

INITIAL STATEMENT OF REASONS

Rule 1843.3. Penalties for Medication Violations;
Rule 1843.5. Medication, Drugs and Other Substances Permitted After Entry in a Race;
Rule 1844. Authorized Medication

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to Rule 1843.3, Penalties for Medication Violations, will remove the Category “C” penalties for non-steroidal anti-inflammatory drug substances (NSAID) previously allowed under Rule 1844, Authorized Medication. In addition, the proposed amendment adds Category “C” penalties for a fourth and subsequent violations within a 365-day period. The proposed amendment to Rule 1843.5, Medication, Drugs and Other Substances Permitted After Entry in a Race, will change the definition of when a horse is deemed entered to race; delete two substances under subsection (e) that may be administered by injection until 24 hours before post time; deletes the NSAIDs that may be administered until 24 hours before post time; provides that not more than one glucocorticoid¹ may be administered to a horse entered to race; prohibits the use of any authorized bleeder medication except furosemide. The proposed amendment to Rule 1844, Authorized Medication, removes the list of NSAIDS that were authorized for administration to horses entered to race; and removes eight drug substances that could be present in the official blood test sample. All other changes to the regulations are for the purposes of grammar, clarity and renumbering.

PROBLEM

In March 2019, pursuant to its authority under Rule 1844.1, Suspension of Authorized Medication, the Board suspended the authorized administration of eleven medications for all thoroughbred horses participating at Santa Anita Park (SA) and Golden Gate Fields (GGF). The presence of the suspended medications in a post-race test samples would be considered a violation of Board regulations. The proposed amendments of Board Rule 1843.3, Rule 1843.5, and Rule 1844 will codify the Board’s prior temporary suspension of these eleven (11) previously authorized medications for all horses participating in all licensed horse racing meetings in California.

NECESSITY

In March 2019, the Board responded to an industry initiative for zero tolerance in the use of race day medications by authorizing a suspension of the administration of eleven (11) medications previously authorized under Rule 1844 for administration to horses entered to race. The suspension was for all thoroughbred horses participating at SA and GGF. In April 2019 the Board extended the suspension to all post-race samples collected at all California race tracks pursuant to Rule 1844.1. The suspension was effective May 3,

¹ Glucocorticoid: a group of corticosteroids that possess anti-inflammatory and immunosuppressive properties. Glucocorticoids are a class of steroid hormones and drugs used to treat inflammation.

2019 and was extended for the remainder of those race meetings. The suspended medications are: Phenylbutazone; Flunixin; Ketoprofen; Betamethasone; Dexamethasone; Diclofenac; Firocoxib; Methylprednisolone; Prednisolone; Triamcinolone Acetonide; and Isoflupredone. The proposed amendments of Board Rule 1843.3, Rule 1843.5, and Rule 1844 will codify the Board's prior temporary suspension of authorized medication for all horses participating in all licensed horse racing meetings in California.

The proposed amendment to Rule 1843.3 will modify subsection (d) to add Category "C" penalties for fourth and subsequent medication violations within a 365-day period. A fourth violation within a 365-day period will require a minimum 15-day suspension and a fine of \$2,500. Any subsequent violations within the same 365-day period will require a greater suspension and fine than the previous violation. The addition of penalties for fourth and subsequent violations involving Category "C" substances is necessary because a number of trainers have had four or more Category "C" violations within the same 365-day period. In such cases the Board is currently limited to third offense Category "C" penalties. The addition will require the Board to provide a greater suspension and fine, which is intended to penalize and deter repeated medication violations.

The proposed amendment to Rule 1843.3 will also delete subsection (d) Category "C" penalties for Rule 1844 authorized medication violations. The penalties are specifically for NSAID overages. The proposed amendment to Rule 1844, however, removes the list of NSAIDS that are authorized for administration to horses entered to race, which necessitates the deletion of Rule 1843.3 Category "C" penalties for Rule 1844 NSAID violations. Because the proposed amendment to Rule 1844 disallows NSAIDS for horses entered to race, there is no level at which an "overage" will occur. If a test sample demonstrates the presence of a NSAID, however, the violation will still warrant a Category "C" penalty.

The proposed amendment to Rule 1843.5 will modify subsection (a) to change the definition of "entered." Rule 1843.5 currently states a horse is deemed "entered" in a race 48 hours before post time of the running of the race. This definition of "entered" was used because in the past, most entries were drawn (closed) 48 hours before the race. However, industry practice has changed, which makes the current definition outdated. Most races are now drawn at least 72 hours before the race date, and some are drawn five days before the race. The proposed amendment to subsection 1843.5(a) is necessary due to the change in industry practice. The amendment provides that a horse is deemed "entered" at midnight the day entries close for the race. The new definition of "entered" will provide horsemen with consistency while still providing for a period of at least three days in which an entered horse can only be administered medications, drugs and other substances permitted under the Board's rules and regulations. Subsection 1843.5(a) has also been changed to state that the definition of "entered" applies to article 15. The change is necessary for purposes of clarity, as the subsection currently applies the definition of "entered" to Rule 1843.5, however, the definition applies to other related regulations within article 15.

Subsection 1843.5(b) has been modified to provide that only water, hay and grain may be provided to the horse until post time. The amended subparagraph will no longer allow feed supplements to be administered to a horse after it is deemed entered to race. The trainer may not be fully informed as to the contents of a feed supplement, so it is possible to inadvertently administer a foreign substance via contaminants of feed and supplements. The proposed amendment will return the feeding regimen for horses entered to race to the time honored “hay, oats and water.” The amended subsection 1843.5(b) is consistent with the industry’s initiative for zero tolerance regarding the use of race day medications and will aid in insuring that horses entered to race will run free from the influence of medication.

Subsection 1843.5(c) has been modified for purposes of consistency to state that drugs, medications or other substances shall not be administered to a horse after it is deemed entered to race. The subsection currently states the substances may not be administered to a horse within 48 hours of the post time of the race in which it is entered. However, the proposed amendment to Rule 1843.5 changes the definition of “entered,” no longer using the 48-hour period, which necessitates the change to subsection 1843.5(c).

Subsection 1843.5(e) has been modified to provide that only injectable vitamins may be administered to a horse by injection until 24 hours before the post time of the race in which the horse is entered. Electrolyte solutions and amino acid solutions will no longer be allowed. The change is consistent with the industry’s goal of minimizing the number of drugs and substances that may be administered pre-race and is necessary to eliminate a “grey area” faced with horses entered to race. A trainer may use a potent alkalizing agent that can be claimed to be an “electrolyte.” The alkalizing agent would act to keep lactic acid² from building up in the horse, which would give the horse a slight advantage in a race by helping with endurance.

Subsection 1843.5(g) currently allows for the administration of the NSAIDs phenylbutazone, flunixin and ketoprofen to a horse until 24 hours before the post time of the race in which it is entered. The industry uses NSAIDs for their pain-eliminating and anti-inflammatory properties; managing conditions such as colic, pneumonia and orthopedic pain in horses. The most commonly used NSAIDs are phenylbutazone, flunixin and ketoprofen. However, there is some concern that the presence of these drug substances can interfere with the veterinarian’s ability to properly evaluate a horse on race day as they can mask underlying physiological problems associated with the horse’s legs, feet or joints. A horse that does not feel pain will run as if it would without its underlying problems, which may exacerbate any pre-existing conditions, and make the horse prone to further injury when worked to the same extent as a healthy horse. The proposed amendment removes phenylbutazone, flunixin and ketoprofen as substances that can be administered to a horse until 24 hours of the post time of the race in which it is entered. The amendment will mean there will be no allowed level for any NSAID in official test samples. The change is consistent with the proposed amendment of Rule

² During an intense exercise session or a race, metabolic by products including lactic acid, ammonia and heat accumulate in the horse’s muscles. It is believed that excessive lactic acid is a cause of muscle fatigue.

1844, Authorized Medication, which disallows the use of NSAIDs in horses entered to race. It is also consistent with the Thoroughbred Owners of California (TOC) and Stronach Group agreement which states there will be no authorized threshold for NSAIDs for horses racing at Santa Anita Park Race Track (SA) and Golden Gate Fields (GGF).³

A new subsection 1843.5(g) provides that not more than one glucocorticoid including adrenocorticotrophic hormone (ACTH)⁴ may be administered to a horse that is entered to race. Glucocorticoids are a class of steroid hormones and drugs used to treat inflammation. ACTH is a hormone produced naturally by the horse and is considered to have a therapeutic value in equine medicine. The substance can stimulate the production of natural glucocorticoid steroid hormones. The allowance for ACTH is consistent with the Association of Racing Commissioners International Model Rules of Racing, which allows for the administration of ACTH as prescribed by a veterinarian.

Subsection 1843.5(h) has been amended for the purposes of consistency to provide that furosemide is the only substance that can be administered under Rule 1845, Authorized Bleeder Medication. Subsection 1843.5(g)(2) has been amended to state that only water may be used to wash the horse's mouth out on race day. This is consistent with the amended subsection 1843.5(b), which provides that the horse may only have hay oats and water up until post time. Like feed supplements, the contents of a commercial mouth wash may result in an unintended contamination and a positive test result.

All other changes to Rule 1843.5 are for the purposes of grammar, clarity and renumbering.

The proposed amendment to Rule 1844 will delete the current subsections 1844(c) through 1844(d), which allow the administration of non-steroidal anti-inflammatory drug substances (NSAID) to horses entered to race. Phenylbutazone, flunixin, ketoprofen or their metabolites or analogues may no longer be present in post-race test samples. The change is consistent with the proposed amendment of Rule 1843.5, which disallows the use of NSAIDs in horses entered to race. It is also consistent with the TOC and Stronach Group agreement which states there will be no authorized threshold for NSAIDs for horses racing at Santa Anita Park Race Track (SA) and Golden Gate Fields (GGF).

Subsection 1844(e) has been renumbered and is now subsection (c).

Subsection 1844(f) has been renumbered and is now subsection (d). The new subsection 1844(d) has been amended to remove eight drug substances that could be present in

³ The agreement was predicated on the Board adopting the parties' request for the setting of race conditions under Rule 1581, Racing Secretary to Establish Conditions. The Board approved the request at its March 2019 Regular Meeting. At the same meeting, the Board suspended authorization for eleven medications, including the NSAIDs phenylbutazone, flunixin, and ketoprofen for all horses participating in a horse race meeting at SA and GGF.

⁴ Adrenocorticotrophic hormone (ACTH) is a hormone produced by the anterior pituitary gland. ACTH stimulates secretion of natural glucocorticoid steroid hormones from adrenal glands. Those natural corticosteroids steroids have the same pharmacological effect as if directly administered glucocorticoid.

official blood test samples. The drugs are: Betamethasone; Dexamethasone; Diclofenac; Firocoxib; Methylprednisolone; Prednisolone; Triamcinolone Acetonide; and Isoflupredone. The drugs are anti-inflammatory. Their potential to mask an injury has been a concern since so many fatal musculoskeletal injuries in horses show signs of pre-existing injury that was missed or under appreciated. The removal of the drugs moves California in line with international racing where the drugs are not authorized. In addition, the removal of the drugs is consistent with the TOC and Stronach Group agreement which states there will be no authorized threshold for the drug substances.

All other changes to Rule 1844 are for the purposes of grammar, clarity and renumbering.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION:

The proposed amendment of Rule 1843.3 provides for penalties for trainers who have more than three category “C” penalties within a 365-day period. This will have the benefit of allowing the Board to impose greater penalties in such cases, which may act as a deterrent. The proposed amendment of Rule 1843.5 redefines “entered” to conform with current industry practices. The definition will provide clarity and consistency for California’s horsemen. The proposed amendment also disallows NSAIDs for horses entered to race and provides that Furosemide is the only authorized bleeder medication. The proposed amendment to Rule 1843.5 will have the benefit of providing consistency for horsemen and will help to ensure that California’s race horses are running free of medications and drug substances that can mask potential pre-existing conditions, or that may enhance the horses’ performance. The proposed amendment to Rule 1844 will disallow NSAIDS, which is consistent with the amendment to Rule 1843.5. The medications have the potential to “mask” a horse’s pre-existing injuries, which can make it difficult for the official veterinarian or racing veterinarian to determine the true health of the horse. The proposed amendment to Rule 1844 will also disallow eight drug substances that currently may be present in official blood test samples. The substances have anti-inflammatory properties, which have the potential to mask injuries. The amended regulations will have the benefit of helping to improve the horses’ health and prevent horse fatalities, which will also protect the health of the rider. The proposed regulatory actions will also benefit the wagering public by assuring that the health and safety of horse and rider are safeguarded, and the outcome of pari-mutuel races are run free of substances that may influenced the outcome of the races.

TECHNICAL, THEORETICAL, AND / OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS:

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the amendments to Rule 1843.3, Rule 1843.5 and Rule 1844.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The results of the Board’s Economic Impact Assessment as required by Government Code section 11346.3(b) are as follows;

The proposed amendments will not impact the creation or elimination of jobs within the State of California.

The proposed amendments will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

The proposed amendments will not have an impact on the expansion of existing businesses in the State of California.

The proposed amendments will benefit California by promoting the health and safety of horse and rider. California's horse racing industry will benefit as a result of the public's positive perception of the industry. The regulations will not benefit the State's environment.

The Board has made the initial determination that the proposed amendments to Rule 1843.3, 1843.5 and 1844, 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 to Rule 1843.3, Penalties for Medication Violations, will remove the Category "C" penalties for non-steroidal anti-inflammatory drug substances (NSAID) previously allowed under Rule 1844, Authorized Medication. In addition, the proposed amendment adds Category "C" penalties for a fourth and subsequent violations within a 365-day period. The proposed amendment to Rule 1843.5, Medication, Drugs and Other Substances Permitted After Entry in a Race, will change the definition of when a horse is deemed entered to race; delete two substances under subsection (e) that may be administered by injection until 24 hours before post time; deletes the NSAIDs that may be administered until 24 hours before post time; provides that not more than one glucocorticoid may be administered to a horse entered to race; prohibits the use of any authorized bleeder medication except furosemide. The proposed amendment to Rule 1844, Authorized Medication, removes the list of NSAIDs that were authorized for administration to horses entered to race; and removes eight drug substances that could be present in the official blood test sample. These medication and penalty changes will not significantly impact businesses.

PURPOSE:

The proposed amendments to Rule 1843.3, Rule 1843.5, and Rule 1844 will enhance the health and safety of race horses, and those that attend horses and exercise and ride them in races, by disallowing drug substances that have the potential to mask the pain of pre-existing conditions. The proposed regulations will provide the Board's official and racing veterinarians with an enhanced ability to observe the true condition of a horse prior to racing. As such, the proposed regulations will help reduce equine fatalities and injuries. The proposed regulations will also improve the public's perception of horse racing, as the regulations are the result of the Board's collaboration with the industry to ensure that California's horse races are free of the influence of performance enhancing substances.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendments to Rule 1843.3, Rule 1843.5 and Rule 1844 address horse racing medication issues. The Board has determined that the regulations will have no direct impact on the creation or elimination of jobs within the state.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF BUSINESSES CURRENTLY DOING BUSINESS IN THE STATE OF CALIFORNIA

The proposed amendments to Rule 1843.3, Rule 1843.5, and Rule 1844 will deauthorize the use of previously authorized drug substances in horses entered to race. In addition, the proposed regulations provide that a horse entered to race may only receive water, hay and grain until post time. As the proposed regulations address horse racing medication issues, the Board has determined they will not create new businesses or eliminate businesses currently doing business in the State of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed amendments to Rule 1843.3, Rule 1843.5, and Rule 1844 will deauthorize the use of previously authorized drug substances in horses entered to race. In addition, the proposed regulations provide that a horse entered to race may only receive water, hay and grain until post time. As the proposed regulations address horse racing medication issues, the Board has determined that the proposed regulations will not inhibit the expansion of businesses currently doing business in the State of California.

BENEFITS OF THE PROPOSED AMENDMENTS TO THE HEALTH AND SAFETY AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The proposed amendments to Rule 1843.3, Rule 1843.5, and Rule 1844 will improve race horse health and safety, as well as the health and safety the industries' workers, especially those that attend horses and exercise and ride them. Fewer equine injuries and fatalities will result in a decrease in jockey and exercise rider injuries. The public's perception of horse racing will improve, as California's horse races will be run free of medications and other substances that have the potential to influence the outcome of a race. The proposed regulations will not benefit the state's environment.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES

The proposed amendments to Rule 1843.3, Rule 1843.5 and 1844 were discussed at the Board's regularly scheduled March 2019 meeting. No alternatives to the recommended

amendments were proposed by the Board or by any other individual or entity at the meeting. No subsequent recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
January 3, 2020