

Agenda Item #16

FIRST ADDENDUM TO VOLUNTARY IMPLEMENTATION AGREEMENT

THIS FIRST ADDENDUM TO THE VOLUNTARY IMPLEMENTATION AGREEMENT (the “Amendment”) is made and entered into this 16th day of February 2024 (the “Effective Date”), by and among the Horseracing Integrity and Safety Authority, Inc., a Delaware non-profit corporation, 401 West Main Street, Unit 222, Lexington, Kentucky 40507 (the “Authority”), the Horseracing Integrity & Welfare Unit, a division of Drug Free Sport, LLC (“Drug Free Sport”), a Delaware limited liability company, 4801 Main Street, Suite 350, Kansas City, Missouri 64112 (the “Agency”), and the Indiana Horse Racing Commission, an agency of state government, whose mailing address is 1302 North Meridian Street, Suite 175, Indianapolis, Indiana 46202 (the “Commission”). As used herein, the “Parties” shall mean the Authority, the Agency, and the Commission, collectively; and a “Party” shall mean the Authority, the Agency or the Commission, individually.

WHEREAS, the Parties entered into a Voluntary Implementation Agreement dated May 17, 2023 (the “Agreement”);

WHEREAS, the Parties agreed to extend the date by which the Parties must agree to extend the term of the Agreement from November 30, 2023, to December 31, 2023;

WHEREAS, the Parties now agree to extend the term of the Agreement from December 31, 2023 to December 31, 2024;

WHEREAS, the Parties agree to amend the Agreement to add to and/or modify certain terms and conditions contained therein;

WHEREAS, the Parties hereto desire that all other terms and conditions of the Agreement not specifically amended herein shall remain in full force and effect; and

WHEREAS, on September 21, 2023, the Authority submitted to the Federal Trade Commission a Proposed Rule Modification to the Rule 2000 Series under the Horseracing Integrity and Safety Act of 2020 (the “Proposed Rule Modification”).

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

1. The Parties agree that the Agreement shall be extended for one (1) additional year beyond the original term and that Section III (A)(1) of the Agreement shall be amended and replaced as follows:

Term and Termination. This Agreement shall be effective (the “Effective Date”) on the first business day following the full execution of this Agreement by the Parties, or if further approvals are required under applicable state law, the later to occur of: (i) the approval of this Agreement by the Commission; and (ii) the approval of any other state agency, commission, board or authority for which approval is required under state law. This Agreement shall terminate on December 31, 2024, unless the Parties agree in writing, on or before December 15, 2024, to extend the term of the Agreement beyond that date.

2. Section I (A) of the Agreement shall be amended and replaced as follows:

Medical Director. The Commission/Executive Director of the Commission does not elect to enter into an agreement with the Authority to establish a Medical Director in accordance with Rule 2132.

3. Section I (B) of the Agreement shall be amended and replaced as follows:

Safety Director. The Commission/Executive Director of the Commission names and appoints Horseshoe Indianapolis Supervising Racing Veterinarian Dr. Andrew Hirschy, with the assistance and/or input of the Commission's Equine Medical Director, Dr. Kerry Peterson, as Safety Director of the State (the "Safety Director"). The Commission agrees to provide written notice of the individuals appointed as Safety Directors to the individuals appointed as Safety Directors as well as a management official for each racetrack under the Commission's jurisdiction. The Authority and the Commission agree that the Safety Directors shall carry out the duties and responsibilities of the Safety Director set forth in the Racetrack Safety Program, including, but not limited to, the duties and responsibilities set forth in Rule 2131 of the Racetrack Safety Program. Any person named to replace the individual named as Safety Director herein shall possess the necessary qualifications to perform the duties and responsibilities set forth in Rule 2131 of the Racetrack Safety Program. In the event of a replacement, the Commission shall provide written notice to the Authority and a management official for each racetrack under the Commission's jurisdiction.

4. Section I (D) of the Agreement shall be amended and replaced as follows:

Regulatory Veterinarian. The Commission/Executive Director of the Commission names and appoints Commission Equine Medical Director Dr. Kerry Peterson as Regulatory Veterinarian of the State (the "Regulatory Veterinarian"). The Authority and the Commission agree that the Regulatory Veterinarian shall carry out the duties and responsibilities of the Regulatory Veterinarian set forth in the Racetrack Safety Program, and may delegate the duties provided in the Racetrack Safety Program to Horseshoe Indianapolis Supervising Racing Veterinarian Dr. Andrew Hirschy and his staff. Any person named to replace the individual named as Regulatory Veterinarian herein shall possess the qualifications set forth in Rule 2134(a) Racetrack Safety Program. In the event of a replacement, the Commission shall provide written notice to the Authority and a management official for each racetrack under the Commission's jurisdiction.

5. Coordination with Diagnostic Laboratory. The Parties acknowledge that, as part of the Proposed Rule Modification, the Authority submitted to the Federal Trade Commission a proposed modification to Rule 2170 of the Racetrack Safety Program which states in pertinent part: "Racetracks or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority shall coordinate with a diagnostic laboratory equipped with the facilities and trained personnel necessary to perform equine necropsies." If and

when the Proposed Rule Modification is approved by the Federal Trade Commission, the Commission agrees to coordinate with a diagnostic laboratory equipped with the facilities and trained personnel necessary to perform equine necropsies as contemplated in Rule 2170. If requested by the Commission, the Authority agrees to utilize best efforts to assist the Commission in coordinating with a diagnostic laboratory. The Commission agrees to coordinate with the Animal Disease Diagnostic Laboratory at the Purdue University College of Veterinary Medicine.

6. Section II (G) of the Agreement shall be amended by replacing the first sentence of subsection (1) with the following:

The Commission agrees that, for the 2024 calendar year, it and/or the racetrack will receive the credit established by the Authority in its updated 2024 assessment to the Commission and the State's racetrack, provided in a letter from the Authority CEO Lisa Lazarus (emailed on October 31, 2023), which will be applied to the amount paid to the Authority for that calendar year in connection with the funding required to be paid by the State and/or the State's racetrack to the Authority under the Act (the "State Testing Credit").

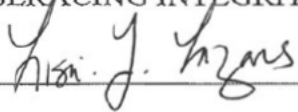
7. Section II (K)(3) of the Agreement shall be amended and replaced as follows:

(3) The Commission agrees (a) to provide the Agency with a certification or affidavit confirming that all Agency-Authorized Collection Personnel have satisfactorily completed a background check within a completion date no earlier than one (1) year prior to the individual's Certification; (b) are in good standing with the relevant racetrack(s) at which they will collect samples; and (c) that it is the Agency's responsibility to collect completed conflict of interest statements (in a form specified by the Agency) from all Agency-Authorized Collection Personnel. The minimum requirements for the background check must be at or greater than the standards of a background check required for licensure by the Commission. The Commission understands that the requirements of subsections (a), (b), and (c) are conditions of certification and recertification of Agency-Authorized Collection Personnel by the Agency. Additionally, the Commission agrees to notify the Agency immediately upon any termination of employment or contract of Agency-Authorized Collection Personnel.

8. Except as otherwise provided in this Addendum, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first written above.


HORSERACING INTEGRITY AND SAFETY AUTHORITY, INC.

BY: 

Name: Lisa Lazarus

Title: Chief Executive Officer

HORSERACING INTEGRITY & WELFARE UNIT,
A DIVISION OF DRUG FREE SPORT, LLC

BY: 

Name: Ben Mosier

Title: Executive Director

INDIANA HORSE RACING COMMISSION

BY: 

Name: Deena Pitman

Title: Executive Director, Indiana Horse Racing Commission



ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

TO: ARCI Board of Directors & Members

FROM: Ed Martin, ARCI President

DATE: January 30, 2024

RE: FTC Proposed HISA Budget Oversight

The attached document was issued by the US Federal Trade Commission indicating a forthcoming proposed rule that will ostensibly increase transparency and accountability for the Horseracing Integrity and Safety Authority (HISA) budget process.

Upon initial review, this is a step in the right direction in that it requires public disclosure of HISA's proposed budget and public comment prior to HISA Board consideration and subsequently when the document is before the Federal Trade Commission, which may alter the budget if it chooses.

The ARCI Board has previously authorized the association to advocate for increased transparency and accountability for HISA. As such, we have called for HISA to be subject to the Federal Advisory Committee Act (FACA) which calls for open meetings and public record access.

The proposed FTC rule is an improvement over the status quo but falls short of the requirements of the Federal Advisory Committee Act.

FEDERAL TRADE COMMISSION

16 CFR Part 1

[File No. P222100]

Horseracing Integrity and Safety Authority Oversight

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rule; request for comment.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) announces proposed rules regarding oversight of the Horseracing Integrity and Safety Authority (“Authority”). The proposed rules include new oversight provisions to ensure that the Authority remains publicly accountable and operates in a fiscally prudent, safe, and effective manner.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Write “HISA Rulemaking, Matter No. P222100” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex H), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sarah Botha, (202) 326-2036,

sbotha@ftc.gov, Office of the Executive Director, Federal Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The Horseracing Integrity and Safety Act of 2020 (“HISA” or “the Act”), Pub. L. 116-260, Title XII, 134 Stat 1182, 3252 (2020) (codified as amended at 15 U.S.C. 3051–3060), recognizes the Authority as a self-regulatory nonprofit organization charged with developing and enforcing rules relating to racetrack safety, anti-doping, and medication control. *See* 15 U.S.C. 3052. The Act expressly provides for Commission oversight of several aspects of the Authority’s operations. For example, the Commission must approve any proposed rule or rule modification by the Authority relating to the Authority’s bylaws, racetrack safety standards, anti-doping and medication control, and the formula or methodology for determining assessments. *See id.* In December 2022, Congress amended HISA to expand the Commission’s oversight role over the Authority. *See* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Sec. 701, 136 Stat. 4459, 5231 (2022). As amended, the Act gives the Commission the power to issue rules under the procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553, “as the Commission finds necessary or appropriate to ensure the fair administration of the Authority . . . or otherwise in furtherance of the purposes of this Act.” 15 U.S.C. 3053(e).

In light of the Commission’s experience in overseeing the Authority’s operations to date, the Commission is exercising its rulemaking authority to propose several new rule provisions to ensure effective Commission oversight over the Authority. The proposed new provisions are designed to ensure that the Authority is promoting

transparency and integrity in its operations. For example, new rule sections would require the Authority to submit and publish annual and midyear reports about its performance and financial position. The proposed rules would also require the Authority to develop, maintain, and publish a multi-year strategic plan, after taking public comments on the draft plan. The proposed rules would require the Authority to effectively manage risk and take steps to prevent conflicts of interest, waste, fraud, embezzlement, and abuse. The proposed rules would also mandate other operational requirements and identify best practices for the Authority to follow, as explained in the section-by-section analysis below. The Commission would add the proposed new rules as 16 CFR 1.153 – 1.156 in Subpart U of part 1 of its Rules of Practice. Subpart U would be renamed “Oversight of the Horseracing Integrity and Safety Authority” to more accurately reflect the content of the amended subpart.

Section by Section Analysis

§ 1.153 Submission of the Authority’s annual reports, midyear reports, and strategic plans. This proposed new section imposes certain requirements on the Authority to report on its finances for the preceding calendar year by May 15. This includes a complete accounting of the Authority’s budget (as audited by a qualified, independent, registered public accounting firm and in accordance with Generally Accepted Accounting Principles), a discussion of budgetary line items, a summary of travel expenses, and a summary of any new or continuing risks or issues raised by audits or other reviews. The proposed section also imposes certain requirements on the Authority to report by March 31 on its performance for the prior calendar year, with such report to include efforts made to carry out the requirements of the Act, a description of the cooperation with the states

as set forth in 15 U.S.C. 3060(b), a summary of final civil sanctions, an assessment of the Authority's progress in meeting or not meeting its performance measures contained in its strategic plan per § 1.153(d), a summary of Board of Directors committee recommendations and activities, information about any changes in the composition of the Authority's Board of Directors or standing committees, information about the relationship between the Authority and the anti-doping and medication control enforcement agency, a summary of all litigation to which the Authority is a party (including actions commenced by the Authority under 15 U.S.C. 3054(j)), a summary of all subpoenas issued by the Authority under 15 U.S.C. 3054(c), a description of any areas in which the Authority believes improvements to its operations are warranted, and the Authority's plans to achieve those improvements. The proposed section also requires the Authority to submit to the FTC by August 15 a same year midyear report covering January to June that describes spending and staffing levels and budgetary information. This midyear report would provide operational insight about the Authority's budget execution and risk management activities. Under the proposed section, the Authority also must develop and publish for public comment a multi-year strategic plan by June 30, 2024. The Authority must re-evaluate its strategic plan no less frequently than every five years. The strategic plan must align with the Authority's annual budget, discuss its priority initiatives, and set forth a set of performance measures. The Authority must publish its annual financial reports, annual performance reports, and strategic plans on its website.

§ 1.154 Enterprise risk management. This proposed new section imposes certain requirements on the Authority to ensure that it effectively manages risk to prevent

conflicts of interest, waste, fraud, embezzlement, or abuse. Paragraph (a) sets forth guiding principles around separation of duties and corrective action plans, and notes that risk management activities must ensure compliance, the avoidance of conflicts of interest or the appearance thereof, and the appropriate handling of funds received and expended by the Authority. Given the confidential nature of much of the Authority's work and the data that it collects, Paragraph (b) would require the Authority to ensure the privacy and security of its data in its systems, including those operated by third-party contractors, and require a complete annual evaluation of the status of its overall information technology program and practices as audited by a qualified, independent, third-party auditor. Given that the Authority leverages contractor resources in its operations, Paragraph (c) would require the Authority to document its market research for any action estimated at over \$10,000 to ensure the lowest cost or best value for goods and services to be provided, and to develop policies and procedures covering procurement activities. Given the FTC's need for regular communication and awareness of the Authority's activities, Paragraph (d) would require the Authority to provide advance notice to Commission staff of all significant Authority-planned events (*e.g.*, press conferences, media events, summits, etc.) via a calendar, list, email, or other reasonable means, to summarize key aspects of all such events on its website, and to give Commission staff prompt notice after significant adverse events in the horseracing industry that might reasonably lead to sanctions or track closures.

§ 1.155 Other best practices. This proposed new section includes a set of best practices that the Authority is encouraged to adopt to promote accountability, transparency of operations, and effective resource stewardship. These proposals include holding regular

monitoring meetings with the FTC; recommendations for how the Authority may maintain its records and information; recommendations for how the Authority should treat confidential information; a standing data request from the FTC for the Authority's Board of Directors minutes; recommendations about the Authority's personnel and compensation policies and practices; recommendations about the Authority's customer service program (and the development of associated metrics); and recommendations regarding the Authority's travel policies.

§ 1.156 *Severability*. This proposed new section notes that provisions of this subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write "HISA - Rulemaking, Matter No. P222100" on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we strongly encourage you to submit your comments online. To make sure the Commission considers your online comment, you must file it at <https://www.regulations.gov>, by following the instructions on the web-based form.

If you file your comment on paper, write “HISA - Rulemaking, Matter No. P222100” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex H), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “any trade secret or any commercial or financial information . . . which is privileged or confidential.” 15 U.S.C. 46(f); *see* FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, your comment should not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the

request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov>, as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b), we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), 16 CFR 4.9(c), and the General Counsel grants that request.

Visit the FTC Website to read this Notice and the news release describing it, and visit <https://www.regulations.gov/docket/FTC-2023-00XX> to read a plain-language summary of the proposed rule. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Paperwork Reduction Act

The Paperwork Reduction Act (“PRA”), 44 U.S.C. chapter 35, requires federal agencies to seek and obtain Office of Management and Budget approval before undertaking a collection of information directed to ten or more persons. Under the PRA, a rule creates a “collection of information” when ten or more persons are asked to report,

provide, disclose, or record information in response to “identical questions.”¹ The Commission concludes that the PRA does not apply to the proposed amendments because they only apply to one “person,” the Authority.

Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to either provide an Initial Regulatory Flexibility Analysis with a proposed rule, or certify that the proposed rule will not have a significant impact on a substantial number of small entities.² The RFA defines a “small entity” as a small business, a small governmental jurisdiction, or a small not-for-profit organization. *See* 5 U.S.C. 601(6).

The proposed amendments would apply only to the Authority, and the Authority is not a small business or a small governmental jurisdiction. While the Authority is a nonprofit entity, it is not a small not-for-profit organization, defined in the RFA as “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” *Id.* 601(5). The authority is not “independently owned and operated,” and it is dominant in its field. The Commission therefore certifies under the RFA that the proposed rule will not have a significant impact on a substantial number of small entities, and hereby provides notice of that certification to the Small Business Administration.

Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or a

¹ 44 U.S.C. 3502(3)(A).

² 5 U.S.C. 603-605.

Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

List of Subjects in 16 CFR Part 1

Administrative practice and procedure; animal welfare; animal drugs.

For the reasons set forth in the preamble, the Federal Trade Commission proposes to amend title 16, chapter I, subchapter A of the Code of Federal Regulations as follows:

PART 1 — GENERAL PROCEDURES

1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 552; 5 U.S.C. 601 note.

2. Revise subpart U to read as follows:

Subpart U — Oversight of the Horseracing Integrity and Safety Authority

Sec.

1.153 Submission of the Authority's annual reports, midyear reports, and strategic plans

1.154 Enterprise risk management

1.155 Other best practices

1.156 Severability

Subpart U Authority: 15 U.S.C. 3053(e)

§ 1.153 Submission of the Authority's annual reports and strategic plans.

(a) *Annual financial report.* Every year, by May 15, the Authority must follow the procedures in § 1.143 to submit an annual financial report to the Commission, detailing the items listed below for the previous calendar year. The Authority must also publish this report on its website. The report must contain:

(1) a complete accounting of the Authority's budget, as audited by a qualified, independent, registered public accounting firm and in accordance with Generally Accepted Accounting Principles (including a statement from the auditor attesting to the auditor's independence and its opinion regarding the financial statements

presented in the annual financial report);

(2) line-item comparisons between the approved budget's revenues and expenditures for the previous year and the actual revenues and expenditures for the previous year;

(3) an explanation of how the Authority has considered the relative costs and benefits in formulating the programs, projects, and activities described in the budget;

(4) a description and accounting of the Authority's insurance coverage;

(5) a description and accounting of any budgetary reserves;

(6) summaries of contracts or other liabilities that the Authority has entered into or may potentially incur;

(7) a summary of travel expenses, including an itemized list of any first-class travel (defined as the highest and most expensive class of service);

(8) any new or continuing material or significant risks or issues raised by the audit, internal quality or control reviews, other inspections or peer reviews of the Authority, or any inquiry or investigation by governmental or professional authorities, along with any steps taken (*e.g.*, corrective actions) to deal with any such issues, consistent with § 1.154; and

(9) any other information requested by Commission staff.

(b) *Annual performance report.* Every year, by March 31, the Authority must follow the procedures in § 1.143 to submit an annual performance report to the Commission, detailing the items listed below for the previous calendar year. The Authority must also publish this report on its website. The report must contain:

- (1) narrative summaries of all the major efforts by the Authority to carry out the requirements of the Act, including the status or results of any publicly announced investigations conducted by the Authority;
- (2) information about the Authority's cooperation with the States as set forth in 15 U.S.C. 3060(b), including whether each State has covered horseraces, elects to remit fees, or has entered into an agreement under 15 U.S.C. 3060(a)(1) to implement a component of the programs on racetrack safety or anti-doping and medication control;
- (3) a summary of all final civil sanctions imposed by the Authority in the previous year, in a tabular format; at a minimum, the summary should be broken down by violation category (*e.g.*, racetrack safety program, anti-doping and controlled medication protocol rules, etc.) and should include the total number of alleged violations by category, the number of times the violations were admitted and resolved without adjudication, the number of times any violations were contested and adjudicated, the number of times any sanctions were imposed, the number of times that no sanctions were imposed, the number of civil sanction notices that needed to be reissued or corrected, the total fines imposed, the total amount of purses forfeited, and the number of times the sanctions were appealed to the Commission's Administrative Law Judge;
- (4) an assessment of the Authority's progress in meeting or not meeting its performance measures contained in its Strategic plan per § 1.153 (d);
- (5) a statement from each Board of Directors committee summarizing its work in the previous year and all recommendations each such committee has made to the

Board;

(6) information about any changes in the composition of the Authority's Board of Directors or standing committees;

(7) information about the relationship between the Authority and the anti-doping and medication control enforcement agency, including how the enforcement agency is performing under its contract with the Authority and how many years remain under the contract;

(8) a summary of all litigation to which the Authority is a party, including actions commenced by the Authority under 15 U.S.C. 3054(j);

(9) a summary of all subpoenas issued by the Authority under 15 U.S.C. 3054(c);

(10) descriptions of any areas in which the Authority believes that improvements to its operations are warranted, together with the Authority's plans to achieve those improvements. Forward-looking information should reflect known and anticipated risks, uncertainties, future events or conditions, and trends that could significantly affect the Authority's future financial position, condition, or operating performance, as well as Authority actions that have been planned or taken to address those challenges; and

(11) any other information requested by Commission staff.

(c) *Midyear reporting.* By August 15, the Authority must furnish to the Commission a same-year midyear report covering January through June, to include:

(1) spending and staffing levels for the quarter ending June 30, compared to the levels in the Commission-approved budget;

(2) a summary of travel expenses, including an itemized list of any first-class

travel (defined as the highest and most expensive class of service);

(3) the status of outstanding and completed corrective actions; and

(4) any other information requested by Commission staff.

(d) *Strategic plan.* The Authority must develop and maintain a multiyear strategic plan.

The Authority must reevaluate the strategic plan no less frequently than every five years.

The Authority's annual budget must align with, and link spending to, the strategic goals.

The strategic plan must include items such as a description of its State-by-State

relationships and a discussion of planned rulemaking activities. The Authority must:

(1) post its draft strategic plan on its website for a public comment period of at least 14 days;

(2) present its final strategic plan to the Commission, along with a summary of its responses to public comments; and

(3) publish its final strategic plan on its website.

The Authority must submit its first strategic plan to the Commission on or before June 30, 2024.

(e) *Further guidance on strategic plan.* The Authority's strategic plan should include

forecasts of the Authority's industry environment and its priority initiatives for the

current and subsequent years. The strategic plan should also consider the impact that

program levels and changes in methods of program delivery, including advances in

technology, could have on program operations and administration. The Strategic Plan

should identify several strategic goals aligned with the Authority's mission statement.

Each strategic goal should have accompanying objectives, strategies, and performance

measures. As guiding principles, performance measures should:

- (1) be limited to the vital few and demonstrate results;
- (2) cover multiple priorities; and
- (3) provide useful information for decision-making.

Measures should be clear, measurable, objective, and reliable, and should focus on core program activities and priorities.

§ 1.154 Enterprise risk management

(a) *Guiding principles.* The Authority must effectively manage risk to prevent conflicts of interest, waste, fraud, embezzlement, and abuse. To manage risk, the Authority must align the enterprise risk-management process to the goals and objectives noted in the Authority's strategic plan. The Authority must assess risks, select risk responses, monitor whether responses are successful, and communicate and report on risks, consistent with § 1.153. The Authority must ensure that all internal controls have appropriate separation of duties (*e.g.*, requester, approver, recorder). In addition, the Authority must develop corrective action plans no later than 90 days after receiving a notice of finding from its auditors or other internal assessments. The Board of Directors (or one of the standing committees) must review and evaluate identified risks and proposed corrective action plans. The Authority must review regularly its corrective actions identified from all audits and internal assessments and should develop criteria by which to prioritize its response activities. The Authority must ensure that its risk management activities encompass:

- (1) compliance with applicable laws, rules, and regulations;
- (2) the avoidance of conflicts of interest, or the appearance thereof, in all aspects of the Authority's operations, including investigation and enforcement, vendor

selection, personnel assignments and responsibilities, and actions by the Board of Directors or management; and

(3) handling funds received and expended by the Authority, including revenue/expense policies, fundraising practices, contracting policies, travel policies, and real and personal property agreements and expenses.

(b) *Data security and privacy.* The Authority must ensure the privacy and security of data, including all reasonable measures to protect the confidentiality of any sensitive health information (SHI), personally identifiable Information (PII), and sensitive PII (SPII) stored in its systems, including those operated by the anti-doping and medication control program, the Horseracing Integrity and Welfare Unit, and the Authority's third-party contractors. The Authority must ensure a complete annual evaluation of the status of its overall information technology security program and practices, as audited by a qualified, independent, third-party auditor. The Authority must also ensure that it has policies, programs, and practices in place to protect SHI, PII, and SPII. The Authority must send a copy of the annual evaluation to Commission staff.

(c) *Vendor selection.* Procurement actions estimated at over \$10,000 must be accompanied by documented market research (*e.g.*, comparing the prices and other terms offered by the selected vendor against the prices and other terms offered by at least two other vendors) to ensure lowest cost or best value for goods or services to be provided. The Authority should also develop policies and procedures covering procurement activities.

(d) *Notice.* The Authority must provide advance notice to Commission staff of all significant Authority-planned events (*e.g.*, press conferences, media events, summits,

etc.) via a calendar, a list, email, or some other reasonable means. The Authority must also summarize key aspects of all such events on its website within a reasonable timeframe. The Authority must also give Commission staff prompt notice after it has been alerted to significant, adverse events in the horseracing industry (*e.g.*, adverse safety or medical events that might reasonably lead to sanctions, track closures, etc.).

§ 1.155 Other best practices

(a) *Regular monitoring meetings.* The Commission recommends that the Authority hold regular meetings with Commission staff to discuss upcoming or potential risks, challenges, and opportunities for improvement.

(b) *Records and information management.* The Commission recommends that the Authority maintain records and information in sufficient detail to support the Authority's programs and operations, as well as any records relating to its information management policies or procedures. The Commission expects that the Authority will make any of these records available to Commission staff upon request, to allow the Commission to carry out its statutorily mandated oversight.

(c) *Treatment of confidential information.* The Commission recommends that the Authority's submissions to the Commission not include any SHI, PII, or SPII, such as a Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. If the Authority submits documents to the Commission containing confidential commercial or financial information, it should so designate that material and request confidential treatment pursuant to § 4.10(g).

(d) *Standing data requests.* The Commission recommends that the Authority submit

Board of Directors minutes to the Commission's Office of the Secretary within 15 days following each Board meeting.

(e) *Personnel and compensation.* The Commission recommends that the Authority develop compensation policies and practices with the primary objective of attracting, developing, and retaining high-performing individuals capable of achieving the Authority's mission. The Authority should strive to recruit a diverse team of industry leaders whose unique backgrounds, education, cultures, and perspectives help position the Authority as an effective and innovative self-regulatory organization. The Commission also recommends that the Authority conduct periodic salary benchmarks to ensure that employee compensation is in line with other like organizations.

(f) *Customer service.* The Commission recommends that the Authority maintain publicly accessible points of contact (*e.g.*, email addresses, phone numbers) and monitor the timeliness with which it responds to inquiries. In this regard, the Commission urges the Authority to develop a policy and associated metrics covering its customer service activities, to be incorporated into its strategic plan and its regular reporting to the Commission.

(g) *Travel.* The Commission recommends that the Authority use standard, GSA-established, published per diem rates when determining how much a person may spend on lodging, meals, and incidental expenses. Nevertheless, actual subsistence expenses may be authorized under unusual circumstances with justification and prior approval from the appropriate approving official. The Commission urges the Authority to prohibit the use of first-class travel (defined as the highest and most expensive class of service) by employees, except when no other option is available or when a disability or exceptional

security conditions require it. The Commission also recommends that the Authority not reimburse its contractors for first-class travel unless exceptional circumstances warrant.

§ 1.156 Severability

The provisions of this Subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission,

April J. Tabor,

Secretary.

(b) If not previously provided to the requestor for inclusion with the requestor's submission of the request to the Executive Secretary, any CBP comments on the request shall be provided to the Executive Secretary within 20 days of the requestor's submission of the request to the Executive Secretary.

§ 400.42 [Amended]

■ 21. In § 400.42, remove and reserve paragraph (b).

§ 400.43 [Amended]

■ 22. In § 400.43, remove paragraph (i).

■ 23. In § 400.44:

■ a. Revise paragraphs (a), (b)(5), and (e); and

■ b. Remove paragraph (f).

The revisions read as follows:

§ 400.44 Zone schedule.

(a) The zone grantee shall submit to the Executive Secretary (electronic copy or as specified by the Executive Secretary) a zone schedule which sets forth the elements required in this section. No element of a zone schedule (including any amendment to the zone schedule) may be considered to be in effect until such submission has occurred. If warranted, the Board may subsequently amend the requirements of this section by Board Order.

(b) * * *

(5) Information identifying any operator which offers services to the public and which has requested that its information be included in the zone schedule; and

* * * * *

(e) A complete copy of the zone schedule shall be freely available for public inspection at the offices of the zone grantee. The Board shall make copies of zone schedules available on its website.

■ 24. In § 400.45, revise paragraph (b) to read as follows:

§ 400.45 Complaints related to public utility and uniform treatment.

* * * * *

(b) *Objections to rates and charges.* A zone participant showing good cause may object to any rate or charge related to the zone on the basis that it is not fair and reasonable by submitting to the Executive Secretary a complaint in writing with supporting information. If necessary, such a complaint may be made on a confidential basis pursuant to paragraph (a) of this section. The Executive Secretary shall review the complaint and issue a report and decision, which shall be final unless appealed to the Board within 30 days. The Board or the Executive Secretary

may otherwise initiate a review for cause. The primary factor considered in reviewing fairness and reasonableness is the cost of the specific services rendered. Where those costs incorporate charges to the grantee by one or more parties undertaking functions on behalf of the grantee, the Board may consider the costs incurred by those parties or evidence regarding market rates for the undertaking of those functions. The Board may rely on best estimates, as necessary. The Board will also give consideration to any extra costs incurred relative to non-zone operations, including return on investment and reasonable out-of-pocket expenses.

■ 25. In § 400.52, revise paragraph (b)(2) to read as follows:

§ 400.52 Notices and hearings.

* * * * *

(b) * * *

(2) The request must be made within 30 days of the beginning of the initial period for public comment (see § 400.32) and must be accompanied by information establishing the need for the hearing and the basis for the requesting party's interest in the matter.

* * * * *

■ 26. In § 400.61, revise paragraphs (a) and (c) to read as follows:

§ 400.61 Revocation of authority.

(a) *In general.* As provided in this section, the Board can revoke in whole or in part authority for a zone (see § 400.2(h)) whenever it determines that the zone grantee has violated, repeatedly and willfully, the provisions of the Act.

* * * * *

(c) *Appeals.* As provided in section 18 of the Act (19 U.S.C. 81r(c)), the grantee of the zone in question may appeal an order of the Board revoking authority.

[FR Doc. 2024-01953 Filed 2-7-24; 8:45 am]

BILLING CODE 3510-DS-P

FEDERAL TRADE COMMISSION

16 CFR Part 1

RIN 3084-AB79

Procedures for Oversight of the Horseracing Integrity and Safety Authority's Annual Budget

AGENCY: Federal Trade Commission.
ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") is amending its rules pursuant to the Horseracing Integrity and Safety Act

("Act") regarding the Commission's procedures for its oversight of the annual budget of the Horseracing Integrity and Safety Authority ("Authority"). The amendments to the Authority's budget oversight rules will streamline and improve the process for approving or disapproving the Authority's annual budget.

DATES: This rule is effective on February 8, 2024.

FOR FURTHER INFORMATION CONTACT: Sarah Botha, Attorney ((202-326-2036), *sbotha@ftc.gov*), Office of the Executive Director, Federal Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The Horseracing Integrity and Safety Act of 2020, Public Law 116-260, Title XII, 134 Stat 1182, 3252 (2020) (codified as amended at 15 U.S.C. 3051-3060), recognizes the Authority as a self-regulatory nonprofit organization charged with developing and enforcing rules relating to racetrack safety, anti-doping, and medication control. See 15 U.S.C. 3052. The Act expressly provides for Commission oversight of several aspects of the Authority's operations. For example, the Commission must approve any proposed rule or rule modification by the Authority relating to the Authority's bylaws, racetrack safety standards, anti-doping and medication control, and the formula or methodology for determining assessments. See *id.* In December 2022, Congress amended HISA to expand the Commission's oversight role over the Authority. See Consolidated Appropriations Act, 2023, Public Law 117-328, Sec. 701, 136 Stat. 4459, 5231 (2022). As amended, the Act gives the Commission the power to issue rules under the procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553, "as the Commission finds necessary or appropriate to ensure the fair administration of the Authority . . . or otherwise in furtherance of the purposes of this Act." 15 U.S.C. 3053(e).

In March 2023, relying in part on the new amendment, the Commission promulgated rules relating to the Authority's budget ("Budget Rule"). See 88 FR 18034 (Mar. 27, 2023). The Budget Rule, codified at 16 CFR 1.150 through 1.152, sets forth the process whereby the Authority submits each year's proposed budget to the Commission for approval. Under the Budget Rule, after the Authority submits its proposed annual budget to the Commission, the Commission publishes the proposed budget in the **Federal Register** and the public is given an opportunity to comment. See 16 CFR

1.150(d). After the close of the comment period, and after consideration of any comments received, the Commission either approves or disapproves the proposed budget, using the criteria set forth in 16 CFR 1.151(c).

In June 2023, after the Commission promulgated the Budget Rule, the Authority submitted its proposed 2023 budget to the Commission, and the Commission published the proposed budget in the **Federal Register**. See 88 FR 68610 (Oct. 4, 2023). After considering the Authority's budget submission and the public comments received, the Commission approved the Authority's 2023 budget on December 5, 2023.¹ In September 2023, the Authority submitted its proposed 2024 budget to the Commission, and the Commission published the proposed budget in the **Federal Register**. See 88 FR 77582 (Nov. 13, 2023). The Commission reviewed the Authority's budget submission and the public comments and approved the Authority's 2024 budget on January 5, 2024.²

Based on comments received in response to the publication of the 2023 and 2024 budgets, and in light of Commission experience in reviewing the two budgets, the Commission is revising the Budget Rule, 16 CFR 1.150 through 1.152. The revisions to the Rule streamline the budget approval process by, among other things, providing for the immediate publication of the Authority's proposed budget in the **Federal Register** so long as certain procedural requirements are met. The amendments to the budget approval process still allow for meaningful public comment, and the Commission will still need to closely review the Authority's finances. Commission approval of the budget will happen only after the Commission is satisfied that the budget is consistent with and serves the goals of the Act in a prudent and cost-effective manner.

Finally, the Commission is modifying § 1.143, the section setting forth the formatting requirements for the Authority's submissions to the Commission, to account for the submissions mandated by §§ 1.150 through 1.152.

¹ FTC, Order Approving the Budget for 2023 Proposed by the Horseracing Integrity and Safety Authority (Dec. 5, 2023), available at https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderApprovingHISA2023Budget.pdf.

² FTC, Order Approving the Budget for 2024 Proposed by the Horseracing Integrity and Safety Authority (Jan. 5, 2024), available at https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrder2024HISABudget.pdf.

Section by Section Analysis

§ 1.143 *Submissions to the Secretary*. Section 1.143 currently sets forth the procedures whereby the Authority submits guidance, proposed rate increases, and proposed rules or rule modifications to the Commission. The Commission is modifying this section to account for the Authority's submissions required by the Budget Rule.

§ 1.150 *Submission of the Authority's proposed budget*. Modifications to paragraph (a) change the budget submission date from September 1 to August 1 to give the FTC additional time to review the Authority's proposed budget. Changes to paragraph (b) clarify that the Authority does not have to post public comments to its website upon their arrival, but must still post comments on its website. Also, the Commission is moving from paragraph (b) to paragraph (c) the requirement that the Authority forward to the FTC any public comments received by the Authority and the Authority's response to them. The changes to paragraph (d) delegate to the Secretary the authority to publish the proposed budget in the **Federal Register** without a Commission vote. The Commission will still vote to approve or disapprove the budget after the public comment period has ended and the Commission has reviewed the comments submitted. The Commission also clarifies that while the proposed budget will still be published in the **Federal Register**, supporting materials will be made available to the public on [regulations.gov](https://www.regulations.gov).

§ 1.151 *Commission's decision on the Authority's proposed budget*. Modifications to this section clarify that the Commission may require the Authority to submit additional information before the Commission approves or disapproves the proposed budget, and that the Commission will vote on the Authority's proposed budget no later than November 1, or as soon as practicable thereafter. Changes also remove the "commercially reasonable terms" element from the Commission's decision criteria. In lieu of this criterion, the FTC today proposes new provisions addressing oversight of the Authority's operations, which would include more specific vendor selection and competition requirements.³

§ 1.152 *Deviation from approved budget*. An edit in paragraph (a) clarifies that the Authority may deviate from the

³ Horseracing Integrity and Safety Authority Oversight, Notice of Proposed Rulemaking, published elsewhere in this issue of the **Federal Register**.

approved budget's expenditure information in a year as to any line item by up to 10 percent in a year without notifying the Commission. Edits in paragraphs (b) and (c) change the deadlines from 7 business days to 14 business days for the Commission to issue any decision to disapprove a proposed repurposing of funds to cover a line-item deviation of more than 10 percent and for the Commission to issue any decision to disapprove a proposed means of covering a difference in the total approved expenditure.

Because these rules relate solely to agency procedure and practice, publication for notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(b).⁴

List of Subjects in 16 CFR Part 1

Administrative practice and procedure; Animal drugs; Animal welfare.

For the reasons set forth in the preamble, the Federal Trade Commission amends part 1, title 16, chapter I, subchapter A of the Code of Federal Regulations as follows:

PART 1—GENERAL PROCEDURES

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 552; 5 U.S.C. 601 note.

■ 2. Amend § 1.143 by revising paragraph (a), paragraph (b) paragraph heading, (b)(1), (e), and (f) of to read as follows:

§ 1.143 Submissions to the Secretary.

(a) *Electronic submission*. All submissions from the Authority to the Commission pursuant to the provisions of subpart S or U of this part, and all submissions to the Commission pursuant to 15 U.S.C. 3053(a) (proposed rules or rule modifications), 15 U.S.C. 3052(f)(1)(C)(iv) (proposed rate increases), or 15 U.S.C. 3054(g)(2) (guidance) must be emailed to the Secretary of the Commission at electronicfilings@ftc.gov. The subject line of the email must begin with "HISA Submission:" followed by a brief description of the submission.

(b) *Format for submissions—(1) Electronic format*. All documents submitted to the Secretary under this section must be submitted in .pdf format or in some other electronic format specified by the Office of the Secretary.

⁴ For this reason, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2), 604(a), are also inapplicable. Likewise, the amendments do not modify any FTC collections of information within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501 through 3521.

The proposed text of **Federal Register** publications must also be submitted in a Microsoft Word or .rtf format.

* * * * *

(e) *Authority to reject documents for filing.* The Secretary of the Commission may reject a document for filing that fails to comply with the Commission's rules.

(f) **Federal Register publication.** For submissions required to be published in the **Federal Register**, if the conditions set forth in this section and § 1.142 have been satisfied, the Commission will publish the Authority's submission in the **Federal Register**.

■ 3. Revise subpart U to read as follows:

Subpart U—Procedures for Oversight of the Horseracing Integrity and Safety Authority's Annual Budget

Sec.

- 1.150 Submission of the Authority's proposed budget
- 1.151 Commission decision on the Authority's proposed budget
- 1.152 Deviation from approved budget

Authority: 15 U.S.C. 3053(e).

§ 1.150 Submission of the Authority's proposed budget submissions.

(a) *Mandatory annual submission.* The Authority must submit a proposed annual budget to the Commission every year, irrespective of whether there is a "proposed increase in the amount required" under 15 U.S.C.

3052(f)(1)(C)(iv). The submission of the proposed budget for the following year must be made by August 1 of the current year, following the procedures set forth in § 1.143. The Authority's annual budget will use the calendar year as its fiscal year.

(b) *Consideration of public comments.* Before submitting its proposed budget to the Commission in August, the Authority must post the proposed budget on its website as early as practicable, with an invitation to the public to submit comments to the Authority on any aspect of the proposed budget. The Authority must post any pertinent comments it receives on its website, and it must review them to ascertain whether to revise the proposed budget in light of them.

(c) *Contents of submission.* The Authority's proposed budget submission to the Commission must include the following:

(1) *Indication of Board vote.* The Authority's proposed budget must be approved by a majority of its Board of Directors, or, in the case of a budget that exceeds the preceding year's budget by 5 percent or more, a two-thirds supermajority. The Authority's

submission to the Commission must state the Board vote on the motion to approve the budget.

(2) *Revenue information.* The proposed budget must identify both the estimated amount required from each State racing commission as calculated under 15 U.S.C. 3052(f) and all other sources of Authority revenue as well as any loans proposed to be obtained by the Authority.

(3) *Expenditure information.* The proposed budget must identify expenditures separately for:

- (i) The racetrack safety program;
- (ii) The anti-doping and medication control program;
- (iii) All other programmatic expenditures other than for racetrack safety and anti-doping and medication control, such as the administration of the Authority or its technological needs;
- (iv) Repayment of any loans; and
- (v) Any funding shortfall incurred.

(4) *Line items.* For both revenue and expenditure information, the Authority's proposed budget must provide sufficient information, by line item, as would be required for members of the Authority's Board of Directors to exercise their fiduciary duty of care. For example, the proposed budget's expenditure information for anti-doping and medication control might include separate line items for in-house salaries, the costs of testing of laboratory samples, the costs of arbitrators, and all the costs associated with contracting with an anti-doping and medication control enforcement agency. The proposed budget must include a narrative component that provides a brief explanation of each line item's utility in carrying out the purposes of the Horseracing Integrity and Safety Act.

(5) *Comparison of approved budget to actual revenues and expenditures.* For each approved line item, the proposed budget must provide a comparison showing the actual revenues and expenditures for the current year along with a narrative component explaining why any line item is anticipated to deviate by 10 percent or more during the current year.

(6) *Public comments received and the Authority's response.* The Authority must include with its submission all of the public comments that it received after posting the proposed budget on its website. The Authority must also provide an assessment of public comments relevant to the Commission's evaluation of the proposed budget. The Authority must also identify any changes made to the proposed budget in response to the comments received.

(d) *Publication of the proposed budget in the Federal Register.* If the Secretary

concludes that the Authority's submission complies with § 1.150(c), then the Secretary will publish the Authority's proposed budget in the **Federal Register** with supporting materials available on *regulations.gov*. Members of the public will have 14 days after the date of publication in which to file comments on the proposed budget. Public comments should provide commenters' views as to the decisional criteria set forth in § 1.151(c) and whether any line items should be modified.

§ 1.151 Commission decision on the Authority's proposed budget.

(a) *Commission approval required.* The Authority's proposed budget takes effect only if approved by the Commission. The Commission will approve or disapprove the proposed budget after considering the public comments filed and the Commission's internal review of the Authority's submissions pursuant to § 1.150. The Commission may, in its discretion, require the Authority to submit additional information to the Commission before the Commission approves or disapproves the proposed budget. The Commission will vote on the Authority's proposed budget no later than November 1, or as soon thereafter as practicable.

(b) *Conditional collection of fees allowed.* The notice required to be sent to State racing commissions estimating the amount required from each State for the subsequent year must state that the amount required is based on the proposed annual budget, as approved by the Board of Directors, which takes effect only if approved by the Commission. State racing commissions (or covered persons in States that do not elect to remit fees) may nevertheless elect to remit fees, and the Authority may conditionally collect them, even before the Commission approves the proposed budget. If the Commission makes any modifications to line items under paragraph (d) of this section that have the net effect of reducing the budget, the Authority must, within 30 days, refund the proportionate amount owed to any State racing commission or covered person that has conditionally paid. If the Commission makes any modifications to line items under paragraph (d) of this section that have the net effect of increasing the budget, the Authority may obtain loans to make up the difference or may account for the difference as a funding shortfall incurred in the subsequent year's proposed budget.

(c) *Decisional criteria.* The Commission will approve the proposed

budget if the Commission determines that, on balance, the proposed budget is consistent with and serves the goals of the Horseracing Integrity and Safety Act in a prudent and cost-effective manner and that its anticipated revenues are sufficient to meet its anticipated expenditures.

(d) *Modification of line items.* In its decision on the proposed budget, the Commission may modify the amount of any line item.

§ 1.152 Deviation from approved budget.

(a) *When notice to the Commission is required.* As to any line item, the Authority may deviate from the approved budget's expenditure information in a year by up to 10 percent in a year without providing prior notification to the Commission. If the Authority determines that it is likely to expend more than the approved expenditure for any line item by 10 percent or more, or if it will exceed its approved total expenditure by any amount, it must notify the Commission immediately upon such a determination.

(b) *Line-item deviations of more than 10 percent.* If the Authority determines that it is likely to expend more than the approved expenditure for any line item by 10 percent or more, its notice to the Commission must indicate whether it intends to repurpose funds from one or more different line items to cover the increased expenditure. The Commission retains the discretion to disapprove such a proposed repurposing. The Commission must issue any decision to disapprove a proposed repurposing within 14 business days of receiving notice of the Authority's proposal to repurpose funds from another line item. If the Commission takes no action, the Authority's proposal takes effect as an amendment to its approved budget.

(c) *Total expenditure deviation.* If the Authority determines that it is likely to expend more than the total approved expenditure, its notice to the Commission must indicate by what means it proposes to cover the difference. The Commission retains the discretion to disapprove the proposed means of covering the difference. The Commission must issue any decision to disapprove a proposed means of covering the difference within 14 business days of receiving notice of the Authority's proposal to cover the difference. If the Commission takes no action, the Authority's proposal takes effect as an amendment to its approved budget.

By direction of the Commission,

Joel Christie,

Acting Secretary.

[FR Doc. 2024-02290 Filed 2-7-24; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Part 802

RIN 1290-AA35

Rules of Practice and Procedure Before the Benefits Review Board

AGENCY: Office of the Secretary, Department of Labor.

ACTION: Final rule.

SUMMARY: This action finalizes the Department of Labor's (DOL or Department) proposal, published on January 11, 2021, to require electronic filing (e-filing) in proceedings before the Benefits Review Board (BRB). On January 11, 2021, the Department published a direct final rule (DFR) and companion proposed rule to require e-filing and make acceptance of electronic service (e-service) automatic by attorneys and lay representatives representing parties in proceedings before the BRB, and to provide an option for self-represented parties to utilize these electronic capabilities. The rule provided an exception to the requirements for good cause shown. The Department invited written comments from the public for 30 days on the proposed rule. The Department received significant adverse public comments from stakeholders on the similar direct final rule for the Office of Administrative Law Judges (OALJ). As many of these stakeholders also practice before the BRB, the BRB withdrew the direct final rule on February 25, 2021. The Department has reviewed the comments received in response to the proposal and is now implementing the rule as described in the proposed rule of January 11, 2021, with appropriate exceptions for good cause shown and self-represented parties.

DATES: This final rule is effective on March 11, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Shepherd, Clerk of the Appellate Boards, at 202-693-6319.

SUPPLEMENTARY INFORMATION: This preamble is divided into three sections: Section I provides an overview of this rulemaking and describes its procedural background; Section II provides a summary of the public comments received; and Section III covers the

administrative requirements for this rulemaking.

I. Background

A. Overview

This action is a final rule to finalize the corresponding notice of proposed rulemaking (NPRM) published in the January 11, 2021, issue of the **Federal Register**. The e-filing amendments are revising Part 802 in order to require e-filing and allow for automatic e-service.

A general overview of the legal framework, statements explaining the necessity of this e-filing and e-service rule, and further background on the rulemaking is available in the Department's NPRM, as published in the **Federal Register** on January 11, 2021, and will not be restated in full herein.

In brief, this final rule requires persons represented by attorney and non-attorney representatives to use the Department's system to file all papers electronically and to receive electronic service of documents unless another form of filing or service is allowed by the BRB for good cause; gives self-represented persons the option to use conventional means of filing, or to use the Department's system to file all papers electronically and to receive electronic service of documents; and provides that a filing made through a person's eFile/eServe system account and authorized by that person, together with that person's name on a signature block, constitutes that person's signature.

B. Procedural History

On January 11, 2021, the Department initially published the e-filing amendments as a DFR without a prior proposal because the Department viewed such amendments as noncontroversial at that time and anticipated no adverse comment. The Department also published a companion NPRM in the "Proposed Rules" section of the January 11, 2021, issue to expedite notice-and-comment rulemaking in case significant adverse comments were received from stakeholders. A significant adverse comment for the purposes of these notices is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. The proposed and direct final rules were substantively identical, and their respective comment periods ran concurrently. The Department is treating comments received on the

Agenda Item #17

From: [Brian Elmore](#)
To: [Pitman, Deena](#)
Cc: [Eric Halstrom](#); [Joe Davis \(joedondavis@aol.com\)](mailto:joedondavis@aol.com); [Barnes, Jessica](#); [Tim Glyshaw](#)
Subject: TB ADW monies for 2024
Date: Thursday, March 21, 2024 10:39:41 AM

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Dear Executive Director Pitman,

The Indiana HBPA Board of Directors voted unanimously at their March 14th meeting to request all ADW monies dedicated to thoroughbreds to be dedicated to purses at Horseshoe Indianapolis through the October 31, 2024 payment, This has been the custom procedure over past years. IHRC approval to continue this practice would be appreciated.

Sincerely,
Brian Elmore
HBPA Employee

Agenda Item #18

From: [Eric Halstrom](#)
To: [Pitman, Deena](#)
Cc: [Joseph Morris](#); [Eggiman, Matt](#); [Rothenberg, David](#); [Smith, Eric \(HRC\)](#)
Subject: Horseshoe RCFAC
Date: Thursday, March 21, 2024 9:46:31 AM
Attachments: [rcfac 2024, 2025.docx](#)

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Deena. I am attaching a recap of the latest Horseshoe RCFAC meeting that took place on March 13, 2024. You will see from the details that the group approved several items for 2024 and 2025 and we're hoping to get this placed on the agenda for the meeting on the 26th.

I'm copying Joe on here as he Chair's that committee. Should you have any questions, please feel free to let either of us know.

Thanks.

Eric



Eric Halstrom | *VP and General Manager of Racing*
O 317-713-3380 | M 612-401-0222
4300 N. Michigan Rd. | Shelbyville, IN 46176

RCFAC Horseshoe Indianapolis meeting March 13, 2024

Present: Joe Davis- Chris Duke- Eric Halstrom- Joe Morris—Tim Glyshaw—Otto—Miki

Motion by Joe Davis, second by Eric Halstrom to approve the below list for 2024 and 2025

2024

Community Center	\$1,300,000
A/C Jocks Quarters	\$ 69,000
PA Apron	42,000
Dorm Heat/AC units	17,000
Steam Room Jocks	36,000
Shelter gate crew	12,500
Flooring Receiving barn	85,000
Track Kitchen equip	10,000
Total	\$ 1,572,000

2025

Surveillance camaras	\$ 30,000
Eurosizer footing	20,000
Total	\$ 50,000

Agenda Item #19

(No Materials)