equine catastrophic breakdowns during live racing events, and eight (8) additional breakdowns during training events that have also resulted in head and collarbone injuries to jockeys and exercise riders. The proposed rule changes require the addition of three (3) staff members to monitor track conditions and activities during official works as well as related rule amendments in § 313.504 to provide Mobile Intensive Care Unit capabilities for human athletes and two functional Equine Ambulances with veterinary staffing to respond to serious injuries. These standards are in place for live racing events but are not currently required for training events.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §313.505 require the addition of three (3) staff members to monitor track conditions and activities during official works as an increased safety measure.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall number of injuries to equine and human athletes. The agency removed the cost of the training facility license fee (\$1800.00) in a related rule amendment to §313.501 to provide resources to pay for the additional cost of staffing during official works and exercising periods as well as extended the period for which the license is effective.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§313.505. Workout Requirements.

(a) All official workouts must be supervised by the following officials, who must be licensed and approved by the executive [secretary;] director;

(1) a timer/clocker;

(2) a horse identifier; and

(3) a starter, and an assistant starter;

(4) two outriders to address track safety issues.

(b) The person riding a horse in an official workout must hold a valid Commission license as a jockey, apprentice jockey, or exercise rider, or as the trainer or assistant trainer of the horse.

(c) The horse identifier shall identify each horse before each official workout. The original registration papers for each horse that is to work, or a copy that satisfies the horse identifier, must be submitted to the horse identifier before the horse's initial workout at the facility to permit the identifier to record the horse's color, gender, markings, and tattoo number, if applicable. The horse identifier shall inspect all documents of ownership, registration, or breeding necessary to ensure the proper identification of the horse. The identification procedures used at the training facility are subject to the approval of the executive [secretary] director. ~~The individual serving as the horse identifier may serve as timer or starter also, with the approval of the executive secretary. The timer may not serve as the starter.~~

(d) A training race conducted at a licensed pari-mutuel racetrack may be used as an official workout. The distance of an official workout must be at least:

(1) 220 yards for a quarter horse;

(2) two furlongs, for a two-year old thoroughbred; and

(3) three furlongs, for a thoroughbred three years of age or older.

(e) A workout must be timed on a stopwatch that is accurate to within .01 of a second. Times for quarter horses shall be rounded to tenths of one second and times for thoroughbred horses shall be rounded to fifths of one second.

(f) An individual may not ride a horse in an official workout unless the individual is wearing a properly fastened helmet of a type approved by the executive [secretary] director.

(g) Each official workout must be recorded on a form prescribed by the executive ~~[secretary]~~ director. Not later than 24 hours after the day of an official workout, a training facility shall transmit the results of the workout to:

(1) the official past performance publisher;

(2) the executive director ~~[Commission]~~; and

(3) each pari-mutuel horse racetrack in this state that is:

(A) conducting a live race meeting for the same breed of horse as the horse that was worked;
or

(B) will, in 45 days or less after the date of the workout, commence a live race meeting for the same breed of horse as the horse that was worked.

(h) A horse may not have more than one official workout on a calendar day.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 321, Subchapter A, Division 1, § 321.1, Definitions and General Provisions, concerning the pari-mutuel wagering procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to modernize the language used to appropriately describe technology changes in wagering systems authorized in the Texas Occupations Code § 2027.002.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §321.1 to update definitions related to e-wagering activities and systems authorized in the Texas Occupations Code § 2027.002.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected benefit the State of Texas by accurately describing technology changes in pari-mutuel wagering systems which will assist licensed racetrack associations in providing wagering opportunities in the enclosed area of a racetrack authorized in Texas Occupations Code § 2027.002.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§321.1. Definitions and General Provisions.

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) ASCII formatted flat file--A data file containing structured data which is both record and field delimited containing only characters found in the American Standard Code for Information Interchange (ASCII) specification.

(2) 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.

(3) Closed-loop subscriber-based system – a system with a minimum of a device or combination of devices authorized and operated for placing, receiving, or otherwise making a wager and by which a person must subscribe in order to be able to place, receive, or otherwise make a bet or wager that has an effective customer verification and age verification system; and appropriate data security standards to prevent unauthorized access to a person.

(4) ~~(3)~~ Export simulcast--a race simulcast from a racetrack facility.

(5) ~~(4)~~ Firmware--The system software permanently stored in a computer or ticket issuing machine's read-only memory or elsewhere in the circuitry that cannot be modified by the user.

(6) ~~(5)~~ Guest racetrack--a racetrack facility at which a simulcast race is received and offered for wagering purposes; a receiving location, as defined in the Act, §2021.003.

(7) ~~(6)~~ Host racetrack--a racetrack facility at which a race is conducted and simulcast for wagering purposes; a sending track, as defined in the Act, §2021.003.

(8) ~~(7)~~ Import simulcast--a simulcast race received at a racetrack facility.

(9) ~~(8)~~ Intelligent Terminal--a terminal or peripheral device which contains code extending beyond that which is necessary to allow the terminal to communicate with the central controlling device to which it is directly attached or to control the presentation of data on the display unit of the device.

(10) ~~(9)~~ Log--an itemized list of each command, inquiry, or transaction given to a computer during operation.

(11) ~~(10)~~ Major Revision--a specific release of a hardware or software product, including additional functionality, major user interface revisions, or other program changes that significantly alter the basic function of the application.

(12) ~~(11)~~ Minor Revision--an incrementally improved version of hardware or software, usually representing an error (bug) fix, or a minor improvement in program performance which does not alter basic functionality.

(13) ~~{(12)}~~ Multi-leg wager--a wagering pool that involves more than one race.

(14) ~~{(13)}~~ Player Tracking System--a system that provides detailed information about pari-mutuel play activity of patrons who volunteer to participate. The system can be used to customize highly specific promotions and tailor rewards to encourage incremental visits by patrons. The system should be able to produce customized informational reports based on such parameters as type of wager, type of race, favorite race meet, or other parameters deemed helpful by the association in supporting the patron.

(15) ~~{(14)}~~ Remote site--a racetrack or other location at which wagering is occurring that is linked via the totalisator system to a racetrack facility for pari-mutuel wagering purposes.

(16) ~~{(15)}~~ Report--a summary of betting activity.

(17) ~~(16)~~ Resultant--the profit-per-dollar wagered in a pari-mutuel pool computation.

(18) ~~{(17)}~~ Ticketless Electronic Wagering (E-wagering)—

(i) a form of pari-mutuel wagering in which wagers are placed and cashed through a licensed totalisator vendor via an electronic ticketless account system operated ~~[through a licensed totalisator vendor]~~ in accordance with § §2021.002 of this Act; or

(ii) (ii) a closed-loop subscriber-based system, which includes:

(A) a device or combination of devices authorized and operated for placing, receiving, or otherwise making a wager and by which a person must subscribe to be able to place, receive, or otherwise make a bet or wager;

(B) an effective customer verification and age verification system; and

(C) appropriate data security standards to prevent unauthorized access to a person:

(I) who seeks to make a bet or wager outside the racetrack's enclosure;

(II) who seeks to make a bet or wager on any live or simulcast race not available to other persons within the racetrack's enclosure; and

(III) who is a minor; and

(iii) Where w ~~[W]~~ agers are automatically debited and credited to the account holder.

(19) ~~{(18)}~~ TIM--ticket-issuing machine.

(20) ~~{(19)}~~ TIM-to-Tote network--a wagering network consisting of a single central processing unit and the TIMs at any number of remote sites.

(21) ~~{(20)}~~ Totalisator system--a computer system that registers and computes the wagering and payoffs in pari-mutuel wagering.

(22) ~~{(21)}~~ Totalisator operator--the individual assigned to operate the totalisator system at a racetrack facility.

(23) ~~{(22)}~~ Tote-to-tote network--a wagering network in which each wagering location has a central processing unit.

(24) ~~{(23)}~~ User--a totalisator company employee authorized to use the totalisator system in the normal course of business.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 321, Subchapter A, Division 1, § 321.21, Certain Wagers Prohibited, concerning the pari-mutuel wagering procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to modernize the language used to appropriately describe technology changes in wagering systems authorized in the Texas Occupations Code § 2027.002.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §321.2 to incorporate Texas Occupations Code § 2027.002 into the e-wagering rules.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected benefit the State of Texas by accurately describing technology changes in pari-mutuel wagering systems which will assist licensed racetrack associations in providing wagering opportunities in the enclosed area of a racetrack authorized in Texas Occupations Code § 2027.002.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§321.21. Certain Wagers Prohibited.

(a) Except as otherwise provided by Section 2027.002 of the Act, an [An] association may not accept a wager made by mail, by telephone, or by internet. A data communications link for common pooling purposes is not considered a wager for purposes of this section.

(b) An association may not accept a wager made on credit.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 321, Subchapter D, Division 1, General Provisions § 321.413, Duties of Guest Racetrack, concerning the pari-mutuel wagering procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to modernize the language used to appropriately describe technology changes in wagering systems authorized in the Texas Occupations Code § 2027.002.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §321.1 to update definitions related to e-wagering activities and systems authorized in the Texas Occupations Code § 2027.002.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected benefit the State of Texas by accurately describing technology changes in pari-mutuel wagering systems which will assist licensed racetrack associations in providing wagering opportunities in the enclosed area of a racetrack authorized in Texas Occupations Code § 2027.002.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§321.413 Duties of [~~Of~~] Guest Racetrack.

(a) An association that conducts pari-mutuel wagering on a simulcast import acts as a guest racetrack on those dates. The guest racetrack shall:

(1) provide adequate communication facilities, enabling pari-mutuel data transmissions and data communications between totalisator systems of the host racetrack and the guest racetrack;

(2) if the guest racetrack participates in common pools, provide a direct telephone line and a facsimile machine, or other means approved by the executive director [~~secretary~~], located in the mutuel area to transmit information to the host racetrack in case of a system failure; and

(3) display the audio and video signals of the races being simulcast to the patrons, ~~+~~ unless the patrons otherwise have access to the program and race information for the simulcast races available within the racetrack's enclosure.

(b) After each simulcast performance, the guest racetrack shall provide the reports of its parimutuel operations required by Subchapters A and B of this chapter.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 321, Subchapter D, Division 1, General Provisions § 321.417, Emergency Procedures, concerning the pari-mutuel wagering procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to modernize the language used to appropriately describe technology changes in wagering systems authorized in the Texas Occupations Code § 2027.002.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §321.417 to update definitions related to e-wagering activities and systems authorized in the Texas Occupations Code § 2027.002.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected benefit the State of Texas by accurately describing technology changes in pari-mutuel wagering systems which will assist licensed racetrack associations in providing wagering opportunities in the enclosed area of a racetrack authorized in Texas Occupations Code § 2027.002.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§321.417. Emergency Procedures.

(a) If an association is unable to establish or to maintain the audio or video signal from a host racetrack of any races for which the association is displaying the audio and video signal, the association shall immediately notify the host racetrack of the lost signal and may continue to accept wagers for four hours while attempting to establish the signal.

(b) If after four hours the audio or video signal cannot be established the association may continue to accept wagers on the signal provided:

(1) the mutuel manager makes an announcement to the public informing them that due to technical difficulties the audio or video signal has been lost;

(2) the association transmits the odds on the affected race to the video department to be displayed to the patrons; and

(3) the totalisator operator locks all wagering on the affected race at zero minutes to post to ensure the integrity and transfer of the wagering pools.

(c) If the host racetrack loses the ability to transmit the audio or video signal, the host racetrack:

(1) shall notify all guest racetracks of the technical difficulties being experienced;

(2) may continue to accept wagers from the guest racetracks on that day's races; and

(3) may not accept wagers from the guest racetracks for subsequent race days until the technical difficulties have been corrected.

The Texas Racing Commission (TXRC) proposes amendments to an existing rule in Texas Administrative Code, Title 16, Part 8, Chapter 321, Subchapter E, Division 1, § 321.607, Conduct of E-Wagering, concerning the pari-mutuel wagering procedures. This amendment is referred to as a "proposed rule amendment." The purpose of these rule amendment is to modernize the language used to appropriately describe technology changes in wagering systems authorized in the Texas Occupations Code § 2027.002.

SECTION-BY-SECTION SUMMARY.

The proposed rule amends §321.607 to update definitions related to e-wagering activities and systems authorized in the Texas Occupations Code § 2027.002.

GOVERNMENT GROWTH IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

For each year of the first five years the proposed rules will be in effect, Amy F. Cook, Executive Director has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future agency legislative appropriations.

The proposed rule amendment does not require an increase or decrease in fees paid to the agency.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

ECONOMIC IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

REGULATORY FLEXIBILITY ANALYSIS.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

TAKINGS IMPACT ASSESSMENT.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT.

Amy F. Cook, Executive Director, has determined that the proposed amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

COST-BENEFIT ANALYSIS.

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected benefit the State of Texas by accurately describing technology changes in pari-mutuel wagering systems which will assist licensed racetrack associations in providing wagering opportunities in the enclosed area of a racetrack authorized in Texas Occupations Code § 2027.002.

FISCAL NOTE ANALYSIS.

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

PUBLIC COMMENTS.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the Texas Register, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by telephone at 512-833-6699.

STATUTORY AUTHORITY.

The amendments are proposed under Tex. Occ. Code § 2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

<rule>

§321.607. E-Wagering Account Restrictions.

(a) The mutual manager of an association shall establish and manage E-wagering within an association's enclosure.

(b) The making and acceptance of wagers over the communications facility known as the "Internet" or "telephone" is prohibited, ~~[-]except as otherwise permitted by §2027.002 of the Act.~~

(c) An association may accept deposits to an account only in the form of cash, cashier's check, money order, or other method determined by the executive director ~~[secretary]~~ to be a cash equivalent.

(d) The association may not accept wagers in an amount that exceeds the account balance.

(e) An account holder must be at least 21 years of age.

(f) An account holder is responsible for all activity associated with his or her account.

(g) An association may use E-wagering devices only if the devices are connected to the totalisator system ~~[.]~~ either directly or via a closed-loop subscriber-based system.

AGENDA ITEM IX. B.: PROCEEDINGS ON RULES

B. Discussion and possible action to approve posting proposed rule amendments in the Texas Register.

1. 16 TEX. ADMIN. CODE §303.201, Licensing Persons with Criminal Backgrounds
2. 16 TEX. ADMIN. CODE §303.202, Guidelines
3. 16 TEX. ADMIN. CODE §307.67, Appeal to the Commission
4. 16 TEX. ADMIN. CODE §311.4, Occupational License Restrictions.
5. 16 TEX. ADMIN. CODE §319.362, Drug Testing
6. 16 TEX. ADMIN. CODE § 309.361, Greyhound Purse Account and Kennel Account

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Proposed Rule Amendment TAC § 303.201
Licensing Persons with Criminal Backgrounds
As of February 5, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 303	GENERAL PROVISIONS
SUBCHAPTER F	LICENSING PERSONS WITH CRIMINAL BACKGROUNDS
RULE	§303.201. General Authority

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter F, Occupational Licenses, § 303.201, General Authority, concerning factors that relate to the person’s present fitness to perform the duties and responsibilities. The purpose of this rule amendment is to align the Texas Rules of Racing with legislative changes made to the Texas Racing Act during the 88th Legislative Session.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

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D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to further align the administration of the occupational licensing program with recent statutory changes to the Texas Occupations Code that incorporate Chapter 53 in the agency licensing program.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute.

The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 303, Subchapter F, General Provisions, Licensing Persons with Criminal Background § 303.201. General Authority.

(a) In accordance with state law, the commission may revoke, suspend, or deny a license ~~[or the stewards or racing judges may suspend or deny a license to a person]~~ because of the person's conviction of a felony or misdemeanor if the offense directly relates to the person's present fitness to perform the duties and responsibilities associated with the license.

(b) In determining whether ~~[or not]~~ an offense directly relates to a person's present fitness to perform the duties and responsibilities associated with the license, the commission shall consider the relationship between the offense and the occupational [particular] license applied for and the following factors:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;

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Proposed Rule Amendment TAC § 303.201
Licensing Persons with Criminal Backgrounds
As of February 5, 2024

- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence presented by the person of the person's present fitness, including letters of recommendation from:
 - (A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; or
 - (C) any other persons in contact with the convicted person.
- (c) The executive director ~~[secretary]~~ shall ~~[may]~~ develop and publish guidelines relating to the administration of the of occupational licensing program. ~~[regarding the factors listed in subsection (b) of this section and how the factors relate to the offenses listed in §303.202 of this title (relating to General Provisions.)]~~
- (d) On learning of the felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision of a licensee, the executive director or designee ~~[commission]~~ shall determine whether a license may be subject to suspension or revocation. ~~[revoke the licensee's license.]~~

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment § 303.201 Licensing Persons with Criminal Backgrounds
As of January 22, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 303	GENERAL PROVISIONS
SUBCHAPTER F	LICENSING PERSONS WITH CRIMINAL BACKGROUNDS
RULE §303.202	GUIDELINES

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 303.202, Subchapter F, Licensing Persons with Criminal Background, Rule § 303.202, Guidelines, concerning the occupational licensing guidelines. The purpose of these rule amendment is to clarify the responsibilities of the executive director and align the administration of the occupational licensing program with current state law. The proposed rule changes will allow the agency to conform with the provisions of Texas Occupations Code § 2025.251-262.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE§ 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE§ 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE§ 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

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Proposed Rule Amendment § 303.201 Licensing Persons with Criminal Backgrounds
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D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the licensing process by clarifying the factors considered for issuance of an occupational license.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute.

The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 303, Subchapter F, Licensing Persons with Criminal Backgrounds § 303.202. Guidelines.

(a) In accordance with state law, the commission has delegated the administration of the occupational licensing program to the executive director who shall develop guidelines [~~developed guidelines~~] relating to the suspension, revocation, or denial of occupational licenses based on criminal background.

~~The offenses that the commission has determined are directly related to the occupational licenses issued by the commission are:~~

- ~~—(1) an offense for which fraud, dishonesty, or deceit is an essential element;~~
- ~~—(2) an offense relating to racing, pari-mutuel wagering, gambling, or prostitution;~~
- ~~—(3) a felony offense of assault, such as those described by Penal Code, Chapter 22;~~

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Proposed Rule Amendment § 303.201 Licensing Persons with Criminal Backgrounds
As of January 22, 2024

- ~~-(4) a criminal homicide offense, such as those described by Penal Code, Chapter 19;~~
- ~~-(5) a burglary offense, such as those described by Penal Code, Chapter 30;~~
- ~~-(6) a robbery offense, such as those described by Penal Code, Chapter 29;~~
- ~~-(7) cruelty to animals;~~
- ~~-(8) a theft offense, such as those described by Penal Code, Chapter 31;~~
- ~~-(9) an offense relating to the possession, manufacture, or delivery of a controlled substance, a dangerous drug, or an abusable glue or aerosol paint;~~
- ~~-(10) arson; and~~
- ~~-(11) a felony offense of driving while intoxicated.~~

~~(b) The commission has considered the following factors in determining whether or not a particular offense directly relates to a particular occupational license:~~

- ~~-(1) the nature and seriousness of the crime;~~
- ~~-(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;~~
- ~~-(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and~~
- ~~-(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.~~

~~{(c) Based on the factors described in subsection (b) of this section, the commission has determined that the offenses described in subsection (a) of this section are directly related to the following occupational licenses. (An "X" on the chart means the offense directly relates to the license.)}~~

[Attached Graphic](#)

	<i>Kennel Owner/ Trainer</i>	<i>Law Enforcement</i>	<i>Leadout</i>	<i>Maintenance</i>	<i>Medical Staff</i>	<i>Miscellaneous</i>	<i>Mutuel - Other</i>	<i>Mutuel Clerk</i>	<i>Official</i>	<i>Owner</i>	<i>Owner/Trainer</i>	<i>Pony Person</i>	<i>Racing Industry Representative</i>	<i>Security Officer</i>
Offense for which fraud, dishonesty, or deceit is an essential element	X	X	X			X	X	X	X	X		X	X	
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X			X			X	X	X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated	X	X		X	X	X			X	X	X	X		X

	<i>Stable Foreman</i>	<i>Tattooer</i>	<i>Test Technician</i>	<i>Tooth Floater</i>	<i>Trainer</i>	<i>Training Facility Employee</i>	<i>Training Facility Gen Mgr / CEO</i>	<i>Valet</i>	<i>Vendor/ Concessionaire</i>	<i>Vendor/Concess. Employee</i>	<i>Veterinarian</i>	<i>Veterinarian's Asst.</i>	<i>Watchman</i>
Offense for which fraud, dishonesty, or deceit is an essential element	X	X	X		X	X	X	X	X	X	X	X	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X	X	X	X	X			X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated	X	X	X	X	X	X	X			X	X	X	X

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 307.67, Appeal to the Commission
As of January 22, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 307	OTHER LICENSES
SUBCHAPTER C	LICENSING PROVISIONS
RULE §307.67	License Categories and Fees

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 307, Subchapter C, Proceedings by Stewards, and Racing Judges, § 307.67, Appeal to the Commission, concerning the fine required by a licensee when appealing a ruling to the Commission.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 307.67, Appeal to the Commission
As of January 22, 2024

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the licensing process for licensees by repealing the requirement that a licensee pay \$150 cash bond to cover costs of the appeal.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute.

The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 303, Subchapter A, Licensing Provisions § 303.211.5 License Categories and Fees.

(a) Right to Appeal. A person aggrieved by a ruling of the stewards ~~[or racing judges]~~ may appeal to the Commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) Filing Procedure.

(1) An appeal must be in writing in a form prescribed by the executive director ~~[secretary]~~. An appeal from a ruling of the stewards ~~[or racing judges]~~ must be filed not later than 5:00 p.m. of the third calendar day after the day the person is informed of the ruling by the stewards ~~[or racing judges]~~. An appeal from the modification of a penalty by the executive director ~~[secretary]~~ must be filed not later than 5:00 p.m. of the fifth calendar day after the person is informed of the penalty modification. The appeal must be filed at the main Commission offices in Austin or with the stewards or ~~[or racing judges]~~ at a Texas pari-mutuel racetrack where a live race meet is being conducted. ~~The appeal must be accompanied by a cash bond in the amount of~~

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 307.67, Appeal to the Commission
As of January 22, 2024

~~\$150, to defray the costs of the court reporter and transcripts required for the appeal. The bond must be in the form of a cashier's check or money order.~~

(2) Record of Stewards' [~~Judges~~] hearing. On notification by the executive director [~~secretary~~] that an appeal has been filed, the stewards [~~or racing judges~~] shall forward to the Commission the record of the proceeding being appealed. A person appealing a stewards' [~~or judges~~] ruling may request a copy of the record of the hearing, ~~and the executive secretary may assess the cost of making to the copy to the requestor.~~

(c) Hearing Procedure. A hearing on an appeal from a ruling by the stewards [~~or racing judges~~] is a contested case and shall be conducted by SOAH in accordance with the Rules regarding contested cases. In an appeal, the appellant has the burden to prove that the stewards' [~~or racing judges~~] decision was clearly in error.

(d) Effect of Appeal on Fine Payment. If a person against whom a fine has been assessed appeals the ruling that assesses the fine, the person shall pay the fine in accordance with the Rules. The executive director shall place the fine amount into the agency suspense account until such time that the appeal is final. If the appeal is disposed of in favor of the appellant, the executive director [~~Commission~~] shall refund the amount of the fine.

(e) Effect of Appeal on Purse Payment. If a ruling that affects the outcome of a race is appealed, the portion of the purse that is involved in the appeal shall be withheld and not distributed. The stewards [~~or racing judges~~] may distribute the portion of the purse that is not involved in or affected by the outcome of the appeal.

(f) Effect of Appeal on Horse Eligibility. If an appeal involves the official order of finish in a horse race, all horses finishing first or declared to be the winner by the stewards carry all penalties of eligibility until the winner is determined through the final resolution of the appeal.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment TAC § 311.4 Occupational License Restrictions
As of January 22, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 311	OTHER LICENSES
SUBCHAPTER A	LICENSING PROVISIONS
DIVISION 1	OCCUPATIONAL LICENSES
RULE §311.4	Occupational License Restrictions

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter A, Division 1, Occupational Licenses, § 311.4, Occupational License Restrictions. The purpose of these rule amendment is to align the Texas Rules of Racing with changes in the Texas Racing Act made during the 88th Legislative Session.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment TAC § 311.4 Occupational License Restrictions
As of January 22, 2024

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the licensing process aligning the administration of the licensing program by the Executive Director with the current version of the Texas Racing Act.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute. The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter A, Division 1, Occupational Licenses, § 311.4. Occupational License Restrictions:

a) Non-Transferable.

~~-(1)-~~ Except as otherwise provided by this section, a license issued by the Executive Director [Commission] is personal to the licensee and is not transferable.

~~-(2)-~~ If the death of a licensee creates an undue hardship or results in a technical violation of the Act or a Rule, on application of a person who wishes to operate or work under the license, the Commission may issue a temporary license to the person for a period specified by the Commission not to exceed one year.

(b) Education. To be eligible to receive a license to participate in racing with pari-mutuel wagering, an individual who is under 18 years of age must present to the Commission proof that the individual:

- (1) has graduated from high school or received an equivalent degree; or
- (2) is currently enrolled in high school or equivalent classes.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 319.362 Split Specimen
As of January 22, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 319	VETERINARY PRACTICES AND DRUG TESTING
SUBCHAPTER D	DRUG TESTING
DIVISION 3	PROVISIONS FOR HORSES
RULE §319.362	Split Specimen

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 319.362, Subchapter D, Division 3, Split Specimen, § 319.362 concerning the procedures for storing and testing split samples for horses. The purpose of these rule amendment is to align the rules with the interagency agreement the agency has with the Texas Veterinary Medical Diagnostic Lab (TVMDL). The current interagency agreement updated the process of storing primary and split samples at the laboratory instead of the racetrack locations.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 319.362 Split Specimen
As of January 22, 2024

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to reduce the overall costs of the drug testing for licensees who no longer must pay \$175.00-\$250.00 to ship split samples to the laboratory chosen to test the split.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute.

The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter D, Division 3, Drug Testing, § 319.362. Split Specimen:

(a) Before sending a specimen from a horse to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity of the specimen, the commission veterinarian or ~~[the commission veterinarian's]~~ designee shall divide the specimen into two parts. If the specimen is of insufficient quantity to be split, the commission veterinarian may require the horse to be detained until an adequate amount of urine can be obtained. If the commission veterinarian ultimately determines the quantity of the specimen obtained is insufficient to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing. In either case, both the primary and split specimens shall be shipped to the laboratory for testing and storage, and secured in laboratory storage until the executive director determines that the specimens are no longer needed for regulatory purposes.

(b) ~~[The commission veterinarian or commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The veterinarian or designee shall store the retained part in a manner that ensures the integrity of the specimen.]~~

(c) An owner or trainer of a horse which has received a positive result on a drug test may request, in writing, that the retained serum or urine, whichever provided the positive result, be submitted for testing to a

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment - TAC § 319.362 Split Specimen
As of January 22, 2024

laboratory approved by the executive director [~~a Commission approved [and listed] laboratory~~] that is acceptable to the owner or trainer. The owner or trainer must notify the executive director [~~secretary~~] of the request not later than 48 hours after notice of the positive result. Failure to request the split or select a laboratory within the prescribed time period will be deemed a waiver of the right to the split specimen.

~~(d) [If the retained part of a specimen is sent for testing, the commission staff shall arrange for the transportation of the specimen in a manner that ensures the integrity of the specimen. The person requesting the tests shall pay all costs of transporting and conducting tests on the specimen. To ensure the integrity of the specimen, the split specimen must be shipped to the selected laboratory no later than 10 days after the day the trainer is notified of the positive test. Subject to this deadline, the owner or trainer of the horse from whom the specimen was obtained is entitled to be present or have a representative present at the time the split specimen is sent for testing.]~~

(e) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of the applicable provisions of the chapter.

(f) If the test on the split specimen portion does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the race.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment TAC § 309.361
Greyhound Purse Account and Kennel Account
As of February 6, 2024

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 309	RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER D	GREYHOUND RACETRACKS
DIVISION 2	OPERATIONS
RULE	§309.361. Greyhound Purse Account and Kennel Account

PREAMBLE:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter F, Occupational Licenses, § 303.201, General Authority, concerning administration of the Greyhound purse account. The purpose of this rule amendment is to provide the Commission full oversight on the administration of all funds derived from pari-mutuel wagering that the Texas Greyhound Association has received or is still receiving following the cessation of all live greyhound racing in February 2020 in Texas.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at 512-833-6699. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

AGENCY ANALYSIS

A. DRAFT GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

B. ECONOMIC IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code § 2006.002, is not required.

C. REGULATORY FLEXIBILITY ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code § 2006.002, is not required.

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment TAC § 309.361
Greyhound Purse Account and Kennel Account
As of February 6, 2024

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2007.043.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code § 2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to further align the administration of the occupational licensing program with recent statutory changes to the Texas Occupations Code that incorporate Chapter 53 in the agency licensing program.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE § 2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under its enabling statute.

The proposed rule amendments affect Texas Administrative Code, Title 16, Part 8, Chapter 309, Subchapter D, Division 2, Operations, Greyhound Purse Account and Kennel Account § 309.361.

(a) Greyhound Purse ~~and Kennel~~ Account ~~Administration~~.

~~[(1) All money required to be set aside for purses, whether from wagering on live races or simulcast races, are trust funds held by an association as custodial trustee for the benefit of kennel owners and greyhound owners. No more than three business days after the end of each week's wagering, the association shall deposit the amount set aside for purses into a greyhound purse account maintained in a federally or privately insured depository.~~

~~[(2) The funds derived from a simulcast race for purses shall be distributed during the 12-month period immediately following the simulcast.~~

~~(b) Kennel Account.~~

DRAFT//PRE-DECISIONAL
Proposed Rule Amendment TAC § 309.361
Greyhound Purse Account and Kennel Account
As of February 6, 2024

~~—(1) An association shall maintain a separate bank account known as the "kennel account". The association shall maintain in the account at all times a sufficient amount to pay all money owed to kennel owners for purses, stakes, rewards, and deposits.~~

~~—(2) Except as otherwise provided by these rules, an association shall pay the purse money owed from a purse race to those who are entitled to the money not later than 10 days after the date of the race and from a stakes race to those who are entitled to the money immediately after the executive secretary advises the association that all of the qualifying rounds and the final race have been cleared for payment.~~

~~(e) The Texas Greyhound Association ("TGA") shall negotiate with each association regarding the association's live racing program, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, and the importing of simulcast signals during live race meetings.~~

~~(d) If an association fails to run live races during any calendar year, all money in the greyhound purse account may, at the discretion of the TGA, be distributed as follows:~~

~~—(1) first, payment of earned but unpaid purses; and~~

~~—(2) second, subject to the approval of the TGA, transfer after the above mentioned calendar year period of the balance in the purse account to the purse account for one or more other association.~~

~~(e) If an association ceases a live race meet before completion of the live race dates granted by the commission, the funds in and due the greyhound purse account shall be distributed as follows:~~

~~—(1) first, payment of earned but unpaid purses;~~

~~—(2) second, retroactive pro rata payments to the kennel owners; and~~

~~—(3) third, subject to the approval of the TGA, transfer within 120 days after cessation of live racing of the balance in the greyhound purse account to the greyhound purse account for one or more other associations.]~~

~~(f) Administration of Accounts:~~

~~[(1) An association shall employ a bookkeeper to maintain records of the greyhound purse account and the kennel account.]~~

~~[(2)] The Commission will determine the appropriate disposition of funds held by the Texas Greyhound Association that are derived from pari-mutuel wagering activities and may at any time inspect, review or audit any and all transactions relating to the greyhound purse account and the kennel account.~~

AGENDA ITEM

X. RACETRACK PROCEEDINGS

Texas Racing Commission

Staff Review of Racetrack Licenses

February 2024

Valley Race Park (Harlingen)

Description	Greyhound Track License
Current Status	Active-Operating (Last Review of Record: 2016)
Live Race Dates (2023)	Granted five (5) days in 2022//Cancelled

Renewal Criteria: *Texas Racing Act* §2025.105 identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
Racetrack License Holder: Penn Entertainment, Inc., a publicly traded corporation.	Dwight Berube notified the agency on April 11, 2023, that the 2023 approved live race dates would not be conducted. Last live racing activities conducted in February 2020.	VPR does not have current management or concessions contract.	Track Property Location: 2601 S. Ed Carey Drive, Harlingen, Texas, near Harlingen Airport.

Staff Analysis: A review of the agency's records indicate that Valley Race Park currently holds an Active-Operating Greyhound Track License. Valley Race Park has not conducted live greyhound races since February 2020, and does not have the ability to return to live racing based on the maintenance status of the facility coupled with industry public testimony on the impact of all other states ceasing greyhound racing. Additionally, the 88th Texas Legislature did not appropriate funds for the Texas Racing Commission to regulate pari-mutuel greyhound racing in this state.

Staff Recommendation: The Commission change the designation of this license from Active-Operating to Inactive, in good standing, under *Texas Rules of Racing* §309.51(c), with the next review scheduled no earlier than June 2025.



Texas Racing Commission

Staff Review of Racetrack Licenses

February 2024

Gulf Greyhound (La Marque, TX)

Description	Greyhound Track License
Current Status	Active-Operating (Last Review: (2020))
Live Race Dates	Last Live Race Dates (2020)

Renewal Criteria: *Texas Racing Act* §2025.105 identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
N/A	The license holder does not have an identified piece of land for this license.	N/A	N/A

Staff Analysis: A review of the agency's records indicated Gulf Greyhound currently holds an Active-Operating Greyhound Track License. A review of the facts supports a designation change under *Texas Rules of Racing* §309.51(c). Gulf Greyhound closed in June 2020, and the license holder does not have an identified piece of land nor a plan to construct an appropriate track to conduct this activity.

Staff Recommendation: The Commission change the designation of this license from Active-Operating to Inactive, in good standing, under *Texas Rules of Racing* §309.51(c), with the next review scheduled no earlier than June 2025.



Texas Racing Commission
Staff Review of Racetrack Licenses
February 2024
Gulf Coast Racing (Corpus Christi, Texas)

Description	Active Greyhound Racetrack License (Nueces County)
Current Status	Active-Operating (Last Review of Record: 2018)
Live Race Dates	On or about 2016

Renewal Criteria: *Texas Racing Act* §§2025.104-106 identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
Gulf Coast Racing LLC management team with 361 Muy Buena Suerta, LLC owning a controlling interest in the license. Financial stability demonstrated in the annual financial report filed in June 2023 with the Commission.	Under review. Racetrack closed in June 2020; simulcasting operation ceased on December 31, 2023.	License holder does not have the ability to conduct to live racing based on the maintenance status of the facility.	License holder does not have the ability to conduct to live racing based on the maintenance status of the facility.

Staff Analysis: A review of the agency’s records indicate that Gulf Coast Racing currently holds an Active-Operating Greyhound Track License. Gulf Coast Racing does not have the ability to conduct to live racing based on the maintenance status of the facility coupled with industry public testimony on the impact of all other states ceasing greyhound racing. Additionally, the 88th Texas Legislature did not appropriate funds for the Texas Racing Commission to regulate pari-mutuel greyhound racing in this state.

Staff Recommendation: The Commission change the designation of this license from Active-Operating to Inactive, in good standing, under *Texas Rules of Racing* §309.51(c), with the next review scheduled no earlier than June 2025.



Texas Racing Commission

Staff Review of Racetrack Licenses

February 2024

Retama Park (San Antonio)

Description	Class I Horse Track License
Current Status	Active-Operating (Last Review of Record: 2017)
Live Race Dates (2023)	22 Dates Granted, 22 Dates Conducted

Renewal Criteria: *Texas Racing Act* §2025.105 identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
Penn Entertainment, Inc, a publicly traded company has the management team role for this racetrack license. Retama Nominal Holder, LLC (License Holder) and Retama Development Corporation (Racetrack Owner) hold ownership interests.	Retama Park management requested and received approval for 23 Live Race dates in 2024. Retama Park was the only track in Texas to have no catastrophic injuries for racehorses during its live meet season.	Penn Entertainment has completely rebuilt the racetrack surface and made numerous other safety improvements over the past year.	Leadership changes along with funding provided by Penn Entertainment to upgrade facilities for horseman and the public demonstrate the ability to conduct live racing.

Staff Analysis: A review of the agency's records indicates that Retama Park currently holds an Active-Operating Horse License. Penn Entertainment, as Retama Park's management team has taken dramatic steps toward achieving compliance during the past year to improve the racetrack facilities and to increase racing and training opportunities for horsemen.

Staff Recommendation: Renew Retama Park's Active License, with no conditions. Next review scheduled in February 2029.

