

CALIFORNIA HORSE RACING BOARD

2nd 15-DAY NOTICE OF MODIFICATION TO THE TEXT OF THE PROPOSED AMENDMENT TO RULE 1846.5, POSTMORTEM EXAMINATION, AND RULE 1846.6 POSTMORTEM EXAMINATION REVIEW

Pursuant to the requirements of Government Code (GC) section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations (CCR), the California Horse Racing Board (CHRB/Board) is providing notice of changes that have been made to the text of the proposed amendment to Board Rule 1846.5, Postmortem Examination and Board Rule 1846.6, Postmortem Examination Review.

The Board is also providing notice that documents incorporated by reference are available for public inspection and comment.

CHANGES TO THE PROPOSED TEXT

The originally proposed text was noticed to the public on April 14, 2023. No request for a public hearing was received. During the 45-day comment period, which was from April 14, 2023, to May 30, 2023, one public comment was received. The comment received was from Eric Sindler, on behalf of Santa Anita Park and Golden Gate Fields, recommending proposed changes to the text. This proposed change was presented and adopted by the Board at its August 17, 2023, meeting. The proposed new text was noticed to the public for the first 15-day comment period from September 1, 2023, to September 16, 2023. No public comments were received during the first 15-day notice. The final rulemaking package was submitted to the Office of Administrative Law (OAL) on October 18, 2023. On November 30, 2023, OAL informed the Board that the proposed amendment to Rule 1846.5 and Rule 1846.6 did not meet the requirements of the California Administrative Procedures Act (APA), and thus OAL could not approve the file without modification. The Board subsequently approved changes to modify the proposed regulation to bring the rulemaking into compliance with the APA at the January 18, 2024, regular Board meeting.

A copy of the full text of the regulations with the proposed changes indicated is attached for your review. The originally 45-day proposed text amendments appear in single underline text and deletions are shown in ~~single strikethrough~~. Changes to the proposed text for the first 15-day comment period, which was from September 1, 2023, to September 16, 2023, were indicated with double underlined text for additions and ~~double strikethrough text~~ for deletions. For the second 15-day comment period, which is from January 22, 2024, to February 6, 2024, modifications to the originally proposed text amendments and additions to the originally proposed text, appear in **bold double underlined text** for additions, and ~~**bold double strikethrough**~~ for deletions.

Rule 1846.5, Postmortem Examination

The proposed amendments of Board Rule 1846.5 has been modified for consistency, clarity, and necessity.

Currently, “racing association” and “racetrack” are both used in the text of Rule 1846.5. For consistency and clarity purposes, on the existing text of subsection 1846.5 (c), “racing association” was stricken and replaced with “racetrack.” It is necessary to replace “racing association” with “racetrack” to be consistent with terminology already used in Rule 1846.5 and throughout existing regulations. Specifically, the term “racetrack” is used on subsections 1846.5 (a), (c), and (f).

On the proposed new text of subsection 1846.5 (c), for consistency and clarity purposes, “racing association” was stricken and replaced with “racetrack;” “facility” was stricken and replaced with “center;” “resided” was stricken and replaced with “stabled.” It is necessary to replace the terms “racing association,” “facility,” and “resided” from the proposed new text to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, “racetrack” is used in subsections 1846.5 (a), (c), and (f). Currently, “center” is used in subsections 1846.5 (c) and (f). Currently, “stabled” is used in subsection 1846.1 (a).

For clarity purposes, the proposed new text of subsection 1846.5 (c) was modified, the following statement was added “immediately prior to the time of death” to the end of the proposed new text of subsection 1846.5 (c), after the word “stabled.” This change is necessary for the Board to assign responsibility to the racetrack or training center “where the horse was last stabled immediately prior to the time of death,” for the costs associated with transportation of a horse, after it has died, to the diagnostic laboratory. It is the intent of the Board to reduce the risk of non-payment of the costs associated with transportation of the horse. The Board made the determination that assigning the responsibility to the racetrack or training center, “where the horse was last stabled immediately prior to the time of death,” for the costs associated with transportation of a horse to the diagnostic laboratory, is consistent with the existing process per subsection 1846.5 (c). Currently, subsection 1846.5 (c) states, “The costs associated with transportation to the diagnostic laboratory of any horse which has died under the provisions of subparagraph (a) shall be the responsibility of the racetrack conducting the meeting where the death occurred or the training center or racetrack where death occurred when no meeting is in progress.”

For clarity purposes, the proposed new text of subsection 1846.5 (d) was modified, the sentence beginning with, “The trainer is” and continued with the statement “the absolute insurer of the horse and responsible for the timely submission of CHRB-72 to the extent that the trainer exercised care and control at the time of death,” was stricken. This change is necessary for the Board to assign responsibility for the timely submission of CHRB-72 and to mitigate and reduce the risk of non-timely submission or non-submission of CHRB-72.

Furthermore, for clarity purposes, on the proposed new text of subsection 1846.5 (d), the last sentence that began with “The owner,” and continued with the statement, “of the horse is the joint absolute insurer and is equally responsible for ensuring CHRB-72 is filed,” was stricken and replaced with the text, “is co-responsible to supply all information to complete and file CHRB-72.” This change is necessary for the Board to assign the responsibility of completing and filing CHRB-17, to the trainer and owner, and to mitigate and reduce the risk of non-completion or

non-filing of CHRB-72. Additionally, this change was necessary to provide clarity that we were referring to responsibility of completing the CHRB-72 and not for insurance purposes.

On the proposed new text of subsection 1846.5 (e), the last sentence that began with, “On the official,” and continued with the statement, “veterinarian’s next scheduled work day of the racing association or training facility where the horse was last resided,” was stricken and replaced with new text. This change is necessary for the Board to provide written guidance to the owner and trainer on how to proceed with the handling of the original CHRB-72, in the case of a horse which a horse dies or is euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board, to mitigate misunderstandings and reduce the risk of misplacement of original CHRB-17.

For consistency and clarity purposes, on the existing text of subsection 1846.5 (f), “racing association” was stricken and replaced with “racetrack.” It is necessary to replace “racing association” with “racetrack” to be consistent with terminology already used in Rule 1846.5 and throughout existing regulations. Specifically, the term “racetrack” is used on subsections 1846.5 (a), (c), and (f).

For clarity purposes, the proposed new text of subsection 1846.5 (g) was modified, the sentence beginning with “Once” and ending with the word “release,” was stricken and replaced with the statement “Upon written request, the Board shall release.” In addition, the following terms were added to proposed new text of subsection 1846.5 (g): “unredacted;” “of the report;” and “was.” Furthermore, “racing association” was stricken and replaced with “racetrack;” “facility” was stricken and replaced with “center;” “resided” was stricken and replaced with “stabled.” It is necessary to replace the terms “racing association,” “facility,” and “resided” to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, “racetrack” is used in subsections 1846.5 (a), (c), and (f). Currently, “center” is used in subsections 1846.5 (c) and (f). Currently, “stabled” is used in subsection 1846.1 (a). Lastly, the following statement was added to the end of the sentence of the proposed new text, “immediately prior to the time of death.” This change is necessary to implement the proposed new text for subsection 1846.5 (g) to enact the changes presented and adopted by the Board at its August 17, 2023, meeting. The Board determined that it agreed with the public comment received, during the 45-day comment period (April 14, 2024, to May 30, 2023), on behalf of Santa Anita and Golden Gate Fields, to release an unredacted copy of the necropsy report to the racetrack (former term racing association) or training center (former term training facility) where the horse suffered a catastrophic injury. Currently per existing subsection 1846.5 (g) upon completion of the postmortem examination, a written report is filed with the Executive Director of the Board. The written report filed with the Executive Director is an unredacted report. It is the intent of the Board to improve the safety of racehorses and to further the efforts to reduce equine fatalities in California. The Board concluded that releasing an unredacted copy of the report to the racetrack or training center where the horse was last stabled immediately prior to the time of death, will support the goal to improve the safety of racehorses and reduce equine fatalities in California. Currently, necropsy reports are released as unredacted reports after completed only to related parties and other copies of the reports are released through Public Records Act Requests pursuant to Government Code section 7920.000 et seq. and are redacted for confidentiality purposes. In order to decrease fatalities and increase the welfare of horses, and improve the overall mission of the Board, the Board proposes to include racetrack or training

center to be authorized to receive an unredacted copy of the report.

Rule 1846.6, Postmortem Examination Review

The proposed amendments of Board Rule 1846.6 has been modified for consistency, clarity, and necessity.

For clarity purposes, the proposed new text of subsection 1846.6 (g) was modified, the sentence beginning with “Once” and ending with the word “release,” was stricken and replaced with the statement “Upon written request, the Board shall release.” In addition, the following terms were added to proposed new text of subsection 1846.6 (g): “unredacted;” “of the report;” and “was.” Furthermore, “racing association” was stricken and replaced with “racetrack;” “facility” was stricken and replaced with “center;” “resided” was stricken and replaced with “stabled.” It is necessary to replace the terms “racing association,” “facility,” and “resided” to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, “racetrack” is used in subsections 1846.5 (a), (c), and (f). Currently, “center” is used in subsections 1846.5 (c) and (f). Currently, “stabled” is used in subsection 1846.1 (a). Lastly, the following statement was added to the end of the sentence of the proposed new text, “immediately prior to the time of death.” This change is necessary to adopt the proposed new text for subsection 1846.5 (g) to implement the changes presented and adopted by the Board at its August 17, 2023, meeting. The Board determined that it agreed with the public comment received, during the 45-day comment period (April 14, 2024, to May 30, 2023), on behalf of Santa Anita and Golden Gate Fields, to release an unredacted copy of the necropsy report to the racetrack (former term racing association) or training center (former term training facility) where the horse suffered a catastrophic injury. Currently per existing subsection 1846.6 (g) upon completion of the postmortem examination review, a written report is filed with the Executive Director of the Board, the owner, and trainer of the expired horse. The written report filed with the Executive Director, the owner, and the trainer is an unredacted report. It is the intent of the Board to improve the safety of racehorses and to further the efforts to reduce equine fatalities in California. The Board concluded that releasing an unredacted copy of the report to the racetrack or training center where the horse was last stabled immediately prior to the time of death, will support the goal to improve the safety of racehorses and reduce equine fatalities in California. Currently, necropsy reports are released as unredacted reports after completed only to related parties and other copies of the reports are released through Public Records Act Requests pursuant to Government Code section 7920.000 et seq. and are redacted for confidentiality purposes. In order to decrease fatalities and increase the welfare of horses, and improve the overall mission of the Board, the Board proposes to include racetrack or training center to be authorized to receive an unredacted copy of the report.

DOCUMENTS ADDED TO THE RULEMAKING FILE

Pursuant to the requirements of GC sections 11346.8(d), 11346.9(a)(1), and 11347.1, the Board is providing notice that documents and other information which the Board has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for

public inspection and comment.

The documents and information added to the rulemaking file are as follows:

- Addendum to the Initial Statement of Reasons

WRITTEN COMMENT PERIOD

Any interested person may submit a written statement relating to the modified language or the documents added to the rulemaking file during the public comment period from **January 22, 2024 – February 6, 2024**. All written comments must be submitted to the Board no later than **February 6, 2024**. The Board will only consider comments received at the Board's office by that time. Submit written comments to:

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Telephone: (916) 263-6023
Email: ygdegarcia@chrb.ca.gov

All written comments received by February 6, 2024 which pertain to the indicated text changes or the additional documents will be reviewed and responded to by the Board's staff as part of the completion of the rulemaking file. Please limit your comments to the modifications to the text. Text proposed to be added to the rulemaking in this comment period is displayed in **bold double underline** and proposed deletions to the rulemaking in this comment period is displayed in ~~**bold double underline**~~.

AVAILABILITY OF RULEMAKING DOCUMENTS ON THE INTERNET

Copies of this notice, the original Notice of Proposed Rulemaking, the Initial Statement of Reasons, the original proposed text of the regulations, additional documents and information to the record, and the revisions to the proposed text of the regulations can be accessed via the CHRB website at: http://www.chrb.ca.gov/rules_law.asp.

CALIFORNIA HORSE RACING BOARD
January 22, 2024