

(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]

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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.<sup>1</sup> 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.<sup>2</sup>

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.

<sup>1</sup> 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](https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderApprovingHISA2023Budget.pdf).

<sup>2</sup> 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](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.<sup>3</sup>

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

<sup>3</sup> 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).<sup>4</sup>

## 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](mailto: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.

<sup>4</sup> 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