

INITIAL STATEMENT OF REASONS

RULE 1588. Horse Ineligible to Start in a Race

RULE 1866. Veterinary List

SPECIFIC PURPOSE OF THE PROPOSED NEW SUBSECTIONS

The Board proposes to amend Rule 1588, Horse Ineligible to Start in a Race. The proposed amendment will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race² as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f).

The Board proposes to amend Rule 1866, Veterinary List. The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events.

PROBLEM

The CHRB tracks horse fatalities that occur at any facility under its jurisdiction. Horses may suffer fatalities while racing, training, or due to other non-exercise related causes, including stable area accidents or medical maladies such as gastro-intestinal, respiratory, or neurological diseases. One of the primary purposes of tracking such fatalities is to identify health and safety risks for horse and rider, and to implement preventive or corrective actions. At the February 2017 CHRB Medication, Safety and Welfare Committee meeting, staff reported that a survey of California racehorse fatalities occurring 2013 through 2016 revealed that twenty percent of the losses in this state were horses that raced after an extended lay-off. At the same time, the Board looked at first time starters that were four years old, or older. Research into risk factors for equine fractures in the United States has demonstrated that horses starting racing careers at four years old (and older) are at a greater risk of injury than horses that started racing earlier in their career. A report from the Equine Injury Database found that four-year-old first time starters were 33% more likely to have an injury than two year olds. At the recommendation of the Board's Equine Medical Director, the Committee endorsed a proposal to amend Rule 1588 to add subsection 1588(a)(14) to require that horses returning from an extended layoff of 12 consecutive months or more demonstrate their physical fitness prior to being entered to race. The proposed amendment will aid in the reduction of race horse injuries and fatalities by providing that a horse will not be allowed to start in a race after a 12-month layoff, unless it is found to be raceably sound and in fit physical condition to exercise its best efforts in a race. To address the issue of risk factors involved with first time starters that are four years old, or older, the Board proposes to amend Rule 1588 to add subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a

² Standardbred, or harness racing is a form of horse racing in which standardbred horses race at a specific gate (a trot or a pace). They pull a two wheeled cart called a sulky, occupied by a driver.

standardbred qualifying race as provided in Rule 1866(e) and (f). The addition of subsections 1588(a)(14) and (a)(15) will promote the health and safety of race horses and, by extension, the health and safety of jockeys and other racetrack personnel.

Subsection (e) of Rule 1866 currently provides that a horse may be required to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness. The regulation does not identify a “qualifying race” as a standardbred event. The proposed amendment to Rule 1588 also uses the term “qualifying race.” In discussing the proposed amendment to Rule 1588, the Board was made aware that not everyone would understand that for the purposes of the regulation a qualifying race is a standardbred event. The text of Rule 1588 was changed for purposes of clarity to read “standardbred qualifying race.” Because the proposed amendment to Rule 1588 references subsection 1866(e) and (f), the Board determined it was necessary to amend Rule 1866 to make it clear that “qualifying race” is a standardbred event.

NECESSITY

The proposed amendment to Rule 1588 adds subsection 1588(a)(14), which states that a horse that has not raced at a recognized race meeting within 12 consecutive months since its previous start must perform satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). As provided under Rule 1866(e), the proposed amendment gives the official veterinarian the ability to have the horse perform satisfactorily in a workout or standardbred qualifying race to demonstrate its physical fitness. Post-work blood and urine test samples shall be taken from such horse and the provision of Article 6 of Title 4, Division 4, Business and Professions Code shall apply to such official workouts in the same manner as a scheduled race. As defined in subsection 1866(f), a workout is an exercise session near full speed, or close to full speed. A standardbred qualifying race is a race at a trotting or pacing gate, in which a standardbred horse must establish its ability to participate at a race meeting. In both cases, the events serve to show the horse’s speed, fitness and ability. A demonstration of the horse’s physical fitness is necessary because an extended layoff from racing removes the horse from racing-level training. Despite an owner’s expectations, the horse may not be able keep up with the rigors of racing. In addition, the horse may have been laid off from racing because of injuries. The required workout will give the official veterinarian a chance to evaluate the horse to determine if it has fully recovered. The post-work test samples are necessary to ensure the horse is not running on medications or drug substances designed to mask its true condition. The proposed addition of subsection 1588(a)(14) is in line with current entry requirements at California race tracks. Board Rule 1437, Conditions of a Race Meeting, provides that the association may impose conditions for its race meeting as it may deem necessary, provided that such conditions may not conflict with the rules, regulations or orders of the Board. Racing associations’ Condition Books state that horses that have not raced in 90 days, 60 days or 30 days must perform official workouts. The Santa Anita Park Condition Book for its December 2018 through January 2019 race meeting requires horses which have not raced in 90 days to perform 3 works, within 60 days 2 works, and within 30 days 1 work. The official workouts must be met before the horse is eligible to be entered to race. One purpose of the workouts is to ensure the horse is in fit physical condition to race. The proposed addition of subsection 1588(a)(14) is also in line with the Association of Racing Commissioners International (ARCI) Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it has not raced within

12 consecutive months since its previous start, until the horse has been subjected to an assessment of its racing condition, including the taking of post-workout blood and urine test samples. The ARCI is the only umbrella organization of the official governing rule making bodies for professional horse racing in North America. It sets standards for racing regulation, medication policy, drug testing and all other aspects of the sport. California's adoption of ARCI Model Rule guidelines brings the Board's regulations in line with ARCI recommendations and promotes uniformity in the various states' horse racing regulations. Such uniformity benefits horsemen who may race in more than one jurisdiction, as a similar regulatory scheme will apply from state to state.

A new subsection 1588(a)(15) provides that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). All race horses turn one year old on January 1 of the year following their birth. A horse may start its racing career at two years of age; however, in California, a horse must actually have reached its second birth date before it can enter into a race (For example: a horse born on May 9, 2016 would not be eligible to enter into a race until May 9, 2018.). Nationally, older horses have made up a large part of the racing population with an estimated one-third of the horse racing population at least five years old. Some states enforce age restrictions for Thoroughbreds, and the United States Trotting Association (USTA) enforces a Standardbred retirement age of 14 years.³ California does not have an age cut off for racing (although it honors the USTA rule). Horses as old, or nearly as old, as 13 years of age regularly compete in North American races. However, it has been demonstrated that un-started four-year-old horses (and older) are at a greater risk of injury than horses that started racing earlier in their career. Although the reason for this is not clear, some horses may start later because of ongoing health issues, or confirmation or soundness issues. A report from the Equine Injury Database (EID), which looked at all California races during the course of the study, states that first time starters four years old and older have an increased chance of injury. The EID found that four-year-old first-time starters were 33% more likely to have an injury than two-year olds. The proposed addition of subsection 1588(a)(15) is necessary to help ensure that horses four years old and older, that are first time starters, are raceably sound and in fit physical condition to exert their best effort in a race. The proposed amendment is in line with the ARCI Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it is a first-time starter four years of age or older, until the horse has been subjected to an assessment of its racing condition, including the taking of post-workout blood and urine test samples.

The proposed amendment to Rule 1866 will modify subsection 1866(e) to provide clarity regarding the term "qualifying race." As used in Rules 1588 and 1866, the term refers to standardbred qualifying races. Qualifying races are purse-less races that are required for horses that break stride too often, behave badly before or during races, that fail to produce speed up to the local standard or that have been sidelined by illness or injury. Essentially, qualifying races assure the public that a horse permitted to start in an event with pari-mutuel wagering is fit for competition.

³ USTA Rule 19-Racing Under Saddle, section 19.04. Age and Gait of Horse. No horse under the age of three (3) and no older than fourteen (14) years of age shall be eligible to start. Racing Under Saddle races shall be restricted to the trotting gait.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment to Rule 1588 adds a new subsection 1588(a)(14), which states that a horse that has not raced at a recognized race meeting within 12 consecutive months since its previous start must perform satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment will also add subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment of Rule 1866 will modify subsection 1866(e) to provide clarity regarding the term “qualifying race.” The addition of subsections 1588(a)(14) and (a)(15) will promote the health and safety of race horses. The health and safety of jockeys will also be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. Ensuring the health of race horses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride. The proposed amendment of Rule 1866 will provide clarity for persons who must comply with the regulation.

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

The following studies/relevant data were relied upon in making the above determination

Association of Racing Commissioners International Model Rules of Racing Version 8.4.1.

Parkin, Tim (2015) Equine Injury Database – models, risk factor and prediction (PowerPoint slides)

Georgopoulos, Stamatis P., Parking, Tim D.H., “Risk factors for equine fractures in Thoroughbred flat racing in North America.” Preventive Veterinary Medicine 139 (2017) 99-104.

ECONOMIC IMPACT ASSESSMENT

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

1. The proposed regulations will not impact the creation or elimination of jobs within the State of California.
2. The proposed regulations will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.
3. The proposed regulations will not have an impact on the expansion of existing businesses in the State of California.
4. The proposed regulations will benefit California by promoting the safety and welfare of horses and riders and will not benefit nor negatively impact the State’s environment.

The Board has made the initial determination that the proposed amendment to Rule 1588 and Rule 1866 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 safeguard the health and welfare of race horses, and act to reduce jockey injuries.

PURPOSE

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as

provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has determined this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

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

The proposed amendment of Rule 1588 will affect only those horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race. The amendment provides that such horses shall be ineligible to start in a race until they have performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866. The proposed amendment of Rule 1866 clarifies the meaning of “qualifying race.” Because the proposed amendments merely define additional prerequisites for racing eligibility, the CHRB has determined that the proposed regulatory actions are not relevant to the expansion of businesses currently doing business in the State of California.

INITIAL DETERMINATION

Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has made an initial determination that the proposed amendment of Rule 1588 and Rule 1866 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 1588 will affect only those horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race. The amendment provides that such horses shall be ineligible to start in a race until they have performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866. The proposed amendment of Rule 1866 clarifies the meaning of “qualifying race.”

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE’S ENVIRONMENT

The proposed amendment of Rule 1588 and Rule 1866 is a benefit to the health and welfare of California residents because they promote the health and safety of horse and rider.

Requiring workouts and standardbred qualifying races, as well as official blood and urine samples from race horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race, serves to ensure that horses are race ably sound and in fit physical condition to exert their best efforts in a race.

The proposed amendment of Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment of Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. The required workouts and qualifying races, and the blood and urine sampling, will serve to safeguard the health and welfare of horses and riders.

The proposed amendment of Rule 1588 and Rule 1866 will benefit the health and welfare of California residents who hold occupational licenses as jockeys, apprentice jockeys, drivers or other licensees that require close proximity to race horses. The proposed regulations safeguard the health and safety of the California's racing equines. Sound race horses help prevent accidents and injuries to horse and rider. This regulation does not benefit nor negatively impact the state's environment.

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 to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to 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.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment of Rule 1588 and Rule 1866 was discussed at the October 2018 Medication Safety and Welfare Committee Meeting and the October 2018 Regular Board Meeting. No alternatives to the recommendations 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
April 26, 2019