

NOTICES OF FINAL RULEMAKING

Unless exempted by A.R.S. § 41-01995, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.) an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

PREAMBLE

1. **Sections Affected** **Rulemaking Action:**
Amend
R4-30-106
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-106(C)
Implementing statutes: A.R.S. §§ 32-106(D) and 32-124(2)
3. **The effective date of the rules:**
January 12, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening:
1 A.A.R. 1275, August 4, 1995

Notice of Proposed Rulemaking:
1 A.A.R. 1279, September 1, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lavern Douglas
Address: Board of Technical Registration
1951 West Camelback Road, Suite 250
Phoenix, Arizona 85015
Telephone: (602) 255-4053
Fax: (602) 255-4051
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
In 1994, the legislature amended A.R.S. § 32-106(D) to authorize the Board to contract with private companies for the collection of examination fees, scheduling, administration of examinations, and the tracking and reporting to the Board of candidate performance on the examinations. This rule is being amended to accommodate increases for the services. The Board feels the adoption of the amended rule will allow the Board to create a more secure test administration site in line with specifications of the test owner/developers and create a better-testing environment that will reduce external distractors.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**
The legislature enacted A.R.S. § 32-124 which authorized the Board to set fees for services. This rule is being amended to accommodate fee increases made necessary by the contracting of examination administration services.

The Board believes that the adoption of this rule will benefit the health, safety, and welfare of the public by creating an examination administration program that will be better able to prevent cheating on the examination. The Board believes the contract will also provide a more consistent and professional examination environment conducive to better candidate performance by reducing external negative pressures at the examination site.

The impact of this amendment will be on the candidate seeking registration who needs to take examinations to complete the regis-

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tration process. There will be an increase in cost to the candidate for some examinations or parts of an examination. The changes are necessary to accommodate additional costs attributable to increased security related changes and the utilization of more appropriate examination sites.

The impact on the agency's budget will be a reduction in revenues and an offsetting reduction in costs to the agency because of the change from a pass-through program for examination costs to a program of direct payment by the candidate to the examination costs to a program of direct payment by the candidate to the examination administration vendor.

The impact on other agencies, small businesses, and consumers will be negligible since the cost of the examinations is a small part of the total cost of meeting registration qualifications.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
There were no changes between the proposed rule and the final rule.
10. **A summary of the principal comments and the agency response to them:**
The Board received no comments on the rule.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
None.
13. **Was this rule previously adopted as an emergency rule?**
No.
14. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 1. GENERAL PROVISIONS

Section

R4-30-106. Fees

ARTICLE 1. GENERAL PROVISIONS

R4-30-106. Fees

- A. No change.
 1. No change.
 2. No change.
- B. Examination Fees
 1. Architect-in-training exam
 - a. Division D/F, structural technology - general and long span (national exam) **\$60 85**
 - b. Division E, structural technology - Lateral forces (national exam) **\$45 85**
 - c. Division G, mechanical, plumbing, electrical, and life-safety systems (national exam) **\$65 85**
 - d. Division H, materials and methods (national exam) **\$65 85**
 2. Professional Architect Exam
 - a. Division A - pre-design (national exam) **\$70 85**
 - b. Division B - written site design (national exam) **\$95 85**
Division B - graphic site design (national exam) **\$95 110**
 - c. Division C - building design (national exam) **\$115 170**
 - d. Division I - construction documents and services (national exam) **\$65 85**
 3. Assayer-in-training exam - fundamentals (local exam) **\$200**
 4. Professional assayer exam - principles and practices (local exam) **\$200**

5. Engineer-in-training exam - fundamentals (national exam) **\$45 75**
6. Engineer-in-training handbook **\$5**
- ~~6~~7. Professional aeronautical, agricultural, civil, chemical-control systems, electrical, environmental, fire protection, industrial, mechanical, metallurgical, mining, nuclear, petroleum, and sanitary engineer exams - Principles and practices (national exam) **\$85 105**
- ~~7~~8. Professional geological engineer exam - Principles and practices (local exam) **\$200**
- ~~8~~9. Professional structural engineer exam
 - a. Principles and practices structural I (national exam) **\$75 105**
 - b. Principles and practices structural II (national exam) **\$125 145**
- ~~9~~10. Geologist-in-training exam - Fundamentals (national exam) **\$200 195**
- ~~10~~11. Professional geologist exam - Principles and practices (national exam) **\$200 195**
- ~~11~~12. Landscape architect-in-training exam
 - a. Test 2, Programming and environmental analysis (national exam) **\$45 77**
 - b. Test 3, Conceptualization and communication (national exam) **\$90 127**
 - c. Test 4, Design synthesis (national exam) **\$85 123**
- ~~12~~13. Professional landscape architect exam
 - a. Test 1, Legal and administrative aspects of practice (national exam) **\$40 70**
 - b. Test 5, Integration of technical and design Requirements (national exam) **\$105 138**
 - c. Test 6, Grading and drainage (national exam) **\$95 130**
 - d. Test 7, Implementation of design

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through construction process (national exam)	\$60 <u>90</u>	4. No change.
13-14 Land Surveyor-in-training exam - fundamentals (national exam)	\$65 <u>85</u>	5. No change.
14-15 Professional land surveyor exam		6. No change.
a. Principles and practices (national exam)	\$75 <u>105</u>	7. No change.
b. Arizona surveying methods and legal practices (local exam)	\$125	8. No change.
15-16 No change.		a. No change.
a. No change.		b. No change.
b. No change.		c. No change.
C. No change.		d. No change.
D. No change.		9. No change.
1. No change.		10. No change.
2. No change.		E. No change.
3. No change.		F. No change.
		G. No change.
		H. No change.

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY
CONCEALED WEAPON PERMITS

PREAMBLE

1. **Sections Affected**

Article 1	<u>Rulemaking Action</u>
R13-9-101	New Article
R13-9-102	New Section
R13-9-103	New Section
R13-9-104	New Section
R13-9-105	New Section
R13-9-106	New Section
R13-9-107	New Section
R13-9-108	New Section
R13-9-109	New Section
R13-9-110	New Section
R13-9-111	New Section
R13-9-112	New Section
R13-9-113	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1713 and 41-1750(J)

Implementing statute: A.R.S. § 13-3112

3. **The effective date of the rules:**

January 12, 1996

4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening:
1 A.A.R. 35, January 27, 1995

Notice of Proposed Rulemaking:
1 A.A.R. 316, April 14, 1995

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Lieutenant Tom Clinkenbeard, Handgun Clearance and Permit Section

Address: Department of Public Safety
P.O. Box 6488
Phoenix, Arizona 85005

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Telephone: (602) 223-2238

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

Arizona citizens have long had the right to carry a deadly weapon (including a firearm) pursuant to A.R.S. §§ 13-3101 and 13-3102. On July 17, 1994, the Arizona Legislature expanded these provisions by enacting A.R.S. § 13-3112 which allows adult residents to apply for a permit to carry a concealed weapon. The Department of Public Safety (the Department) is mandated by this law to adopt rules for the purpose of administering a concealed weapon (firearm) permit program. The adopted rules establish the qualifications for obtaining a concealed weapon permit and for Departmental approval of firearms-safety instructors and firearms-safety training organizations. The rules require the Department to screen applicants and monitor the training to ensure that concealed weapon permits are issued only to individuals who meet the standards prescribed in A.R.S. § 13-3112. The rules also authorize the Department to suspend or revoke concealed weapon permits and to suspend or revoke approval of firearms-safety instructors and firearms-safety training organizations. The rules further provide for appeals to and hearings on the Department's actions to deny, suspend, or revoke privileges granted under this statute.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

This economic, small business, and consumer impact summary describes costs and benefits relating to the Department, other police agencies, participating business organizations, firearms-safety instructors, concealed weapon permit holders, and the general public. The Department of Public Safety administers the concealed weapon permit program with 7 limited-term staff members and a supervisor. Excluding overhead, the program is funded solely by receipts from the fee schedule included in the proposed rules.

Participation in this program is entirely voluntary. **Tangible benefits** from this program accrue: to firearms-safety instructors who are paid for their services and to firearms-safety training organizations that charge fees for training and certifying citizens seeking a concealed weapon permit. **Intangible benefits** from this program accrue: to the general public who rely on the Department to screen applicants and prevent ineligible persons from receiving concealed weapon permits, to law enforcement officers statewide who access the Department's records for the purpose of checking the validity of concealed weapon permits, and to concealed weapon permit holders.

Prior to applying for a permit, applicants must pass a firearms-safety training program conducted by small to medium-size businesses approved by the Department. The 16-hour initial training course teaches applicants the legal limits for carrying a concealed firearm and to practice firearm safety. The cost of training varies from \$25 to \$175, with an average cost of about \$75 (which usually does not include the cost of ammunition or loan of a handgun). The Department's application fee for a concealed weapon permit is \$50, which includes the FBI's fingerprint-processing fee. The estimated average total cost for a concealed weapon permit is \$140. Permits are valid for 4 years from the date of issuance.

As of December 8, 1995, the Department has approved 262 firearms-safety training programs, 617 firearms-safety training instructors, and 34,266 concealed weapon permits. The Department does not charge a fee to process an application for approval of a business organization's training program. Training organizations must maintain records for each trainee and make such records available for review by the Department upon request. Training organizations and instructors participating in this program benefit from fees charged for training. Many will also profit from the sale of ammunition and firearms to persons seeking a concealed weapon permit.

The Department does not expect the proposed rulemaking to have a significant impact on small businesses or private or public employment in the state. Some new firearms-training organizations may be established in response to public demand for certification but they will not generate significant revenues to the state or other public agencies.

The Department is administering the program on a break-even basis and in the least-costly and least-intrusive manner appropriate for compliance with statutory requirements and protection of the public's interests. Turn-around time on application processing is averaging about 1 week. The program has been favorably received by the public and no substantial objections were raised during public hearings on the proposed rules.

The benefits from obtaining a concealed weapon permit include learning about safe handling and safe use of firearms, the possibility of saving oneself or another from injury or death, or simply deterring crime by making criminals aware that anyone may be carrying a concealed firearm. Such benefits cannot be quantified but are of great value to some citizens, as evidenced by the number of applications received and permits issued by the Department. The Department believes that the benefits of the concealed weapon program justify the administrative costs and the benefits of obtaining a concealed weapon permit justify the cost of the permit.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Between the Notice of Proposed Rulemaking and the date of final rulemaking, extensive changes were made to the text. Most of these changes were based upon recommendations from the staff of the Governor's Regulatory Review Council. In each case, the reason for change was to improve conciseness, clarity, and comprehension or to make the rules more complete. Most Sections and subsections were revised to some extent but no substantive changes were made. None of the changes or improvements will impose new or more difficult procedures or requirements upon persons and businesses that will participate in the program.

The most noteworthy differences between the proposed text and the final text can be summarized as follows: added 11 definitions;

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changed the wording of most Section headings; separated the Section on availability of application forms from the application process; added a schedule of specific fees rather than retaining the statutory language which reads "... and a reasonable fee determined by the Director of the Department"; separated fees retained by the Department from fees paid to the Federal Bureau of Investigation for fingerprint processing and criminal records checks; expanded the descriptions of forms and the instructions for completing applications; differentiated between calendar and business days; increased the time available for renewal of permits; removed reference to "guest lecturers" conducting part of the firearms-safety training; revised R13-9-111 and R9-13-112; and added R9-13-113.

10. A summary of the principal comments and the agency response to them:

Following publication of the proposed rules on April 14, 1995, the Department held public hearings in the cities of Flagstaff, Yuma, Tucson, and Phoenix. Comments were presented at each public hearing.

Below is a summary of the comments received on the proposed rules and the Department's responses. The summary includes changes made, based upon public comments, between the proposed rules and the adopted rules and the Department's reasons for the rules that were adopted without change.

No comments were received on 6 Sections of the proposed rules, including "Definitions", "Permit Issuance", "Training Instructor Approval", "Organizations and Business Names", "Grounds for Suspension", and "Appeals".

A comment was received on R13-9-102(B)(6) asking that the time frame for accepting completed applications be reduced from 6 months to 90 days. However, the Department chose to retain a 6-month period in which applicants may file after obtaining a certificate of completion rather than requiring applicants to pay another training fee and be delayed if they are unable or forget to file within 90 days.

A comment was received regarding R13-9-102(D) asking that the fee amounts for the permit and training program be lower for senior citizens and people who can't afford the amount charged. In response to this comment, it was noted that the Department does not set fees for training programs operated by the private sector. The Department's fee is only about 30% of the total average cost of a permit. No other requests for a subsidized fee were presented. The Department chose to retain the permit fee at \$50, which is the rate set when the program became operational.

A comment was received on R13-9-103(E) asking that this rule be revised to state that permits shall not be issued to any person convicted of a felony "unless the courts have specifically restored their rights to possess a firearm." In response to this issue, the Department's position is firm. A.R.S. § 13-3112(E)(3) defines conditions for obtaining a permit, including: "... IS NOT UNDER INDICTMENT FOR AND HAS NOT BEEN CONVICTED IN ANY JURISDICTION OF A FELONY." The Assistant Attorney General assigned to advise the Department supports this position and affirms that obtaining a concealed weapon permit is a privilege, not a right.

A comment was received to revise R13-9-105(E) to read: Possession of a permit does not grant authority to carry a concealed weapon on public or private property or establishments where carrying of a deadly weapon, concealed or otherwise, is "lawfully prohibited in compliance with A.R.S. § 13-3108." The permittee shall not carry a concealed deadly weapon where a notice of prohibition is posted or upon the advisement and request of the owner or other person having control over the property "to the extent that such prohibition is in compliance with A.R.S. § 13-3108." In response, the Department chose to cite A.R.S. § 13-3102(A), a clear and concise statement in state law regarding where a deadly weapon may be carried, whereas the commenter's proposed language would obscure the rule.

A comment was received regarding R13-9-106(A) asking if the Department would send notices to remind permittees that their permit is coming due for renewal. The Department does not intend to send renewal notices in response to this comment since the window of opportunity for renewal of a permit has been greatly expanded and mailing notices to permittees would increase operating costs.

Several comments were received regarding R13-9-106(B) concerning the time frame for renewing a permit. Some reviewers stated the renewal time was insufficient. The Department's intent was to encourage permittees to renew early so their permit would not lapse, but the proposed rule established only a 30-day renewal period. The Department agrees that the renewal period should be expanded. Therefore the adopted rule provides a 150-day window of time for renewal of a permit.

A comment was received on R13-9-109(D) proposing to delete this subsection because it would create more problems than it would solve. The Department did not understand the commenter's reason for this belief. Therefore the requirement for participating businesses to give the Department a current list of their firearms-safety instructors remains in the adopted rule to assist the Department in monitoring the program.

A comment was received indicating that the speaker did not understand the meaning of R13-9-111(A)(2), which states that a person's permit may be revoked for "knowingly allowing another to misuse the permit". The Department explained that current permits show only the permittee's name, date of birth, and other descriptors, but the permit does not include the permittee's photograph. If a permittee sells or lends a permit to any person, the permittee would be violating A.R.S. § 13-3112. Therefore the Department chose to retain this provision as a revocable violation of the rule.

A number of general comments was received at the public hearings, but they did not relate directly to the proposed rules. Additionally, various comments and recommendations were made which exceed the Department's authority to act and would require changes in the statutes before they could be considered.

Only 1 written comment was received. Most of the commentaries at the public hearings supported the program and the proposed rules.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
12. Incorporations by reference and their location in the rules:
None.
13. Was this rule previously adopted as an emergency rule?
No.
14. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY
CONCEALED WEAPON PERMITS

ARTICLE 1. GENERAL PROVISIONS

Section	
R13-9-101.	<u>Definitions</u>
R13-9-102.	<u>Application Forms</u>
R13-9-103.	<u>Application and Processing Fees</u>
R13-9-104.	<u>Application for an Initial Concealed Weapon Permit</u>
R13-9-105.	<u>Review and Processing by the Department</u>
R13-9-106.	<u>Permit Issuance</u>
R13-9-107.	<u>Permittee Obligations</u>
R13-9-108.	<u>Permit Renewal</u>
R13-9-109.	<u>Firearms-safety Instructor Approval</u>
R13-9-110.	<u>Firearms-safety Training Program Approval</u>
R13-9-111.	<u>Suspension or Revocation</u>
R13-9-112.	<u>Reconsideration, Request for Hearing</u>
R13-9-113.	<u>Hearing</u>

ARTICLE 1. GENERAL PROVISIONS

R13-9-101. Definitions

In this Article, unless otherwise specified:

1. "Applicant" means an individual or organization who submits a completed application form and the required fee to the Department to obtain a permit to carry a concealed weapon, to renew a permit, to be approved as a firearms-safety instructor, or to have a firearms-safety training program approved.
2. "Department" means the Department of Public Safety.
3. "Director" means the Director of the Department of Public Safety.
4. "Firearm" has the same meaning as in A.R.S. § 13-3101.
5. "Firearms-safety instructor" means an individual who has obtained approval under R13-9-109 to conduct initial and refresher firearms-safety training programs.
6. "Firearms-safety training program" means an initial course of instruction in the safe and lawful use of a firearm that meets the requirements of A.R.S. § 13-3112(N).
7. "Honorably retired peace officer" means a person who voluntarily separates from a law enforcement agency after 10 or more years of service; who did not separate to avoid disciplinary action or termination for cause; and who receives a medical, disability, or regular retirement pension or annuity as a result of qualifying years of service as a peace officer; and who has or can obtain a letter from the employer confirming these facts.
8. "Organization" means an entity legally established pursuant to federal, state, city, or county requirements and authorized to conduct business in Arizona and which seeks or has obtained the Department's approval of its

9. firearms-safety training program.
9. "Original application" means any of the forms referenced in R13-9-102(A) that are not copies and that contain an original signature of the applicant.
10. "Peace Officer" has the same meaning as in A.R.S. § 13-105.
11. "Permit" means an identification card issued by the Department that authorizes the named holder to carry a concealed weapon subject to the requirements of A.R.S. § 13-3112 and this Article.
12. "Permittee" means an individual who has qualified for and been issued a permit by the Department to carry a concealed weapon.
13. "Refresher firearms-safety training program" means a 4-hour course of instruction in the safe and lawful use of a firearm pursuant to A.R.S. § 13-3112(L).
14. "Resident" means a person who has lived in Arizona for 6 months immediately before the date of application for a concealed weapon permit and who remains in Arizona for a total of 6 months or more during each calendar year, or a member of the armed forces who has been stationed in Arizona for the 30 days immediately before the date of application for a concealed weapon permit.
15. "Satisfactorily completed" means obtaining a test score of 70% or more on both the written test and the live ammunition course-of-fire test.
16. "Weapon" includes the term "firearm" as defined in A.R.S. § 13-3101.

R13-9-102. Application Forms

- A. The Department shall provide application forms for:
 1. An initial concealed weapon permit and renewal of the permit.
 2. Approval to be a firearms-safety instructor, and
 3. Approval of an organization's firearms-safety training program.
- B. Application forms may be obtained from the Department, Handgun Clearance and Permit Section, 2102 West Encanto Boulevard, P.O. Box 6638, Phoenix, Arizona 85005-6638. Upon request, the Department shall advise individuals or organizations of other locations where application forms may be obtained.
- C. An application shall be submitted only on a form provided by the Department.

R13-9-103. Application and Processing Fees

- A. The Department shall collect the following fees:
 1. New permit - \$26,
 2. Renewal permit - \$26,

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3. Replacing a lost or stolen permit - \$20.
 4. Name change on a permit - \$20.
 5. Approval to be a firearms-safety instructor - \$50.
 6. Combined firearms-safety instructor approval and a permit - \$76.
- B.** In addition to the fees in subsections (A)(1), (2), (5), and (6), the Department shall collect a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks as provided by A.R.S. § 41-1750(J).
- C.** An applicant or permittee shall submit the required fee in the form of a cashier's check, certified check, or money order made payable to the Department of Public Safety. All fees are non-refundable.

R13-9-104. Application for an Initial Concealed Weapon Permit

- A.** An applicant for an initial concealed weapon permit shall place a checkmark in the "New Permit Application" box on the Department's application form.
- B.** An applicant shall enter the following information in the spaces provided on the form:
1. Legal name as it shall appear on the permit;
 2. County of residence and residence address, including zip code, or descriptive location of residence if an address has not been assigned;
 3. Mailing address if different from residence address;
 4. Social security number;
 5. Driver's license number and state of issuance;
 6. Home and business telephone numbers; and
 7. Origin or race, sex, height, weight, eye color, hair color, date of birth, and place of birth.
- C.** An applicant for a concealed weapon permit shall answer "yes" or "no" to the following questions on the application:
1. Are you lawfully present in the United States?
 2. Are you a resident of Arizona?
 3. Are you at least 21 years of age?
 4. Have you satisfactorily completed the required firearms-safety training program?
 5. Are you currently under indictment for, or have you been convicted of, any felony in the United States or any other country?
 6. Do you suffer from mental illness or have you been adjudicated as mentally incompetent, or have you been committed to a mental institution?
 7. Are you requesting a concealed weapon permit concurrently with an application for approval to be a firearms-safety instructor?
 8. Are you an honorably retired federal, state, or local peace officer with a minimum of 10 years of service?
- D.** An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.
- E.** Except for an applicant exempted by A.R.S. § 13-3112(E)(6), an applicant shall obtain the signature of a firearms-safety instructor in the space provided at the end of the application, certifying that the applicant satisfactorily completed the initial firearms-safety training program on the date specified.
- F.** The firearms-safety instructor's certification shall include:
1. The Department-assigned number of the firearms-safety training program,
 2. The Department-assigned number of the firearms-safety instructor,
 3. The Department-assigned number of the training organization,
 4. A seal or stamp affixed to the form identifying the train-

- ing organization, and
 5. The date the applicant satisfactorily completes the program.
- G.** A certificate of completion of a firearms-safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.
- H.** An applicant shall submit to the Department the original application form, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.

R13-9-105. Review and Processing by the Department

- A.** The Department shall review the application to verify that the applicant has submitted the required forms, information, and fees and that the certificate of completion has not expired. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application, or an application with an expired certificate of completion. With the return of an application, the Department shall include a written description of the deficiencies to be corrected.
- B.** Within 20 calendar days of receiving a completed application, the Department shall conduct a state criminal history check and request a national criminal history check of the applicant.
- C.** The Department may contact the applicant by telephone or by mail if clarification or further information is needed to determine eligibility. If the applicant provides the requested information within 40 calendar days from the date of the request, the Department shall complete its determination of eligibility. If the applicant fails to provide the requested information within 40 calendar days, the Department shall deny the application and return it to the applicant with a written explanation.
- D.** The Department shall not issue a concealed weapon permit to any person who has been convicted of a felony, even if the person's civil rights have been restored and the conviction expunged, set aside, or vacated. If a permit is denied, the Department shall notify the applicant in writing in accordance with A.R.S. § 13-3112(H).

R13-9-106. Permit Issuance

- A.** When an applicant has satisfied the requirements of A.R.S. § 13-3112 and this Article, the Department shall issue a concealed weapon permit containing:
1. The permittee's legal name, as shown on the application;
 2. The permittee's date of birth;
 3. The permittee's physical description, including: origin or race, sex, height, weight, and color of eyes and hair;
 4. A permit number;
 5. The date of issuance and expiration; and
 6. The title of the permit, the State Seal, and instructions to the permit holder.
- B.** The Department shall mail an approved permit to the applicant's residence address or mailing address shown on the application.

R13-9-107. Per Obligations

- A.** Upon request of any peace officer, a permittee in actual possession of a concealed weapon shall present the permit to the peace officer for inspection. If the permit does not incorporate a photograph of the permittee, the permittee shall also present a separate type of official photographic identification. Official photographic identification is limited to the following:
1. Driver's license from any state,
 2. Military identification card,
 3. Identification card issued pursuant to A.R.S. § 28-421(01), or

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4. Passport.

- B.** A permittee shall not carry a concealed weapon in violation of A.R.S. § 13-3102(A).
- C.** A permittee whose permit is lost or stolen shall notify the Department upon determining the loss. When advised of a lost or stolen permit, the Department shall invalidate the permit. The permittee shall not carry a concealed weapon until a replacement permit is obtained. The permittee may obtain a replacement permit by submitting a written request and the fee specified in R13-9-103(A)(3). If the applicant meets the requirements of A.R.S. 13-3112(E)(1), (2), (3), (4), and (5), the Department shall issue a replacement permit within 10 business days of receiving the request. The replacement permit shall have the same expiration date as the lost or stolen permit.
- D.** A permittee shall notify the Department in writing within 10 calendar days of any change of name or address. The Department shall process the notice and update the permittee's information on file with the Department.
- E.** A permittee whose name is changed from the name stated on the permit may request a revised permit by submitting a written request containing the previous name, the new name, and the fee specified in R13-9-103(A)(4). The revised permit shall retain the same expiration date as the previous permit. Within 10 business days from receipt of the request for a revised permit, the Department shall process the request and mail the revised permit to the permittee with instructions that failure to return the previous permit within 5 business days shall result in suspension of both the previous permit and the new permit. The Department shall destroy the previous permit upon receipt.
- F.** A permittee shall not deface, alter or mutilate a permit, or reproduce, lend, transfer, or sell a permit.

R13-9-108. Permit Renewal

- A.** A concealed weapon permit expires 4 years from date of issuance. An application for renewal of a permit may be submitted at any time between 90 calendar days before permit expiration and 60 calendar days after permit expiration. Upon expiration of a permit, the permittee shall not carry a concealed weapon until in possession of a renewed permit.
- B.** To initiate renewal, a permittee shall place a checkmark in the "Renewal Permit Application" box on the application and shall enter all information requested in R13-9-104(B).
- C.** The permittee shall answer "yes" or "no" on the application to the questions listed in R13-9-104(C).
- D.** A permittee shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the permittee's original signature in the space provided.
- E.** A permittee shall obtain the signature of a firearms-safety instructor in the space provided on the application, certifying that the permittee satisfactorily completed a Department-approved refresher firearms-safety training program.
- F.** The certificate shall include the items of information required in R13-9-104(F).
- G.** A certificate of completion of a refresher firearms-safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.
- H.** A permittee shall submit to the Department the original application, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.
- I.** The Department shall review and process the renewal application pursuant to R13-9-105. If the renewal application is received within 60 calendar days after expiration of the permit and the permittee meets the requirements of A.R.S. § 13-

3112(E)(1) through (5), 13-3112(K) and (L), and this Article, the Department shall issue a renewed permit containing the information specified in R13-9-106(A).

- J.** The Department shall deny a renewal application if it is received more than 60 calendar days after expiration of the permit. Within 10 business days after denying an application for renewal of a permit that has been expired for more than 60 calendar days, the Department shall return the application with a written notice stating the reason for denial and instructing the applicant to file for a new permit.

R13-9-109. Firearms-Safety Instructor Approval

- A.** An applicant seeking approval to be a firearms-safety instructor shall place a checkmark in the "Training Instructor Approval Application" box on the application and enter the information requested in R13-9-104(B).
- B.** An applicant seeking approval to be a firearms-safety instructor shall answer "yes" or "no" to the questions listed in R13-9-104(C)(1), (2), (3), (5), (6), (7), and (8) on the application.
- C.** An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.
- D.** To be eligible for approval as a firearms-safety instructor, an applicant shall:
 - 1.** Meet the requirements of A.R.S. § 13-3112(E)(1), (2), (3), (4), and (5); and
 - 2.** Possess a certificate of completion from one of the authorized firearms-safety training programs listed below:
 - a.** Arizona Basic Police Firearms Instructor Certification, issued by the Peace Officers Standards and Training Board;
 - b.** Police Firearms Instructor Development School, issued by the National Rifle Association;
 - c.** Law Enforcement Security Firearms Instructor Development School, issued by the National Rifle Association; or
 - d.** Personal Protection Instructor rating and Basic Pistol Instructor rating, issued by the National Rifle Association.
- E.** An applicant seeking approval to be a firearms-safety training instructor shall submit to the Department:
 - 1.** An original application.
 - 2.** A certificate of completion from one of the instructor training programs listed in subsection (D)(2);
 - 3.** A completed fingerprint card with prints of sufficient quality to enable them to be classified, and
 - 4.** The fees specified in R13-9-103(A)(5) and (B) for a firearms-safety instructor approval only, or
 - 5.** The fees specified in R13-9-103(A)(6) and (B) for a firearms-safety instructor approval and a concealed weapon permit.
- F.** The Department shall review and process an application for a firearms-safety instructor approval consistent with the procedures in R13-9-105(A) through (C), except that a certificate of completion from one of the training programs listed in R13-9-109(D) shall replace the requirements of R13-9-104(E) and (F).
- G.** If an application for firearms-safety instructor includes a request for a concealed weapon permit, the application shall be processed consistent with the procedures in R13-9-105(A) through (D).
- H.** The Department shall notify the applicant in writing of approval or disapproval within 60 calendar days after receiving a completed application. The Department shall assign an identification number to each approved firearms-safety instructor. A firearms-safety instructor's approval from the

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Department shall remain in effect unless suspended or revoked, or the instructor becomes ineligible pursuant to A.R.S. § 13-3112 or this Article.

R13-9-110. Firearms-Safety Training Program Approval

- A.** An organization seeking approval of its firearms-safety training program shall submit to the Department the following information on the application:
 - 1. The business name of the organization.
 - 2. The business address and mailing address of the organization, and
 - 3. The name and telephone number of an individual who shall serve as the primary contact with the Department and who shall have the authority to sign for and bind the organization.
- B.** The person designated under subsection (A)(3) shall attest, under the penalty of perjury, to the truthfulness of the information given on the application by signing in the space provided at the bottom of the form.
- C.** The organization shall attach to the application detailed topical outlines of its proposed classroom and practical training program. The outlines shall include test questions and their correct answers and cover the topics required by A.R.S. § 13-3112(N) for the initial training program. The topical outlines shall require that all target practice during training and qualifying shall be conducted using a firearm with live ammunition.
- D.** The Department shall review the application to verify that the organization has submitted the required forms and information. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application with a written description of the deficiencies. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article.
- E.** An organization needing assistance in developing a firearms-safety training program may submit a written request to the Department.
- F.** Program approval shall remain in effect unless the organization's approval is suspended or revoked for failure to maintain the requirements of A.R.S. § 13-3112 or this Article.
- G.** Within 90 calendar days after an organization's program is approved by the Department, the organization shall submit a written list of its Department-approved firearms-safety instructors' names and assigned numbers.
- H.** A firearms-safety training organization shall notify the Department in writing within 10 calendar days of any change in its list of approved instructors, business address, telephone number, or name of the individual serving as the primary contact with the Department.
- I.** A firearms-safety training organization shall send a written notice to the Department at least 10 calendar days before changing its business name. The notice shall state the effective date of the change and the Department shall update its records.
- J.** For each individual who receives initial or refresher training, the firearms-safety training organization shall maintain the following written records for 5 years from the date of the trainee's completion of, or withdrawal from, the training:
 - 1. Name and age of the individual at the time training commenced;
 - 2. Dates and number of hours of each training session;
 - 3. Physical location of each training session;
 - 4. Title and Department-assigned number of the training program;
 - 5. Name and assigned number of each instructor conducting the training sessions; and
 - 6. Outcome of the training: passed, failed, or withdrew from the program.

K. Upon request by the Department, a firearms-safety training organization shall make its firearms-safety training records available to the Department for inspection.

R13-9-111. Suspension or Revocation

- A.** The Department shall suspend a concealed weapon permit if the permittee fails to carry the permit when in actual possession of a concealed weapon. The Department shall restore the permit under the condition specified in A.R.S. § 13-3112(B).
- B.** The Department shall suspend a permit if the permittee is arrested or indicted for an offense that would make the permittee unqualified under the provisions of A.R.S. §§ 13-3101(6) or 13-3112. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- C.** The Department shall revoke a permit under the conditions specified in A.R.S. § 13-3112(C).
- D.** The Department shall suspend or revoke a permit if the permittee fails to maintain all of the conditions specified in A.R.S. § 13-3112(E).
- E.** The Department may suspend or revoke a permit, firearms-safety instructor approval, or firearms-safety program approval if the permittee, instructor, or organization:
 - 1. Violates or fails to meet any requirement of A.R.S. § 13-3112 or of this Article;
 - 2. Fails to continuously maintain any condition or requirement necessary for the issuance of a permit or granting of approval under A.R.S. § 13-3112, or this Article; or
 - 3. Provides false, incomplete, or misleading information to the Department.
- F.** The Department may suspend a permit or approval for up to 1 year.
- G.** If the Department revokes a permit or approval, the affected permittee, instructor, or organization shall not reapply for such permit or approval for 2 years from the date of revocation.
- H.** The Department shall notify the affected permittee, instructor, or organization and state the reason for suspension or revocation. The notice shall be sent by mail to the last known address of the permittee, instructor, or organization. For purposes of R13-9-111, R13-9-112, and R13-9-113, notice shall be considered received on the earlier of the date of actual receipt or the 5th calendar day after the date of mailing.
- I.** Upon receipt of a notice of suspension or revocation:
 - 1. A permittee shall return the permit to the Department within 5 business days.
 - 2. An instructor shall immediately stop providing instruction, and
 - 3. An organization shall immediately stop conducting any program.
- J.** The Department may require immediate surrender of a permit or may seize a permit when required under A.R.S. § 13-3112.

R13-9-112. Reconsideration, Request for Hearing

- A.** On receipt of a notice of denial:
 - 1. An applicant for a concealed weapon permit or renewal of a permit may submit additional documentation to the Department. The applicant shall submit the documentation within 20 calendar days from receipt of the notice of denial.
 - 2. On receipt of additional documentation, the Department shall reconsider its decision and inform the applicant within 20 calendar days of the Department's final decision. The decision is final upon mailing.
 - 3. If denied after reconsideration under subsection (A)(2), the Department shall notify the applicant of the right to appeal to superior court.
 - 4. If the applicant has not submitted additional documentation under subsection (A)(1), the decision is final at the

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expiration of the 20 calendar day period allowed for submission.

- B.** On receipt of a notice of:
 1. Suspension or revocation of a permit; or
 2. Denial, suspension, or revocation of a firearms-safety instructor approval; or
 3. Denial, suspension, or revocation of a firearms-safety training program approval; the affected individual or organization is entitled to a hearing. A written request for a hearing shall be filed with the Department within 15 calendar days of receipt of the notice. The request shall be directed to the name and address stated in the notice.

R13-9-113. Hearing

- A.** The Department shall grant a hearing to an individual or organization filing a timely application for a hearing under R13-9-112(B).
- B.** The Department shall notify the requester at least 20 calendar days before the hearing date. The notice shall include:
 1. A statement of the time, place, and nature of the hearing;
 2. A statement of the legal authority and jurisdiction under which the hearing is being held;
 3. Reference to the particular sections of the statutes and rules involved; and
 4. A statement of the issues or matters involved.
- C.** The hearing shall be conducted in accordance with the provisions of A.R.S. Title 41, Chapter 6, Article 6 for hearing a contested case before an agency.
- D.** Hearings shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings.
- E.** Hearings shall be conducted by a hearing officer appointed by the Office of Administrative Hearings pursuant to A.R.S. Title 41, Chapter 6, Article 10.
- F.** Hearings shall be held at a location determined by the Department.
- G.** Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the hearing officer.
- H.** Notice may be taken of judicially cognizable facts and of recognized technical or scientific facts within the Department's specialized knowledge. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- I.** Hearings shall be tape recorded.
- J.** The individual or organization shall have the right to be represented by counsel, to submit evidence in open hearing, and shall have the right of cross-examination.
- K.** The hearing officer may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and shall have the power to administer oaths.
- L.** The individual or organization shall submit to the hearing

officer for approval any subpoena at least 10 calendar days prior to the hearing. If approved, the submitting party shall be responsible for service.

- M.** The hearing officer shall submit the findings to the Director.
- N.** The Director shall review the records of the findings by the hearing officer and may adopt, reverse, modify, supplement, or reject the recommendation of the hearing officer.
- O.** The Department shall mail written notice of the Director's decision to the individual or organization within 5 business days after the decision. The notice shall include findings of fact and conclusions of law. Notification shall be mailed to the individual's or organization's last known address and shall be deemed served upon mailing.
- P.** The individual or organization shall have the opportunity for a review or rehearing of the decision before the decision becomes final.
 1. To obtain a review of the decision, the individual or organization shall file with the Director a written request for review within 15 calendar days after the Department mails the notice of the Director's decision.
 2. The Director shall review the decision after receiving a request under subsection (P)(1). The Director shall deny a rehearing unless the Director determines that grounds for a rehearing exist under the following subsection (P)(3).
 3. The Director may grant a rehearing for any of the following reasons:
 - a. Irregularity in the proceedings which deprived the individual or organization of a fair hearing;
 - b. The decision was not justified by the evidence or was contrary to law; or
 - c. There is new material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing.
- Q.** All denials, suspensions, revocations, and decisions of the Director are effective on the date notice of such action is mailed to the individual or organization.
- R.** All denials, suspensions, revocations, and decisions of the Director are final, as set forth in this Article; or, if not otherwise set forth in this Article, are final upon expiration of time to apply for a hearing under R13-9-112(B).
- S.** If an application is timely filed for a hearing under R13-9-112(B), the decision of the Director is final:
 1. If a request for review is not timely filed under R13-9-113(P)(1).
 2. Upon the mailing of the Director's denial of a rehearing under subsection(P)(2), or
 3. Upon the mailing of the Director's decision following a rehearing under subsection (P)(3).
- T.** When final, a decision may be subject to judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, AND INSURANCE

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. **Sections Affected**
R19-2-112
R19-2-121
- Rulemaking Action:**
Amend
Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 5-104(A)(2) and (T)
Implementing statute: A.R.S. §§ 5-104(B) and 5-105
3. **The effective date of the rules:**
January 12, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Docket Opening:
1 A.A.R. 1670, September 22, 1995
Notice of Proposed Rulemaking:
1 A.A.R.1825, October 13, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Aikaterine Vervilos
Address: Department of Racing
15 South 15th Avenue, Suite 100
Phoenix, Arizona 85007
Telephone Number: (602) 542-5151
Fax Number: (602) 542-5177
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
R19-2-112: The amendments clarify the language in the rule as recommended by the Governor's Regulatory Review Council (GRRC) during the Department's 5-year review. The amendments also classify drugs into 5 categories, establish which drugs may or may not result in a disqualification, and allow the Department veterinarian to review the drug findings with the stewards. These changes were requested by the Horsemen's Benevolent and Protection Association (HBPA).
R19-2-121: The amendments clarify the language in the rule as recommended by GRRC during the Department's 5-year review. The amendments also allow the stewards discretion when deciding whether or not to disqualify a horse when it tests positive for drugs. The HBPA requested the changes.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**
The amendments increase the likelihood of a trainer or horse owner keeping the purse their horse earned if the horse tests positive for a drug, do not impose upon the small businesses any hardships, do not increase the regulatory burden on the small businesses, do not negatively impact private individuals, and do not increase state revenues.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
The changes reflect the recommendations by GRRC from a courtesy review. The changes, all nonsubstantive, include removing archaic language, passive voice, and incorrect use of the word "shall." The changes also make the rules more clear and concise.
10. **A summary of the principal comments and the agency response to them:**
Carl Olsen, representing the Arizona Horsemen's Benevolent and Protection Association, and Paul Crum, a horse owner, made comments at a Commission meeting. They welcomed the amendments.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
The Department is incorporating the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. The reference is found in R19-2-112(17)(b) and (c).

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13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section
R19-2-112. Prohibited Acts
R19-2-121. Officials

ARTICLE 1. HORSE RACING

R19-2-112. Prohibited Acts

Generally:

1. ~~No~~ A licensee shall not enter, or cause or permit to be entered or to start a horse, ~~which such a~~ licensee knows or has reason to believe should be disqualified.
2. ~~No~~ A veterinarian or plater, licensed to practice on a track under the jurisdiction of the Department, shall not own, lease, or train horses racing at the track on which they practice.
3. ~~No~~ A person shall not participate in an ~~any~~ unauthorized race on a track while a racing meeting is in progress.
4. ~~No~~ A person shall not offer or receive ~~any~~ money or other consideration for declaring ~~any~~ an entry out of a purse or stakes race.
5. ~~No~~ A person shall not possess, within the grounds of any permittee, ~~any~~ an electrical, mechanical, or other device, other than ordinary equipment, which may be used to affect the speed or racing condition of a horse. ~~Such possession~~ Possession includes, but is not limited to, possession:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
6. ~~No person other~~ Other than a physician or veterinarian licensed by the Department, a person shall not possess, within the grounds of any permittee, any foreign or prohibited substance, injectable vial, hypodermic needle, syringe, or any other instrument which might be used for injection, without written permission of the stewards. ~~Such possession~~ Possession includes, but is not limited, to possession:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
7. ~~No~~ A licensee, listed in A.R.S. § 5-104(F), shall not apply, inject, inhale, ingest, or ~~in any way~~ use any prohibited substance while on permittee grounds, unless, upon the request of a steward, ~~a~~ the licensee can produce evidence that the possession or use of a prohibited substance is ~~pursuant to~~ legitimized by a lawfully issued prescription.
8. ~~No~~ A jockey, apprentice jockey, exercise rider, or pony rider or sulky driver shall not consume ~~any~~ intoxicating liquor on ~~a race days day~~, prior to completing riding ~~or driving~~ commitments for the ~~race~~ day.
9. ~~No~~ A licensee or race track employee shall not accept, either directly or indirectly, ~~a~~ any bribe, gift, or gratuity in any form which is intended to or might influence the results of ~~a~~ any race or the conduct of ~~a~~ any racing meet-

ing.

10. ~~No~~ A licensee, while on the premises of the permittee, shall not create a disturbance, be intoxicated, interfere with ~~a~~ any racing operation, or act in an abusive or threatening manner to ~~a~~ any racing official or other person.
11. No change.
 - a. A licensed veterinarian shall Reports maintain a written record of the name, date, and amount of any drugs or treatments prescribed or administered at the track, shall be made to the Department in a manner it shall set forth.
 - b. No change.
12. Notwithstanding the provisions of subsection (16) of this Section, ~~no~~ a person shall not administer or cause to be administered ~~a foreign substance, internally or externally, to a~~ any horse entered in a race, ~~any foreign substance, internally or externally, prior to the race on the calendar day in which the horse is to run, except that:~~
 - a. With permission of the ~~stewards~~ Department veterinarian, furosemide or conjugated estrogens a licensed veterinarian may be administered administer furosemide or conjugated estrogens on the day of the race to control exercise induced pulmonary hemorrhage, subject to the restrictions prescribed in R19-2-121(P)(5), (6), and (7). The Department veterinarian shall place these horses on the lasix list. Permission of the stewards The Department veterinarian shall grant permission for placement of a horse on the lasix list if be granted based upon the determination that a horse suffers from exercise induced pulmonary hemorrhage as evidenced by a diagnosis by a veterinarian licensed by the Department determines that a horse suffers from exercise induced pulmonary hemorrhage or a racing regulatory agency has placed the horse on a bleeders' list at a track outside of Arizona, placement on a bleeders' list at a track outside of Arizona.
 - b. A person Furosemide shall not be administered administer furosemide within 4 hours prior to post time of a race in which the horse is run.
 - c. Horses A permittee shall clearly identify horses given furosemide shall be clearly identified as such on the program or on a list located in areas each area where mutuel tickets are sold.
13. The ~~Racing~~ Commission has established permissible trace levels of the following foreign substances, as defined in R19-2-102(15).
 - a. No change.
 - b. No change.
14. ~~No~~ A person shall not participate in the nerving of a horse intended to be entered in a race at a track within the state of Arizona, ~~except as provided in subsection (14)(d) of this Section.~~
 - a. ~~No registration~~ Registration papers will not be accepted on nerved horses, ~~except as provided in subparagraph (d) of this paragraph.~~
 - b. ~~No~~ A person shall not enter a nerved horse in a race,

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- except as provided in subparagraph (d) of this paragraph:
- c. ~~No A person shall not run in a race a horse which is desensitized by the application of cold, chemical, or mechanical freezing devices at the time of arrival at the receiving barn or saddling paddock, by applying cold, chemical, or mechanical freezing devices.~~
 - d. ~~The registration and entry of a horse on which a posterior digital (heel nerve) neurectomy or permanent block has been performed prior to May 1, 1981, may be accepted provided that the condition is reported to the racing secretary at the time of registration. The racing secretary shall make such information available to other licensees. Any horse so nerved shall be examined by the track and Department veterinarians before being entered to start in a race, and sensation must be present.~~
15. No change.
- a. No change.
 - i. ~~Any entries in any race may be subjected by the order of a A steward or Department veterinarian may subject an entry in a race to saliva, urine, blood, or other tests for the purpose of determining the presence of any finding foreign substance substances.~~
 - ii. ~~Samples of saliva, urine, blood, or other test substances shall be taken by persons Persons approved by the Department shall take samples of saliva, urine, blood, or other substances.~~
 - iii. No change.
 - iv. No change.
 - v. No change.
 - vi. ~~Documents evidencing the procedure shall be signed by the The owner, trainer, or the representative of either representatives of either shall sign documents evidencing the procedure.~~
 - vii. ~~No A person shall not interfere in any manner with the collection or procedures conducted under this rule.~~
 - b. Human testing
 - i. As set forth in A.R.S. § 5-104(C) and R19-2-112(8) and (10), a licensee shall immediately submit to blood, urine, breath, or other tests ordered by the stewards, if the stewards have reason to believe said licensee is under the influence of or in possession of any prohibited substance or has consumed alcohol in violation of subsection (8) or (10) of this Section.
 - ii. A test sample licensee shall provide a test sample be taken in the presence of a steward or the steward's designee, submitted in a container furnished by the Department and immediately sealed by the steward or steward's designee in the presence of the licensee being tested.
 - iii. The steward or steward's designee shall mark the container shall be marked with the following items: sample identification number; time, date, and location where the sample was given; and the signature of Department personnel sealing the container.
 - iv. The steward or steward's designee shall submit the container shall be submitted to a Department-approved laboratory for analysis, of the sample in order to determine the presence of alcohol or any prohibited substance.
 - v. If laboratory analysis indicates the positive presence of any prohibited substance or alcohol in the tested licensee's sample, said the licensee may be subject to license suspension or revocation or civil penalties, as set forth in R19-2-121(E)(3)(f) and A.R.S. § 5-108.05(A).
- vi. ~~Test results and information obtained during the testing process shall be accessible only to members of the Commission, the Director, or designees of the Director, and the tested licensee, and The Department shall be kept keep the information in a locked, secured area of the Department office.~~
 - vii. ~~The steward's or designee's Compliance compliance with these rules constitutes shall be prima facie evidence that the chain of custody of the test samples is secure, and the results of such tests shall be admissible in any administrative procedure The presiding officer in an administrative proceeding of the Department or Commission shall admit the results of such tests.~~
16. The trainer, groom, and any other person ~~who is~~ charged with the custody and care of a horse ~~is are~~ required to protect and guard the horse against the administration, either internally or externally, of any foreign substance. A positive test, indicating the presence of a any foreign substance (except as set forth in subsections (12) and (13) of this Section), creates the shall give rise to a presumption of failure to meet the duty imposed by this rule, that the persons referred to in this paragraph have failed to meet the duties imposed upon them.
17. The owner of a any horse disqualified in a race because of an infraction of these rules shall forfeit and return any portion of the purse or stakes, the and any trophy received from such the race and shall forfeit any the entry or subscription money.
- a. ~~Any winnings which are forfeited pursuant to this paragraph shall be redistributed The stewards shall distribute winnings forfeited pursuant to this subsection among the remaining entitled entries in the race entitled thereto.~~
 - b. ~~The stewards Any horse shall be disqualified disqualify and may be declared declare a horse unplaced for every purpose except pari-mutuel wagering if the chemical analysis performed pursuant to subsection (15)(a) of this Section indicates the presence of a any foreign substance classified as Class 1 or Class 2 under the Association of Racing Commissioners International, Inc. February 14, 1995, Uniform Classification Guidelines for Foreign Substances incorporated by reference, on file with the Office of the Secretary of State, and not including any later amendments or editions.~~
 - c. ~~The stewards may disqualify and declare a horse unplaced for every purpose except pari-mutuel wagering if the chemical analysis performed pursuant to subsection (15)(a) of this Section indicates the presence of a foreign substance classified as Class 3, Class 4, or Class 5 under the Association of Racing Commissioners International, Inc. February 14, 1995, Uniform Classification Guidelines for Foreign Substances incorporated by reference, on file with the Office of Secretary of State, and not including any later amendments or editions.~~
 - d. ~~The stewards may disqualify and declare a horse unplaced for every purpose except pari-mutuel~~

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wagering if the chemical analysis performed pursuant to subsection (15)(a) of this Section shows that horses on the lasix list raced without the medication described in subsection (12) of this Section, or that the plasma of the horse contained race levels of medication in excess of the level permitted by subsection (13) of this Section.

e. The Department veterinarian shall review all reports indicating the presence of a foreign substance and consult with the stewards prior to the initiation of disciplinary action. When a report indicates the presence of a substance classified as Class 3, Class 4, or Class 5, the Department veterinarian's review shall specifically address trace level detection to prevent the initiation of disciplinary action based upon pharmacologically insignificant traces of a substance.

18. Any licensee The Department may suspend the license of a licensee who refuses to make a payment for financial obligation incurred in connection with racing in this state, may be subject to license suspension by the Department.

R19-2-121. Officials

A. No change.

1. The term "track official" ~~shall apply to~~ means the following persons employed by the permittee and approved and licensed by the Department: Director of Racing, one steward, mutuel manager, patrol judges, clerk of the scales, starter, timer, paddock judge, track veterinarian, track superintendent, announcer, racing secretary, assistant racing secretary, handicapper, horsemen's bookkeeper, jockey room custodian, and chief of security.
2. The term "Department official" ~~shall apply to~~ means the following persons appointed by the Department: 2 stewards, state mutuel supervisor, Department veterinarian, identifier, and investigator. Certain "track officials" may be appointed by the Department for the county ~~fairs~~ fair race meets.
3. One person may serve in more than 1 official position if ~~such~~ the person can do so without detriment to any of the other positions, and if ~~such~~ the person has the consent and approval of the Department; provided that neither the racing secretary nor the permittee director of racing may serve as a steward.
4. No change.
5. No change.
 - a. When a vacancy occurs among officials other than stewards, the stewards shall fill the vacancy prior to post time of the first race of the day or when the vacancy occurs. The appointment ~~shall be~~ is effective only for the day unless the permittee fails to fill the vacancy on the following day and has notified the stewards of its action not less than 1 hour before the post time of the 1st race of the following day. ~~Such an~~ An appointment shall be reported promptly to the Department.
 - b. ~~No race shall be run without three~~ Three stewards ~~present shall view the running of a race.~~ If a vacancy occurs among the stewards, the ~~steward(s)~~ stewards present shall appoint 1 or 2 persons to serve as temporary stewards. ~~Appointments made~~ The stewards making the appointment under this subsection shall ~~be reported~~ report it in writing to the Department.
 - c. No change.
6. Minors The Department shall not be licensed license minors as officials.

7. ~~No one~~ A person interested in the result of a race because of an ownership interest in any entered horse, bets, or otherwise shall not act as an official at the meeting.

B. No change.

1. ~~No~~ An official or ~~such~~ an official's assistant shall not purchase mutuel tickets on races.
2. ~~No~~ An official or ~~such~~ an official's assistant shall not consume alcoholic beverages while on duty.
3. ~~No~~ An official shall not accept, directly or indirectly, a ~~any~~ bribe, gift, or ~~gratuity in any other form of~~ gratuity which is intended to or might influence the results of a ~~any~~ race or the conduct of a ~~any~~ racing meeting.
4. ~~No~~ An official or employee shall not write or solicit horse insurance at a racing ~~any~~ meeting.
5. ~~No~~ An official or employee at the meeting shall not buy or sell a ~~any~~ contract upon a ~~any~~ jockey or apprentice jockey for ~~such~~ an official or employee or for another, either directly or indirectly.

C. No change.

D. No change.

1. ~~Any~~ A person with a grievance or complaint against a track official, an employee of the permittee, or a licensee shall ~~be made~~ submit it in writing to the stewards within 5 days of the alleged objectionable act or behavior. ~~The grievance or complaint shall be made to the~~ The stewards; ~~who shall consider the matter, take appropriate~~ appropriate ~~whatever action is deemed to be appropriate, and make a full report of their action to the Department.~~
2. ~~Any~~ A person with a grievance or complaint against an official or employee of the Department shall ~~be reported~~ report it in writing to the Deputy Director of the Department within 5 days of the alleged objectionable act or behavior. ~~The grievance or complaint shall be made to the Department.~~
3. The Department reserves the right to demand a change of any official or employee for failure to comply with state rules ~~good cause.~~

E. No change.

1. No change.
 - a. Stewards' duties ~~shall~~ include being in attendance at the office of the racing secretary or on the grounds of the permittee on any day in which entries are being taken or racing is being conducted, and representing the Department in all matters pertaining to the interpretation of the rules adopted by the Department.
 - b. No change.
 - c. If a steward is unable to perform ~~such~~ the steward's duties for more than 1 day ~~an extended period of time,~~ such the steward shall immediately notify the Director of that fact so that an alternate steward may be named to act in ~~such~~ the steward's place.
2. No change.
3. The stewards shall have the power to interpret the rules and to decide all questions not specifically covered by ~~said~~ the rules. In all ~~such~~ interpretations and decisions, the orders of the stewards ~~shall~~ supersede the orders of the permittee.
 - a. No change.
 - b. The stewards shall investigate and render a decision promptly on each objection properly made to them pursuant to R19-2-117 of these rules. ~~Each ruling shall be signed by a~~ A majority of the stewards shall sign each ruling.
 - c. The stewards shall ~~have the power to~~ supervise all entries and declarations. They may refuse entries or

- the transfer of ~~any~~ entries for violations of state the rules or ~~of the~~ statutes.
- d. The stewards shall ~~have the power to~~ regulate and to control the conduct of ~~all~~ officials and ~~all~~ other persons attending or participating in ~~any~~ manner in a racing meeting.
 - e. The stewards, ~~in order to maintain necessary safety and health conditions, and to protect the public confidence in horse racing as a sport,~~ shall have the right to: authorize a person or persons ~~in their behalf~~ to enter into or upon and examine the buildings, stables, rooms, motor vehicles, trailers, or other places within the grounds of a licensed race track; ~~and to examine same and to inspect and examine the person, personal property, and effects of any person within such the grounds; place and to seize any items prohibited under R19-2-112(5) and (6) or any other illegal article.~~
 - f. Pursuant to subsection (E)(6), the stewards may impose a civil penalty in an amount not exceeding \$500 on any person subject to their control for violation these rules. ~~In addition After a hearing,~~ the stewards may suspend, ~~after a hearing for a period of time up to 60 days, any a~~ person violating any of these rules for up to 60 days and may rule off licensees violating any of these rules. ~~Nothing in these rules shall prevent the The stewards from imposing may impose~~ both a civil penalty and suspension for the same violation. The stewards may refer any ruling made by them to the Director, recommending further action, including the license revocation, of a license suspended by them.
 - g. In all cases where laboratory reports or other evidence shows the administration or presence of a foreign substance, the stewards shall immediately investigate the matter, and may disqualify the horse, ~~may~~ suspend the trainer or other person or persons involved, refer the matter to the Director, and ~~may~~ impose a fine.
 - h. No change.
 - i. When a person has been suspended, the stewards shall rule off or expel every horse wholly or partly owned by such the person shall also be ruled off, or expelled, so long as such the person's suspension continues. Such The person shall is not be qualified, whether acting as agent or otherwise, to subscribe for, or to enter or to run any a horse in any race, in either such the person's own name or that of any other another person, and no horse of which such person The stewards shall disqualify a horse if it is wholly or partly owned by the person owner, or which is under such the person's care, management, training, or supervision, or in the person has an interest in the horse's winnings, of which such person has any interest, shall be qualified to be entered to run in any race. If an entry from any person, or of any horse that stands ruled off or expelled is received, such entry shall be void, and any At the time it is discovered, the stewards shall void an entry from a person or of a horse that stands ruled off or expelled. The person shall forfeit the entry or subscription money is forfeit and shall return any the money or prize won, under said entry shall be returned.
4. The stewards may excuse a horse that has left the paddock for the post if they consider such that horse to be crippled, disabled, or unfit to run. In claiming races, if there is a claim entered on a horse so excused, the claim is invalid.
 5. The stewards shall determine the finish of a race by the relative position of the noses of each horse. They shall immediately notify the ~~permittee~~ pari-mutuel department of the numbers of the first 4 horses.
 - a. The stewards shall promptly display the numbers of the first 3 horses in each race in the order that they finished, of their finishes. If the stewards differ as to their order in their placing, the majority shall prevail.
 - b. The stewards may ~~consult~~ review the photo finish picture, device provided by the permittee, to aid them in determining the finish of a race.
 - i. In any instance where the pictures furnished are not adequate or usable, ~~the decision of the stewards shall be make the final decision, and need not be governed in any manner by the photograph.~~
 - ii. If the stewards consider it advisable to ~~consult a picture from the finish camera, review the photo finish picture,~~ the stewards may post such placements as are in their opinions unquestionable without waiting for a picture. After ~~consulting~~ reviewing the picture, they may make the other placements. ~~In no case, however, The stewards shall not declare the race be declared official until the stewards have they have determined the which horses finishing finished 1st, 2nd, and 3rd.~~
 - c. ~~Nothing in these rules shall be construed to prevent the The stewards shall from correcting correct an error before the display of the sign "official" or from recalling recall the sign "official" in case if it has been displayed through error.~~
 6. ~~When the The stewards shall adhere to the following procedure when they have reason to believe that a rule has been violated by any person, the procedure shall be as follows:~~
 - a. ~~The person shall be summoned The stewards shall summon the person to a hearing at which with all the stewards shall be present.~~
 - b. ~~Twenty-four hours notice The stewards shall give 24 hours notice of said the hearing shall be given to the person, in writing, on a form supplied by the Department. This notice The stewards shall be timed and dated time and date the notice, and the person notified shall sign it. The stewards shall retain the original shall remain with the stewards and shall be and include it as part of the case file. A The stewards shall give a copy shall be given to the person summoned.~~
 - c. ~~No penalty The stewards shall be imposed not impose a penalty until such the hearing.~~
 - d. ~~Nonappearance of the summoned party after adequate notice The stewards shall be construed construe nonappearance of the summoned party as a waiver of the right to a hearing before the stewards.~~
 - e. ~~The stewards shall permit the person summoned shall be permitted to present witnesses on such the person's own behalf.~~
 - f. ~~If there is substantial evidence to find a violation of these rules, The stewards shall take appropriate action, including suspension or civil penalty or both, if there is substantial evidence to find a violation of~~

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these rules shall be taken by the stewards. The stewards shall promptly forward their written decision or ruling to the Director and to the party in question.

- g. No change.
h. Any license suspended by the The stewards steward shall be recovered recover and forwarded forward to the Department any license they suspend.
i. All matters within their jurisdiction shall be determined by a A majority vote of the stewards shall determine all matters within their jurisdiction.
j. No change.
k. Civil penalties imposed by the stewards The licensee shall be paid promptly pay to the Department any civil penalty imposed by the stewards to the Department promptly for deposit with the state treasurer.

7. During the term of suspension of any an owner, trainer, or other person on any a track under the jurisdiction of the Department, it shall be the duty of the stewards and the permittee to see shall ensure that the a ruling against the offender is enforced.

- F. No change.
1. The duties of the racing secretary shall include:
a. Reporting to the stewards all violations of these rules or of the regulations of the permittee which come to such the racing secretary's attention.
b. No change.
2. The racing secretary or authorized representative shall inspect all papers and documents dealing with owners and trainers, partnership agreements, appointments of authorized agents, and adoption of stable names. Such The racing secretary may demand production of such documents and papers in order to satisfy such racing secretary as to verify their validity and automaticity and to ensure that the rules have been followed complied with.
3. The racing secretary shall write the conditions of all races and shall publish them sufficiently before closing time for entries, to allow them to be read by all owners and trainers. Conditions The racing secretary shall not be altered alter the conditions after the time set for closing.
a. Conditions The racing secretary shall not write of races shall not that conflict with racing rules.
b. A The racing secretary shall include or post a list of eligible horses shall be included in the conditions or posted prior to the time of entry for every graded quarter horse race. No The racing secretary horse shall not be added add a horse to this list after entering has begun without the consent of those who have entered eligible horses.
4. No change.
a. No change.
b. No change.
5. No change.
a. No change.
b. No change.
c. Races The racing secretary shall give preference to races printed in the condition book shall have preference over substitute and extra races.
6. The racing secretary or the racing secretary's designee shall conduct the drawing of all races and immediately thereafter shall post an overnight listing of the horses in each race.
7. No change.
8. No change.

G. Assistant racing secretary. The duty of the The assistant racing secretary shall be to assist the racing secretary in the performance of the racing secretary's duties, and under the racing

secretary's supervision.

- H. No change.
1. The starter shall have has:
a. No change.
b. No change.
c. Authority to recommend to the stewards the fining or suspension of any person violating such the starter's orders.
2. The starter may place a horse on a schooling list. No entries may be accepted The racing secretary shall not accept an entry on such a horse until it has been removed from the schooling list by the starter.
3. No change.
I. No change.
1. No change.
2. No change.
J. No change.
1. The duties of the clerk of the scales shall include:
a. No change.
b. No change.
c. Notifying the a trainer concerned of the overweight of such that the trainer's jockey is overweight.
d. No change.
e. No change.
2. No A jockey shall not pass the scale more than 7 pounds overweight without the consent of the stewards.
3. No A jockey shall not be more than one pound short at weigh in.
4. No change.
K. No change.
1. The duties of the paddock judge shall include:
a. No change.
b. Keeping a record of all equipment carried by the horses in each race under such the paddock judge's jurisdiction.
c. Permitting no change of equipment unless such the change is approved by the stewards.
2. No one except Only the owner or trainer of a horse, or the employees of each, shall touch a horse in the paddock without the permission of the paddock judge.
3. No change.
L. No change.
1. The duties of the patrol judges shall include:
a. No change.
b. No change.
2. No change.
3. The number of patrol judges in use at a each track may vary with the size of the each track and with the need to ensure clean racing.
M. No change.
1. No change.
2. No change.
3. A The timers shall use an electrical timing device approved by the Department shall be used in all races restricted to quarter horses.
N. No change.
1. The duties of the jockey room custodian shall include:
a. No change.
b. No change.
c. No change.
d. No change.
e. No change.
2. The jockey room custodian shall report immediately to the stewards any colors not in such the jockey room custodian's possession for a given day's racing.
O. No change.

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1. No change.
 2. ~~All money deposited with the~~ The horsemen's bookkeeper shall pay all money on deposit to the persons entitled to it within 14 days after the close of the meeting.
 3. No change.
 4. ~~All~~ The horsemen's bookkeeper shall segregate and hold as trust funds all fees paid in added money events, early closing events, stakes, and futurities shall be segregated and held as trust funds until the event is contested. Proof The horsemen's bookkeeper shall submit proof of such segregation by bank letter or bank statement shall be submitted to the Department through its authorized representative.
 5. ~~No~~ The horsemen's bookkeeper shall not pay purse money earned by a horse ~~shall be paid to anyone except its registered owners or their authorized agent.~~ Results of laboratory analysis reported by the The Department shall determine when purse monies are released, based on results of laboratory analysis.
 6. In the event of an objection or positive sample and upon notification by the stewards, the horsemen's bookkeeper shall hold the purse monies shall be held until released by the Department.
- P. No change.
1. ~~There~~ The Department shall approve 2 official veterinarians, approved by the Department and licensed to practice veterinary medicine by the state of Arizona. One The permittee shall employ 1 of the official veterinarians veterinarian shall be employed by the permittee, and the Department shall employ the other official one veterinarian shall be employed by the Department.
 2. No change.
 3. An official veterinarian shall inspect each horse in the receiving barn or paddock and shall recommend to the stewards the scratching of any horse ~~such the~~ veterinarian finds to be unsafe to race or physically unfit to produce a satisfactory result in a race.
 4. No change.
 5. No change.
 6. The racing secretary may accept the entry of ~~any~~ a horse on the veterinarian's list ~~may be accepted only after~~ approval by the track and Department veterinarian and ~~after if 3 calendar days have elapsed since the placing of the horse was placed on the veterinarian's list have elapsed.~~
7. No change.
- a. This record ~~shall include~~ includes:
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. The date and time of ~~such the~~ treatment.
 - b. ~~This Veterinarians shall keep this record shall be kept for practice engaged in at all licensed tracks.~~
 - c. ~~This A veterinarian shall produce this record shall be produced without delay upon request of the stewards or the Department.~~
 - d. No change.
 - e. No change.
 - f. ~~All The Department, acting on the recommendation of the Department veterinarian, shall evaluate all new and experimental medications and drugs and determine whether the medications and drugs may be used on the grounds, shall be approved by the Department, acting on the recommendation of the Department veterinarian.~~
8. ~~If, in the opinion of an official veterinarian, determines that an injured horse should be destroyed shall be destroyed, he the official veterinarian shall destroy the horse quickly, humanely and out of sight of the public unless any delay will prolong the suffering of the horse.~~
- Q. Horse identifier
1. No change.
 2. ~~All~~ The horse identifier shall ensure that all horses shall be tattooed in order to start starting at any track in the state of Arizona are tattooed unless otherwise authorized by the stewards.
 3. The horse identifier may make photographs or permanent identification records ~~on all~~ for horses referred to in subsection (Q)(1)2. The horse identifier identification records shall include the tattoo number, markings, cowlicks, dimples, and other characteristics of each horse on its identification record.