

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

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

CHAPTER 2. ARIZONA RACING COMMISSION

Editor's Note: The following Notice of Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3268.)

[R12-234]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R19-2-201 Amend
R19-2-203 Repeal
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 5-104(A)(2), Laws 2011, Ch. 35, § 10(B)
Implementing statute: A.R.S. §§ 5-104(F), 5-104(R), 5-113.01, 5-230
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
November 16, 2012
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: William J. Walsh
Address: Arizona Department of Racing
1110 W. Washington St., Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1730
Fax: (602) 364-1703
E-mail: bwalsh@azracing.gov
Web-site: www.azracing.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
The Department of Racing is initiating this exempt rulemaking to comply with the requirement that the Department collect fees in an amount to support the Department's mission under the requirements of Laws 2011, Ch. 35, § 10(B).
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact, if applicable:**

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The rules will eliminate a regulatory assessment on purse funds for horse and greyhound owners, thus returning those funds, estimated to be \$55,000 annually, to the purse accounts for licensed owners of greyhounds and horses racing in the state of Arizona.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None have been received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

None submitted

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

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

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 2. RACING REGULATION FUND

Section

R19-2-201. Racing Regulation Fund

R19-2-203. ~~Regulatory Assessment for Animal Medication Testing, Research, Safety and Welfare~~ Repealed

ARTICLE 2. RACING REGULATION FUND

R19-2-201. Racing Regulation Fund

The Racing Regulation Fund, established by A.R.S. § 5-113.01, and administered by the Department of Racing, shall collect funding for regulation of racing from the pari-mutuel racing industry from the sources listed below. The Department shall review assessments from each source at least twice a year for the purposes of meeting its budget.

1. Annual license fees established by the Department and set forth in R19-2-202, except for those fees deposited to the Greyhound Adoption Fund pursuant to A.R.S. § 5-113(H).
2. ~~A regulatory assessment for animal medication testing, research, animal safety and welfare from purses at racetracks in an amount established by the Department and set forth in R19-2-203.~~
3. ~~2.~~ A regulatory assessment based on the number of dark days on which wagering is conducted in excess of live racing days for each racetrack permittee issued a racing permit. The assessment shall be in an amount established by the Department and set forth in R19-2-204.
4. ~~3.~~ A regulatory assessment from all racetracks that have been issued a commercial racing permit to be paid from the amount deducted by the permittee from pari-mutuel pools. The assessment amount may be deducted from pari-mutuel pools in addition to the amounts the permittee is authorized to deduct in A.R.S. § 5-111(C). The assessment shall be based on amounts wagered on live and simulcast races from in-state and out-of-state wagering handled by the permittee in an amount established by the Department, and as set forth in R19-2-205. A permittee shall not reduce the

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amounts payable to the Department under this subsection for hardship tax credits under A.R.S. § 5-111(I) or for capital improvement credits under A.R.S. §§ 5-111.02 and 5-111.03.

~~5.4.~~ License fees collected pursuant to A.R.S. § 5-230(A).

~~6.5.~~ The overpayment of a regulatory assessment by a permittee shall be credited to and may be deducted from any regulatory assessment payment due from the permittee in the current fiscal or the following fiscal year.

R19-2-203. ~~Regulatory Assessment for Animal Medication Testing, Research, Safety and Welfare~~ Repealed

~~The Department shall assess and collect a regulatory assessment to be deducted from the purse accounts provided for in A.R.S. § 5-111, to pay for racing animal medication testing, research, animal safety and welfare.~~

- ~~1. The regulatory assessment shall be a percentage of the purse accounts in the following amounts:
 - a. For horse racing, the assessment shall equal 0.5 percent.
 - b. For greyhound racing, the assessment shall equal 2.5 percent.~~
- ~~2. The permittee, shall be responsible for calculating the assessment of the purse accounts under the permittee's control and transmitting the assessment funds to the Racing Regulation Fund daily unless otherwise approved by the Department when live racing is conducted at the racetrack. The permittee shall provide the Department with a report each month detailing funds transmitted to the Racing Regulation Fund.~~
- ~~3. The Department may review or audit the permittee's accounts periodically under the authority of A.R.S. § 5-104.01. The permittees shall cooperate fully with the Department during these audits.~~