

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS
DIVISION 4. CALIFORNIA HORSE RACING BOARD
ARTICLE 15. VETERINARY PRACTICES
RULE 1846.5. POSTMORTEM EXAMINATION.
RULE 1846.6. POSTMORTEM EXAMINATION REVIEW.

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rules 1846.5, Postmortem Examination, and 1846.6, Postmortem Examination Review, to expand the scope of both rules. Currently, Board Rule 1846.5, Postmortem Examination requires that every horse that dies within an area under the jurisdiction of the Board undergo a postmortem examination in a diagnostic laboratory which is under contract with the Board to determine the injury or sickness which resulted in euthanasia or natural death. In addition, Board Rule 1846.6, Postmortem Examination Review, currently requires the Board to conduct a postmortem examination review to determine the circumstances of each equine fatality within a Board inclosure. The proposed amendment would expand the scope of the rule to require a postmortem examination and a postmortem examination review on every horse that dies or is euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board. Furthermore, the amendment would also add affirmative duties for the owner and trainer by requiring them to provide notice to the laboratory within one hour of a horse's death that is under their care. The postmortem examination and the postmortem examination review of race horses that die in California shortly after leaving a Board regulated facility are critical to understanding racetrack related fatalities and improving the Board's overall mission of reducing equine fatalities.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on May 30, 2023. The Board must receive all comments by that time. Submit comments to:

Yannet G De Garcia, Associate Management Auditor
California Horse Racing Board

1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6023
Email: ygdegarcia@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Section 19440, Business and Professions Code (BPC). Reference: Section 19435, 19444, and 19444(c), BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19435 provides that the Board, its executive director, or the stewards, may issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things, as is necessary to enable any of them to effectually discharge their duties, and may administer oaths or affirmations as necessary in connection therewith. BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. BPC section 19444 and 19444(c) states that the Board may, in performing its responsibilities under this chapter, conduct research to determine more fully the cause and prevention of horse racing accidents.

Currently, Board Rule 1846.5, Postmortem Examination, requires every horse which suffers a fatal injury on the racetrack, or which dies or is euthanized within an area under the jurisdiction of the Board, shall undergo a postmortem examination. The proposed amendment of Board Rule 1846.5 will expand the scope of authority of the rule to require a postmortem examination of every horse that dies or is euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board.

Additionally, subsection (d) of Board Rule 1846.5, requires that requests for each postmortem shall be filled with the official veterinarian by the owner's or trainer's veterinarian within one hour of death and shall submit a Necropsy Submission Form, CHRB-72 (form CHRB-72). Under the proposed amendments to Board Rule 1846.5, both owners and trainers would be joint-absolute insurers of the horse and responsible for the timely submission of form CHRB-72 to the extent that the trainer exercised care and control at the time of death and will create affirmative duties for the owner and trainer.

In addition, Board Rule 1846.5 subsection (e), currently requires the owner's or trainer's veterinarian must phone the diagnostic laboratory within one hour of death and fax form CHRB-72 to the laboratory as notification that the horse is due for necropsy if the official veterinarian is unavailable. The proposed amendment to Board Rule 1846.5 subsection (e) requires the owner or trainer to contact the diagnostic laboratory within one hour of death and fax or email form CHRB-72 to the laboratory as notification that the horse is due for necropsy. On the official veterinarian's next scheduled workday of the racing

association or training facility where the horse last resided, the owner or trainer shall give the original form CHRB-72 to the official veterinarian.

Board Rule 1846.6, Postmortem Examination Review, requires the Board to conduct a postmortem examination review to determine the circumstances of each equine fatality within a Board inclosure. The proposed amendments to Board Rule 1846.6, will expand the scope of authority of the rule to require a postmortem examination review on each equine fatality in California within 72 hours of leaving a Board inclosure.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

The proposed amendments to Board Rules 1846.5 and 1846.6 will continue to support the safety and welfare of horses that race in California by expanding the scope of authority of each rule to “horses that die or are euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board.” The amendments to postmortem examination and postmortem examination review will increase the critical information of in-depth research of racehorses that die or are euthanized in California. The invaluable information to be gained will help obtain a better understanding of equine racetrack related fatalities. In addition, the proposed amendments will increase positive public perception of the sport in California. The Board values and promotes horse racing in California by fostering safe racing and the Board takes animal welfare very seriously and values the health and welfare of all participants.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the amendments, the Board conducted a search for any similar regulation on this topic and has concluded that Board Rules 1846.5 and 1846.6 are the only regulations that address postmortem examination and postmortem examination review in horse racing. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Board Rules 1846.5 and 1846.6 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment will support and expand the safety and welfare of horses that race in California. By expanding the scope of authority of the rules to require a postmortem examination and a postmortem examination review for every horse that dies or euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board, the Board will better promote the ability to obtain further information of equine racetrack related fatalities and improve the health and safety for California racehorses.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: none. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Board Rules 1846.5 and 1846.6 will not (1) create or eliminate jobs within the state; (2) create new businesses or eliminate existing businesses within the state; (3) result in the expansion of businesses currently doing business with the state; or (4) benefit the health and welfare of California residents, worker safety, or the state's environment.

Effect on small business: none. The proposal to amend Board Rules 1846.5 and 1846.6 does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Yannet G De Garcia, Associate Management Auditor
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6023
E-mail: ygdegarcia@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Amanda Drummond, Manager
Regulations, Industry Applications, and Administrative Hearings
Telephone: (916) 869-3255
Email: amdrummond@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Yannet G De Garcia or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Rick Pimentel at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Rick Pimentel at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.