

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public **until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.**

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 1588, HORSE INELIGIBLE TO START IN A RACE

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

PROPOSED REGULATORY ACTION

The California Horse Racing Board (Board or CHRB) proposes to amend Board Rule 1588, Horse Ineligible to Start in a Race, to provide that a horse is ineligible to start in any race in California if it is on the Veterinarian's List in another racing jurisdiction, unless with prior approval of the stewards.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, October 23, 2014**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, Baldwin Terrace Room, 285 West Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

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 at **5:00 p.m. on October 20, 2014**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6042
E-mail: ltturner@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference Sections: 19440, and 19562, Business and Professions Code.

Business and Professions Code section 19440 and 19562 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, authorizes the Board to adopt, amend or repeal regulations, and allows for the Board to delegate any of its powers to the stewards.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19562 states that the Board may prescribe rules, regulations, and conditions on all California horse races with wagering on their results. Rule 1866, Veterinarian's List, defines the California Veterinarian's List and states the general rules and uses of the list. It states a horse may be placed on the list due to veterinary treatment, physical distress, injury, lameness, unsoundness, or infirmity. Rule 1588, Horse Ineligible to Start in a Race, identifies the circumstances that make a horse ineligible to start in a race, including being on the California Veterinarian's List. The Board proposes amending Rule 1588, Horse Ineligible to Start a Race. The proposed amendment adds a new subsection 1588(j), which provides that a horse on the Veterinarian's List in another racing jurisdiction is ineligible to start in a race in California unless it has prior approval of the stewards. A horse is placed on a Veterinarian's list for many reasons, including an injury or illness causing the horse to be unsound to race, or issues related to medication. Allowing a horse on a Veterinarian's List entry into a California horserace poses a safety hazard to the horse, its jockey, and other entrants of a race. It is common practice in California for the Official Veterinarian to consult the Veterinarian's Lists of other racing jurisdictions when determining a horse's eligibility to race. This is done using InCompass Solutions, a software system developed by the Jockey Club, a national organization, formed in New York in 1894, dedicated to the improvement of thoroughbred breeding and racing. InCompass Solutions stores and maintains Veterinarian's List information of participating racing jurisdictions. Because there is currently no rule prohibiting horses on another racing jurisdiction's Veterinarian's List from racing in California, the practice of checking for such horses competing in California races is inconsistent. Some Official Veterinarians are diligent in determining whether an unfamiliar horse is on a Veterinarian's List of another jurisdiction, and other Official Veterinarian's are less diligent. The addition of subsection 1588(j), which prohibits entry of horses on a Veterinarian's List in another jurisdiction is necessary to ensure all horses deemed unfit to race by another racing jurisdiction face a higher and consistent level of scrutiny before being allowed to race in California.

Recognizing that unforeseen problems with administrative procedures, as well as the time of relocation of the horse to California, may delay the removal of the horse from another jurisdiction's Veterinarian's List, the proposed addition of subsection 1588(j) provides California stewards the flexibility to approve the race eligibility of a horse found on another jurisdiction's Veterinarian's list. Although the stewards may consult with the Official Veterinarian when approving the race eligibility of a horse, they are the body with the authority to make such

decisions. CHRB Rule 1580, Control over Entries and Declarations, provides that all entries and declarations are under the supervision of the stewards.

All other proposed changes to Rule 1588 are for the purpose of clarification, consistency, renumbering and grammar.

ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1588 promotes the protection of horse racing participants and improves equine safety. Veterinarians are not able to catch every possible issue with a horse that would place it on the Veterinarian's List. Some issues are hidden, presenting signs intermittently, or not at all. Utilizing Veterinarian's Lists from other racing jurisdictions is a helpful tool, putting more scrutiny on horses that have previously been determined to be unfit to race. Utilizing the Veterinarian's Lists from other racing jurisdictions also prevents a trainer or owner with a horse determined to be unfit in another jurisdiction from moving the horse to California to avoid any required rehabilitation, in the hope of hiding its issue from California veterinarians. The proposed amendment to Rule 1588 will help to prevent jockey injuries, saving the racing industry money by reducing the cost of workers' compensation claims, and will also prevent horse injury or loss. Therefore the proposed rulemaking will benefit the health and safety of the jockey and the horse which are essential elements in the horseracing industry.

CONSISTENCY EVALUATION

During the process of developing this amendment, the CHRB has conducted a search of any similar regulations on this topic and has concluded that this amendment is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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 Section 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 Rule 1588 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 following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: 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.

The adoption of the proposed amendment to Rule 1588 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1588 promotes the protection of worker and equine safety as well as the public's interest in a fair and honest race product.

Effect on small businesses: none. The proposal to amend Rule 1588 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 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, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons 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:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6042
E-mail: ltturner@chrb.ca.gov

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

Andrea Ogden, Manager
Policy and Regulations
Telephone: (916) 263-6033

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 on, may be obtained by contacting Leeland Turner, or the alternative contact person at the address, phone number or e-mail 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 which 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 Leeland Turner 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 available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Leeland Turner 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 web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

1588. HORSE INELIGIBLE TO START IN A RACE.

SPECIFIC PURPOSE OF THE REGULATION

The California Horse Racing Board (Board or CHRB) proposes to amend Board Rule 1588, Horse Ineligible to Start in a Race, to provide that a horse is ineligible to start in any race in California if it is on the Veterinarian's List in another racing jurisdiction, unless with prior approval of the stewards.

PROBLEM

When a horse is put on the Veterinarian's List in California, it has been determined to be unfit to race; however, under current regulations, a horse that is placed on a Veterinarian's List in a racing jurisdiction outside of California may still be entered to race at a California racetrack.

NECESSITY

The proposed amendment to Rule 1588, Horse Ineligible to Start a Race, adds a new subsection 1588(j), which provides that a horse on the Veterinarian's List in another racing jurisdiction is ineligible to start in a race in California unless it has prior approval of the stewards. A horse is placed on a Veterinarian's list for many reasons, including an injury or illness causing the horse to be unsound to race, or issues related to medication. Allowing a horse on a Veterinarian's List entry into a California horserace poses a safety hazard to the horse, its jockey, and other entrants of a race. It is common practice in California for the Official Veterinarian to consult the Veterinarian's Lists of other racing jurisdictions when determining a horse's eligibility to race. This is done using InCompass Solutions, a software system developed by the Jockey Club, a national organization, formed in New York in 1894, dedicated to the improvement of thoroughbred breeding and racing. InCompass Solutions stores and maintains Veterinarian's List information of participating racing jurisdictions. Because there is currently no rule prohibiting horses on another racing jurisdiction's Veterinarian's List from racing in California, the practice of checking for such horses competing in California races is inconsistent. Some Official Veterinarians are diligent in determining whether an unfamiliar horse is on a Veterinarian's List of another jurisdiction, and other Official Veterinarians are less diligent. The addition of subsection 1588(j), which prohibits entry of horses on a Veterinarian's List in another jurisdiction is necessary to ensure all horses deemed unfit to race by another racing jurisdiction face a higher and consistent level of scrutiny before being allowed to race in California.

Recognizing that unforeseen problems with administrative procedures, as well as the time of relocation of the horse to California, may delay the removal of the horse from another jurisdiction's Veterinarian's List, the proposed addition of subsection 1588 (j) provides stewards the flexibility to approve the race eligibility of a horse found on another jurisdiction's Veterinarian's list. Although the stewards may consult with the Official Veterinarian when approving the race eligibility of a horse, they are the body with the authority to make such decisions. CHRB Rule 1580, Control over Entries and Declarations, provides that all entries and declarations are under the supervision of the stewards.

All other proposed changes to Rule 1588 are for the purpose of clarification, consistency, renumbering and grammar.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION.

The proposed amendment to Rule 1588 promotes the protection of horse racing workers and improves equine safety. Veterinarians are not able to catch every possible issue with a horse that would place it on the Veterinarian's List. Some issues are hidden, presenting signs intermittently, or not at all. Utilizing Veterinarian's Lists from other racing jurisdictions is a helpful tool, putting more scrutiny on horses that have previously been determined to be unfit to race. Utilizing the Veterinarian's Lists from other racing jurisdictions also prevents a trainer or owner with a horse determined to be unfit in another jurisdiction from moving the horse to

California to avoid any required rehabilitation, in the hope of hiding its issue from California veterinarians. The proposed amendment to Rule 1588 will help to prevent jockey injuries, saving the racing industry money by reducing the cost of workers' compensation claims. The proposed amendment will also prevent horse injury or loss.

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

The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the amendment to Rule 1588.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS.

Impact on Jobs/New Businesses: The Board has determined the proposed amendment to Rule 1588 will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. The jurisdiction of Rule 1588 is limited to the inclosures of racing associations and fairs, and as such only has an effect on horseracing and not any other type of California business.

Benefits of Proposed Regulation: The proposed amendment to Rule 1588 will benefit California by promoting the protection of horse racing workers and improving equine safety. The proposed amendment to Rule 1588 will help to prevent jockey injuries, saving the racing industry money by reducing the cost of workers' compensation claims. The proposed amendment will also prevent horse injury or loss.

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

The Board has determined that no reasonable alternative it considered, or that has otherwise been identified and brought its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons or businesses than the proposed action, would be more cost-effective to affected private persons or businesses and equally effective in implementing the statutory policy or other provision of law.

PROPOSED REGULATORY ACTION WILL NOT HAVE SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has made an initial determination that the proposed amendment to Rule 1588 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. Allowing horses on other jurisdiction's Veterinarian's Lists to race is a risk that often leads to an adverse economic impact on all parties involved in the race: the owners and trainers of the horses, the jockeys, and the wagerers who expect a fair race product. The proposed amendment to Rule 1588 will help improve this adverse economic impact by preventing these horses from racing until they have been cleared to do so.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION.

The proposed amendment to Rule 1588 was discussed at the July 19, 2013 Medication and Track Safety Committee meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the meeting. No subsequent alternative 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
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 6. ENTRIES AND DECLARATIONS
1588. HORSE INELIGIBLE TO START IN A RACE.

1588. Horse Ineligible to Start in a Race.

In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(a) ~~if~~ Such horse is not registered by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, or the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(b) ~~if~~ The parentage verification to both the sire and the dam of all horses foaled in 1992 and thereafter has not been certified by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(c) ~~U~~nless the stewards permit otherwise, the certificate of foal registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary at the time of entry;

(d) ~~if~~ Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry;

(e) ~~if~~ if the certificate of foal registration, eligibility papers or other registration issued by the official registry has been altered, erased, or forged;

(f) ~~if~~ if the identification markings of the horse do not agree with the identification markings as set forth in the registration of such horse;

(g) ~~Unless~~ unless he is eligible to enter said race and is duly entered for such race;

(h) ~~When~~ when such horse is owned in whole or in part by an unlicensed person or is in the care of an unlicensed trainer;

(i) ~~When~~ when such horse is on the Steward's List, the Starter's List or the Veterinarian's List;

(j) when, except with prior approval of the stewards, such horse is on the Veterinarian's List in another racing jurisdiction; or

~~(j)~~ (k) when, except with prior approval of the stewards, such horse has not been on the grounds of the association or its approved auxiliary stable area for at least 24 hours prior to the time the race is to be run.

Authority: Sections 19440 and 19562,
Business and Professions Code.

Reference: Sections 19440 and 19562,
Business and Professions Code.