

INITIAL STATEMENT OF REASONS

RULE 1927. FIRE PREVENTION
RULE 1928. FIRE REGULATIONS
RULE 2101. DEFINITIONS
RULE 2103. HABITABLE ROOMS

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to California Horse Racing Board (Board) Rule 1927, Fire Prevention, will implement Horseracing Integrity and Safety Authority (HISA) Rule 2163, Fire Safety, by requiring that protocols be in place for instances of fire within the inclosure, that fire and life safety inspections be performed in accordance with the local authority and appropriate National Fire Protection Association standards, and that licensees (i.e., racing associations and fairs) provide documentation of adherence to the applicable local fire protection authority, thereby ensuring conformity with federal regulations. The amendment will also require that the written clearance from the fire authority be filed with the Board on an as-needed basis such that the written clearance is continuously in effect during the period that horses and licensees are present at the inclosure. Furthermore, licensees will be required to provide the protocols in place for instances of fire within the inclosure. Finally, the amendment will eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice.

The proposed amendment to Board Rule 1928, Fire Regulations, will replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted. Accordingly, the proposed amendment will eliminate the provision that no person shall violate the posted fire regulations.

The proposed amendment to Board Rule 2101, Definitions, will remove the language referring to the fire alarm system as required under Board Rule 1927.

The proposed amendment to Board Rule 2103, Habitable Rooms, will remove the reference to the fire alarm system as provided under Board Rule 1927 and the reference to fire regulations with respect to what must be posted in backstretch worker housing areas pursuant to Board Rule 1928.

PROBLEM

The recent implementation of HISA's federal regulations requires that the Board's rules regarding fire safety be amended. Additionally, these rules were originally conceived without consultation with a fire authority and, consequently, do not form a logical set of fire safety provisions. Furthermore, said rules are inconsistent with the realities of performing fire inspections, as local fire authorities have limited resources and must deal

with the impact of unpredictable events on workload and availability. Therefore, the Board seeks to revise its fire safety regulations to conform to federal regulations and to provide for consistency with day-to-day fire authority activities, with the effect of improving overall fire safety.

NECESSITY

The proposed regulatory action will retitle Board Rule 1927. The title will be changed from “Fire Prevention” to “Fire Safety” for consistency with HISA Rule 2163 and to better reflect the Board’s focus on fire safety.

The entire text of Board Rule 1927 will be stricken to provide for a seamless adoption of HISA Rule 2163 and because Board Rule 1927 was originally written without consultation with any fire authority and, consequently, proved to be inconsistent with the realities of local fire authority operations and unrealistic for licensees.

The amendment to Board Rule 1927 will require a racing association, fair, or approved training facility to plan for and have protocols in place for instances of fire within their inclosures. It will also require fire and life safety inspections to be performed in accordance with the local fire authority and National Fire Protection Association standards. These provisions are needed to implement HISA Rule 2163 and, thereby, conform to federal regulations.

Additionally, the amendment to Board Rule 1927 will require licensees to provide documentation to the Board showing adherence to the local fire authority. This provision is also needed to implement HISA Rule 2163 and conform with federal regulations.

Subsection (a) will be added to Board Rule 1927 to require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure. This is necessary to ensure there are no lapses in the fire clearance, as local fire authorities tend to be overburdened and, therefore, cannot commit to specific dates to perform inspections. Because of the Board’s annual cycle in hearing the race meet license applications, licensees request fire inspections at the same time each year, which can result in fire clearances expiring before a fire clearance renewal inspection can be scheduled. This exposes the Board to liability in the case of a fire. However, subsection (a) will, in effect, necessitate that licensees coordinate fire clearance renewals with their local fire authorities to ensure continuity.

Subsection (b) will be added to Board Rule 1927 to require licensees to file with the Board the protocols in place for instances of fire within the inclosure. This is necessary to ensure that individuals are prepared in the case of fire and follow the proper course of action, which will help protect said individuals, as well as horses.

Finally, the amendment to Board Rule 1927 will add authority and reference sections, which will aid individuals who refer to the rule and provide for consistency with regulatory convention.

The proposed regulatory action will retitle Board Rule 1928 to “Evacuation Plan,” as it more accurately captures the scope of the regulation when amended as proposed, whereby its content focus is on the emergency evacuation plan.

Subsection (a) of Board Rule 1928 will be amended to replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must include the information set forth in subsections (a)(1)–(3). These changes will clarify that such fire safety provisions apply not only to associations, but to fairs and approved training facilities as well, and set forth minimum requirements for the emergency evacuation plan, which will help ensure safety in the event of a fire.

The reference to the emergency evacuation plan will be stricken from subsection (a)(1). This is necessary because of how the proposed amendment will structure the rule, with the emergency evacuation plan being mentioned in subsection (a).

Subsection (c) will be stricken because it will no longer apply after the proposed changes to subsection (a).

Finally, non-substantive technical edits will be made throughout the rule for clarity, and the subsections included in the statutes cited in the Reference section will be removed, as this is preferred by the California Office of Administrative Law (OAL).

Subsection (d)(12) of Board Rule 2101 will be amended to remove the reference to the fire alarm system as required under Board Rule 1927. This is necessary because the language is inconsistent with the proposed amendment to Board Rule 1927. Additionally, non-substantive technical edits will be made throughout the rule for clarity, and the subsection included in one of the statutes cited in the Authority section will be removed, as this is preferred by OAL.

Subsection (e) of Board Rule 2103 will be amended to remove the reference to the fire alarm system as provided under Board Rule 1927 and the reference to fire regulations with respect to the information that must be posted in backstretch worker housing areas as provided under Board Rule 1928. This is necessary because said language is inconsistent with the proposed amendments to Board Rule 1927 and Board Rule 1928. Additionally, non-substantive technical edits will be made throughout the rule for clarity, and the subsection included in one of the statutes cited in the Authority section will be removed, as this is preferred by OAL.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed regulatory action will provide for conformity with federal regulations, consistency with day-to-day fire authority activities, and improved overall fire safety, thereby promoting the health and welfare of horses and their caretakers. The proposed amendment to Board Rule 1927 will align the rule with HISA Rule 2163 by requiring that protocols be in place for instances of fire within the inclosure and stipulating that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards. The amendment will also eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice. Additionally, the amendment will require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure. Finally, the amendment will require licensees to file with the Board the protocols in place for instances of fire within the inclosure. These changes will improve fire safety and help promote the health and welfare of horses and backstretch workers.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR OTHER DOCUMENTS

The Board relied on the Federal Register, Vol. 87, No. 3, pages 445–459, in proposing this regulatory action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

- The proposed regulation will **not** affect the creation or elimination of jobs within the state.
- The proposed regulation will **not** affect the creation of new businesses or the elimination of existing businesses within the state.
- The proposed regulation will **not** affect the expansion of businesses currently doing business within the state.
- The proposed regulation **will** benefit the health and welfare of California residents and worker safety by increasing fire safety at racing inclosures and approved auxiliary training facilities, thereby protecting race horses and their caretakers. It will **not** benefit the state's environment.

The Board has made an initial determination that the proposed regulatory action 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 regulatory action will amend Board Rule 1927 to require that protocols be in place for instances of fire within the inclosure, that fire and life safety inspections be performed in accordance with the local authority and appropriate National Fire Protection

Association standards, and that licensees provide documentation of adherence to the applicable local fire protection authority. The amendment will also require that the written clearance from the fire authority be filed with the Board on an as-needed basis such that the written clearance is continuously in effect during the period that horses and licensees are present at the inclosure. Furthermore, licensees will be required to provide the protocols in place for instances of fire within the inclosure. Additionally, the amendment will eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice. The proposed regulatory action will also amend Board Rule 1928 to replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted in the stable and backstretch worker housing areas. Finally, the proposed regulatory action will amend Board Rule 2101 and Board Rule 2103 for consistency with the proposed changes to Board Rule 1927 and Board Rule 1928. As such, the Board has determined that the proposed regulation will not have a significant adverse economic impact on business. These changes will, however, benefit the health and welfare of California residents and worker safety by increasing fire safety at racing inclosures and approved auxiliary training facilities.

PURPOSE

The proposed amendment to Board Rule 1927 will align the rule with federal HISA Rule 2163 by requiring that protocols be in place for instances of fire within the inclosure and stipulating that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards, thereby ensuring conformity with federal regulations. The amendment will also eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice. Additionally, the amendment will require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure. Finally, the amendment will require licensees to provide the protocols in place for instances of fire within the inclosure.

The proposed amendment to Board Rule 1928 will replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted. These changes will clarify that such fire safety provisions apply not only to associations, but to fairs and approved training facilities as well, and set forth minimum requirements for the emergency evacuation plan, which will help ensure safety in the event of a fire.

The proposed amendments to Board Rule 2101 and Board Rule 2103 will provide for consistency with the proposed changes to Board Rule 1927 and Board Rule 1928.

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed regulatory action will require that protocols be in place for instances of fire within the inclosure and stipulate that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards; eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice; require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure; replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted; and make non-substantive technical edits for consistency and clarity. As such, the proposed regulatory action will not result in the creation or elimination of jobs within the state.

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

The proposed regulatory action will require that protocols be in place for instances of fire within the inclosure and stipulate that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards; eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice; require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure; replace the provision that every association post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted; and make non-substantive technical edits for consistency and clarity. As such, the proposed regulatory action will not result in the creation of new businesses or the elimination of existing businesses within the state.

EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed regulatory action will require that protocols be in place for instances of fire within the inclosure and stipulate that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards; eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice; require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure; replace the provision that every association post

in its stable and backstretch worker housing areas the fire regulations applicable on its grounds with language clarifying that every association, fair, or approved training facility must post the emergency evacuation plan, which must state the fire safety information that is currently required to be posted; and make non-substantive technical edits for consistency and clarity. As such, the proposed regulatory action will not result in the expansion of businesses currently doing business within the state.

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

The proposed regulatory action **will** benefit the health and welfare of California residents and worker safety by improving overall fire safety. The proposed amendment to Board Rule 1927 will require that protocols be in place for instances of fire within the inclosure and stipulate that the written fire clearance state that the inspection was performed in accordance with the local authority and appropriate National Fire Protection Association standards. Additionally, the amendment will require licensees to file with the Board a written clearance from the fire authority having jurisdiction on an as-needed basis such that the clearance is continuously in effect during the period when horses or licensees are present at the inclosure. The proposed regulatory action will **not** benefit the state's environment.

ALTERNATIVES TO THE PROPOSED REGULATION 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, 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 REGULATION

The proposed regulatory action was discussed at the April 20, 2023 Board meeting. No alternatives to the regulation 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 that offer any alternative proposal.

CALIFORNIA HORSE RACING BOARD
July 28, 2023