

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS
DIVISION 4. CALIFORNIA HORSE RACING BOARD
ARTICLE 17. FIRE PREVENTION AND SECURITY
 RULE 1927. FIRE PREVENTION
 RULE 1928. FIRE REGULATIONS
ARTICLE 28. BACKSTRETCH WORKER HOUSING
 RULE 2101. DEFINITIONS
 RULE 2103. HABITABLE ROOMS

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1927, Fire Prevention, 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 (i.e., racing associations and fairs) 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. Finally, the amendment will require licensees to provide the protocols in place for instances of fire within the inclosure.

The Board proposes to amend Board Rule 1928, Fire Regulations, 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.

The Board proposes to amend Board Rule 2101, Definitions, and Board Rule 2103, Habitable Rooms, for consistency with the proposed changes to Board Rule 1927 and Board Rule 1928.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **September 11, 2023**. The Board must receive all comments by that time. Submit comments to:

Rick Pimentel, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 274-6043
Email: repimentel@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19460, 19481.5, and 19661, Business and Professions Code (BPC). Reference: Sections 19440, 19481, and 19481.5, BPC. Section 17920.3, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the Board. BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Horse Racing Law, whereby responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and control of horse racing and parimutuel wagering. BPC section 19460 provides, in part, that licenses granted by the Board are subject to all rules, regulations, and conditions prescribed by the Board and shall contain such conditions as are deemed necessary or desirable by the Board. BPC section 19481.5 provides, in part, that the Board shall adopt regulations to establish standards governing the employee housing provided to backstretch personnel at licensed racetracks. BPC section 19661 provides, in part, that any person who violates any of the provisions of Horse Racing Law, for which a penalty is not expressly provided, is guilty of a misdemeanor.

The recent implementation of the Horseracing Integrity and Safety Authority's (HISA) 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.

The proposed regulatory action will implement 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 provide documentation of adherence to the applicable local fire protection authority, thereby ensuring conformity with federal regulations. The proposed regulatory action 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 proposed regulatory action will eliminate those provisions that have proven to be arbitrary and inconsistent with actual fire authority practice.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

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.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the proposed regulatory action, the Board conducted a search of any similar regulations on the topic and concluded that Board Rule 1927 is the only regulation that sets forth the Board's fire safety provisions for racing associations and fairs; Board Rule 1928 is the only regulation that requires racing associations and fairs to post, in the stable and backstretch housing areas, emergency information needed in the case of a fire; Board Rule 2101 is the only regulation that defines certain terms pertaining to backstretch worker housing; and Board Rule 2101 is the only regulation that sets forth requirements for habitable rooms with respect to backstretch worker housing. Therefore,

the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to local agencies and school districts that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed 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 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.

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

Cost impact on representative private persons or businesses: none. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed regulatory action **will not** create or eliminate jobs within the state, **will not** create new businesses or eliminate existing businesses within the state,

will not result in the expansion of businesses currently doing business with the state, and **will not** benefit the state's environment. It **will**, however, benefit the health and welfare of California residents and worker safety by improving fire safety within the racing inclosure, particularly in the backstretch worker housing area, where the horses' caretakers reside. By ensuring that a fire clearance is continuously in effect, the proposed regulatory action will minimize the risk for fire and, consequently, danger to the backstretch workers.

Effect on small business: none. The proposed regulatory action does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation. 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.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, 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.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Rick Pimentel, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 274-6043
E-mail: repimentel@chrb.ca.gov

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

Amanda Drummond, Manager
Regulations, Industry Applications, and Administrative Hearings
Telephone: (916) 869-3255
Email: amdrammond@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Rick Pimentel or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Rick Pimentel at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Rick Pimentel at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of this notice, the

proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.