

NOTICES OF PROPOSED RULEMAKING
Initiated After January 1, 1995

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 Art (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 PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

PREAMBLE

1. Section Affected
R15-5-2007
- Rulemaking Action
Amend
2. The specific authority for the rulemaking, including both the authority statute (general) and the statutes the rules are implementing (specific):
Authorizing statutes: A.R.S. §§ 42-105 and 42-1303
Implementing statute: A.R.S. § 42-1322.04
3. The name and address of agency personnel with whom persons may communicate regarding the rules:
Name: Kathleen Larson, Deputy Administrator
Address: Tax Research and Analysis Section
Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007
Telephone: (602) 542-3062
Fax: (602) 542-4860
4. An explanation of the rule, including the agency's reasons for initiating the rule:
In 1994, the Arizona legislature enacted A.R.S. § 42-1322.04 re-establishing the credit for expenses incurred by a taxpayer in accounting and reporting transaction privilege and severance taxes. The credit is effective for reporting periods beginning July 1, 1995. There had been a similar credit in effect between 1985 and 1990. The rule is proposed for amendment to implement provisions under the new statute.
5. A showing of good cause why the rule is necessary to promote a state wide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:
Identification of the Rulemaking:
The rule implements the legislative directive that a credit for accounting and reporting expenses be made available to transaction privilege taxpayers. The purpose of the rule is to provide guidance in calculating and claiming the credit.
Summary of Information in the Economic, Small Business, and Consumer Impact Statement:
Data used in preparation of the economic, small business, and consumer impact statement includes figures obtained from the annual report of transaction privilege and severance taxes remitted, as well as information obtained from individual taxpayers. The costs associated with the rule will generally be borne by the state transaction privilege tax clearing account and the general fund. However, due to the statutory definition of "taxpayer" and the dollar limitation placed on the allowable credit, a taxpayer having more than one transaction privilege tax license, and taxable business activities exceeding \$20 million, will bear the burden of determining whether it will allocate the allowable credit amount to one or more of its licenses and reporting any allocation to the Department. Benefits will accrue to the transaction privilege tax taxpayers claiming the credit. It is expected that the benefits of the rule will be greater than the costs.

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7. The name and address of agency personnel with whom persons may communicate with regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Kathleen Larson, Deputy Administrator
Address: Tax Research and Analysis Section
Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007
Telephone: (602) 542-3062
Fax: (602) 542-4860

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding at which the public may appear and make comments regarding the rule or the economic, small business, and consumer impact statement will occur as follows:

Date: January 24, 1996
Time: 9:30 a.m.
Location: Department of Revenue
1700 West Washington, Room 500
Phoenix, Arizona 85007

Nature: Public hearing

A person may submit written comments regarding the proposed rule by submitting the comments no later than 5 p.m., February 7, 1996, to the person listed above.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporated by reference and their location in the rules:

None.

11. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 5. TRANSACTION PRIVILEGE AND USE TAX

ARTICLE 20. ADMINISTRATION

R15-5-2007. Credit for Accounting and Reporting Expenses

ARTICLE 20. ADMINISTRATION

R15-5-2007. Credit for Accounting and Reporting Expenses

A. For purposes of this rule, the following definitions apply:

1. "Reporting period" means a calendar month unless another period is authorized pursuant to A.R.S. § 42-1322.
2. "Statutory delinquency date" means the date by which a payment of tax is considered delinquent pursuant to A.R.S. § 42-1322.
3. "Tax return" means the Transaction Privilege, Use, and Severance Tax Return (TPT-1).
4. "Taxable business" means a business which is subject to either transaction privilege tax or severance tax.
5. "Taxpayer" means taxpayer as defined in A.R.S. § 42-1322.04(C) including an entity which is exempt from state income tax. The following are considered a single taxpayer:
 - a. Members of an Arizona affiliated group filing a consolidated corporate income tax return;
 - b. Corporations in a unitary business filing a combined corporate income tax return;
 - c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
 - d. Partnerships, S corporations, trusts, or estates conducting multiple businesses filing a single income tax return.

A.B. The computation of the credit is based upon the full amount of tax as required to be reported on the tax return, including any excess tax collected. A credit shall not be allowed against taxes other than the state transaction privilege tax and severance tax. Amount of credit. The credit given for accounting and reporting expenses applies to the full amount of the transaction privilege tax and severance tax due as computed on the sales tax return and actually remitted on or before the statutory delinquency date.

C. Except as provided in subsection (D), no credit shall be allowed if the taxpayer fails to pay the tax due before the statutory delinquency date. Failure to pay the tax due includes:

1. If the The taxpayer only makes an underpayment or a partial payment of tax liability due, including any estimated tax liability, or, the tax due will not have been paid and no credit shall be allowed.
2. If the The taxpayer's check is dishonored, it shall be treated the same as a nonpayment, and no credit shall be allowed. If the taxpayer includes excess tax collected in its sales tax return, the excess tax collected is subject to the credit.

B.D. Effect of taxpayer error on receiving the credit. The credit shall be given when the taxpayer attempted to compute and pay the tax on time, and their error in mathematical allowed based on the amounts originally filed only if a computational computation error occurred which that resulted in the overpayment or underpayment of the tax actually due.:

1. In the case of an overpayment Overpayment, if the mathematical error results in overpayment of the tax due, the credit shall be given allowed on the actual amount of tax

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due for the reporting period. ~~Any overpayment of tax due may be refunded or used as a credit balance to offset future tax liabilities. Overpayment used to offset future tax liabilities shall be considered to be part of the amount paid in the following reporting period and subject to the credit at that time.~~

2. ~~In the case of an underpayment~~ Underpayment, If the taxpayer makes a mathematical error in computing the amount of tax due which results in an underpayment, the taxpayer shall be given the credit ~~shall be allowed~~ only on the amount of the tax paid prior to the statutory delinquency date.

~~C.E. Claiming the credit.~~ To receive the credit for each reporting period, the taxpayer shall claim the credit on the sales tax return. If the credit is miscalculated the taxpayer understates the amount of the credit on the tax return, the taxpayer shall be given only be allowed the amount of credit actually due for the reporting period rather than the miscalculated amount which is claimed. ~~The taxpayer may file an amended return to claim any unclaimed portion of the credit if the taxpayer timely paid the tax upon which the credit is based. If the taxpayer overstates the amount of the credit, the taxpayer shall only be allowed the amount of credit actually allowable for the reporting period.~~

F. A taxpayer is entitled to only one credit regardless of the number of licenses, businesses, or locations that the taxpayer may have. Taxpayers with multiple licenses for separate businesses or separate locations shall elect the manner in which to allocate the credit among their licenses within the \$10,000 annual limitation. The election shall be made on a form 51-T. The taxpayer shall file the election on or before January 15 of the year for which the election is being made or within 30 days of the beginning of operations if the taxpayer is a new business entity. The election shall only be made once a year except as follows:

1. If a taxpayer does not claim the entire \$10,000 credit during the year, the taxpayer may amend the election at the end of the calendar year to reallocate the unclaimed portion of the credit for that particular year. This amended election shall be filed on or before January 31 of the following year. To claim the reallocated credit, the taxpayer shall file an amended tax return for each reporting period in which a sufficient tax liability exists and was timely paid to allow the application of the reallocated credit. For example:

An individual owns 3 separate businesses with different transaction privilege tax licenses. At the beginning of the year, the individual allocates the \$10,000 credit as follows: \$3,000 to Company A; \$2,000 to Company B; and \$5,000 to Company C. At the end of the year, Companies A and B have claimed the credit up to their allocated amounts. However, Company C has only claimed \$1,000 of its allocated credit. Company A timely paid a sufficient tax liability during the months of August and September against which to allow an additional \$4,000 credit. The individual may amend its election to reallocate the unclaimed credit to Company A. To claim the \$4,000 credit, the individual must file an amended tax return for Company A for the months of August and September.

2. If a taxpayer acquires, sells, or terminates a taxable business during the calendar year, the taxpayer may amend the election at that time to reallocate the credit. The taxpayer shall only reallocate the portion of the credit which has not been claimed by the date on which the taxpayer acquires, sells, or terminates the business. The election shall relate to the acquired, sold, or terminated business

and shall be made on a prospective basis only. The taxpayer shall notify the Department of the reallocation 30 days prior to the due date of the tax return for the reporting period to which the reallocation applies. For example:

Corporation A is the common parent of Corporations B and C and elects to file a consolidated state income tax return. Each of the 3 corporations conducts a taxable business activity. Since the 3 corporations file state income tax as one entity, Corporation A is required to allocate the \$10,000 credit among the 3 corporations. At the beginning of the year, Corporation A elects to allocate the entire \$10,000 credit to Corporation B. On July 1, Corporation A acquires Corporation D, which also conducts a taxable business activity. Corporation A may amend its election at this time to take into account Corporation D. Only the portion of the credit which has not already been claimed by Corporation B may be reallocated to Corporation D.

H. For purposes of allocating the \$10,000 credit, the following shall apply:

1. A unitary business filing a combined corporate state income tax return or an Arizona affiliated group filing a consolidated corporate state income tax return shall be allowed one \$10,000 credit to allocate among its members. If the unitary business or affiliated group fails to make an election to allocate the \$10,000 credit, the credit shall be allocated to the corporation in whose name the unitary business or affiliated group filed its state income tax return regardless of whether the corporation conducts a taxable business.

a. If a corporation joins an Arizona affiliated group or unitary business during the calendar year, the corporation shall be considered a separate taxpayer for the period prior to joining the affiliated group or unitary business. The corporation shall be considered the same taxpayer as the affiliated group or unitary business for the period subsequent to joining the affiliated group or unitary business. The credit which has been claimed by the corporation as a separate taxpayer or as part of a separate taxpayer prior to joining the affiliated group or unitary business shall not affect any allocation or reallocation made by the affiliated group or unitary business.

b. If a corporation leaves an affiliated group or unitary business during the calendar year, the corporation shall be considered the same taxpayer as the affiliated group or unitary business for the period prior to leaving the affiliated group or unitary business. The corporation shall not be considered the same taxpayer as the affiliated group or unitary business for the period subsequent to leaving the affiliated group or unitary business. The credit which has been claimed by the corporation prior to leaving the affiliated group or unitary business shall not affect any allocation or reallocation made by the corporation as a separate taxpayer or as part of a separate taxpayer.

2. If a partnership, S corporation, trust, or estate conducts multiple taxable businesses, the partnership, S corporation, trust, or estate shall be allowed one \$10,000 credit to allocate among its businesses. The credit shall not be allocated to the partners of a partnership, shareholders of an S corporation, or beneficiaries of a trust or estate.

3. In cases where the taxpayers are married and each spouse conducts a taxable business, one \$10,000 credit shall be allowed per income tax return. If the married taxpayers

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file separate individual income tax returns, each spouse shall be allowed one \$10,000 credit. If the married tax-payers file a joint income tax return, one \$10,000 credit

shall be allowed for the couple.

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. **Sections Affected**
R19-2-113
1. **Rulemaking Action**
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)
Implementing statute: A.R.S. § 5-109
3. **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: (602) 542-5151
Fax Number: (602) 542-5177
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The Commission is amending the rule to recognize the breed registries for paint horses and mules and to incorporate the recommendations received from the Governor's Regulatory Review Council when the Commission participated in the 5-year review.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**
The amendment does not impose upon the small businesses any hardship, increase the regulatory burden on the small businesses, negatively impact private individuals, or increase any state revenues.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Aikaterine Vervilos
Address: Department of Racing
15 South 15th Avenue, Suite 100
Phoenix, Arizona 85007
Telephone: (602) 542-5151
Fax Number: (602) 542-5177
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
Oral proceedings are not scheduled. Contact Aikaterine Vervilos in writing to request one. At least 5 requests need to be submitted within the 30 days following publication of the proposed rulemaking in order to schedule an oral proceeding.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
10. **Incorporations by reference and their location in the rules:**
Not applicable.
11. **The full text of the rules follows:**

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

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

R19-2-113. Entries and Subscriptions

ARTICLE 1. HORSE RACING

R19-2-113. Entries and Subscriptions

A. No change.

1. ~~No horse~~ An owner or trainer shall not be allowed to register a horse for racing under these rules unless the horse is registered by the Jockey Club, the American Quarter Horse Association, the Arabian Horse Club Registry of America, Inc., or the Appaloosa Horse Club Inc., American Paint Horse Association, American Donkey and Mule Society, or American Mule Association.
2. ~~The names of all persons~~ A person having an ownership interest in a horse shall be listed on the back of the horse's registration papers at the time the horse is entered.
3. No change.
4. ~~A~~ The stewards shall consider a horse entered for a purse shall be as a "starting horse" unless they declare the horse out of the race it has been declared out by the stewards.
5. ~~The entry form to~~ A person entering a horse in a stakes race shall include the write their full name and mailing address on the entry form, of the person making the entry
6. ~~No~~ A person shall not enter a horse shall be entered in more than one race in one day.
7. ~~A horse~~ An owner shall not be transferred transfer a horse to a new trainer after entry.
8. ~~A horse which, during the past calendar year, has started in a race at a recognized track which is not reported~~ An owner shall not enter a horse if the horse's performance records for the proceeding calendar year are not printed in the Daily Racing Form Monthly Chart Book, or unless the owner provides the horse's where such reports are not available, shall not be entered furnished at a track licensed in Arizona unless the owner has performance records to the racing secretary prior to the time the horse is entered entry.
9. The owner or trainer shall sign and certify the performance record. ~~records shall be signed and certified to by either the owner or trainer and~~ The performance record shall include the following information ~~concerning~~ for the horse's last 4 races:
 - a. Where and when ~~said~~ the horse raced.
 - b. No change.
 - c. The finishing position and ~~the~~ time of ~~said~~ race.
10. No change.
11. An owner entering 2 or more horses in a race shall indicate, ~~at the time of entering, such~~ the owner's preference of the horse that is to start in the event the race overfills. Horses excluded as part of an entry shall receive no consideration.
12. No change.
 - a. ~~The racing secretary shall determine the number of "also-eligibles" If if the entries of any a race exceed the capacity of the starting gate, and the race is not to be divided, the number of "also-eligibles" shall be determined by the racing secretary.~~
13. ~~A person shall make a claim of preference shall be made at the time of entry and noted by noting it on the entry blank or the preference shall will be lost.~~
 - a. When a horse has been entered in a race, a person shall withdraw a horse it shall be withdrawn only with permission of the stewards.
 - b. A copy of the preferred list shall be posted each afternoon, and any claim of error must be made by 10:00 a.m. of the following day. ~~A~~ The stewards shall not recognize a claim of error not made within by this time shall not be recognized by the stewards.
14. ~~Any~~ An owner or trainer who does not declare such an owner's horse from the "also-eligible" list by the prescribed time prescribed therefor shall be deemed to be willing to start such an owner's horse in the event of a scratch from the body of the race. A ~~The racing secretary horse shall not be placed place a horse on the preferred list if the owner thereof did not accept, when presented, the opportunity of starting to start a horse.~~
 - b. If the number of entries to a race ~~is in excess exceed~~ of the number of horses that ~~may be permitted to start because of track limitations,~~ the racing secretary shall determine the starters for the race shall be determined by lot in a drawing supervised by a steward and in the presence of witnessed by those making entries. If any of the first group of starters declares out, the racing secretary shall draw, by lot, an equal number of horse shall be drawn by lot from the "also-eligibles" to fill the vacancies in the race.
 - c. Horses, other than quarter horses, which gain a position in a race from the "also-eligible" list shall take the outside post positions in the order in which they are drawn from the list. Quarter horses shall take the stalls of the horses which are declared out.
 - d. If a horse on the "also-eligible" list is not given the opportunity to start because of insufficient declarations, the racing secretary shall place the name of said the horse shall be placed on the preferred list. A ~~The racing secretary horse shall not place a horse be placed on the preferred list if the owner thereof did not accept the opportunity to start when offered.~~
 - e. ~~Any~~ A horse which has drawn a position in a race and enters again for the next race day in which entries are taken shall be termed an "in today horse".
 - i. If a race in which the a horse is entered overfills, the "in today horse" shall be given no consideration except in cases ~~in which where~~ the conditions read Arizona Breds Preferred", stakes, and handicaps.
 - ii. A horse on the "also-eligible" list shall not be considered as an "in today horse" until it has been given a position in ~~the a~~ race or an opportunity to run.
 - f. At tracks where it is necessary to take entries are taken 2 or more days ahead of the date of the race, a horse may reenter on the next date ~~after if~~ it has been placed on the also-eligible" list. If it is drawn into a race from its position on the "also-eligible" list, it shall be declared an "in today horse" and be withdrawn from the race the following day in favor of a horse on the "also-eligible" list of that race.

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15. ~~An entry~~ A person may not be altered ~~alter an entry~~ after the closing of entries. ~~An error-but errors~~ in an entry may be corrected at any time.
 16. If the name of a horse is changed, the racing secretary shall publish the new name and the former name ~~shall be published~~ in the official entries for the horse's first 3 starts, ~~after the change has been made~~. If the name of an Arizona-bred horse is changed, ~~it~~ the racing secretary shall be reported report it to the Department in writing within 30 days, listing the new name and the former name.
- B. No change.
1. ~~No horse~~ A person shall be entered ~~not enter a horse~~ in a race unless its certificate of foal registration, certificate of foreign registration, or racing permit is on file in the racing office of the track at which the horse is to race, except by with permission of the stewards. Foal certificates, which are registered with the racing secretary and are in transit between that office and the American Quarter Horse Association because of a transfer of ownership, shall be ~~deemed to be~~ considered to be in the possession of the racing secretary.
 2. No change.
 3. No change.
 4. A horse shall not run for a purse or stakes unless it has been entered in a race and ~~continues to be duly entered~~ eligible for ~~said the~~ race.
 5. The stewards shall have the right to ~~call on any~~ summon a person in whose name a horse is entered to produce proof that the horse entered is not the property, either wholly or in part, of ~~any a~~ person who is disqualified, or to produce proof of the extent of ~~such a~~ person's interest or property in the horse. Failure to produce ~~such~~ satisfactory proof may result in the stewards declaring the horse out of the race.
 6. A horse shall not be qualified to enter if it is on the schooling list, ~~on the veterinarian's list~~, or if it has been ruled off.
 7. ~~Performance~~ The racing secretary shall consider the performance records of horses racing on the county fair circuit shall be ~~considered in determining to determine~~ their eligibility at commercial meet races. County fair racing secretaries shall place all county fair wins on the back of the foal certificates.
 8. ~~All horses~~ A horse that ~~have has~~ not started within 45 days shall have 2 official works before starting at a commercial meet.
- C. No change.
1. ~~No A person horse~~ shall ~~not start a horse~~ in a race unless it has been fully identified and tattooed, unless otherwise authorized by the stewards. ~~All persons~~ A person who ~~participate~~ participates in any manner in establishing the identity of a horse, including the breeder, owner, trainer, and identifier, shall be responsible for the accuracy of the information ~~they provide the person provides~~.
 2. ~~No A~~ horse shall ~~not start in any a~~ race until all stakes, forfeits, entry fees, and arrears due on ~~said a~~ horse have been paid by its owner, ~~unless the owner has money to such owner's credit with the permittee and authorizes payment~~.
 3. No change.
 4. ~~No horse shall start in any race~~ A person shall not start a horse in a race unless all persons having an ownership interest in the horse or an interest in the winnings of the horse have been registered with the racing secretary.
- D. No change.
1. The entrance to a purse race shall be free unless otherwise stipulated in the conditions of the race. If the conditions require an entrance fee, the fee shall accompany the entry; provided, however, that the entrance fee for a free handicap shall be paid by at the time of acceptance of the assigned weight allotted.
 2. The person entering a horse shall be liable for nominating, sustaining, and starting fees. ~~Neither the~~ The subscriber nor ~~such~~ subscriber's transferee shall receive any a refund ~~of such fees~~ because of the death, ~~or~~ withdrawal, ~~of a horse or because of a~~ or mistake in its entry if the horse is eligible, except as provided in subsection (D)(3).
 3. ~~Entrance~~ The permittee shall not refund entrance money to a purse race that is run shall ~~not be refundable either for failure of if a horse fails to start or for death of a horse or dies~~, unless otherwise provided in the conditions of the race.
 4. The entrance money, starting, and subscription fees in every race shall be distributed, as provided in the conditions of the race. If a race is not run, all stakes or entrance money shall be refunded.
 5. ~~No The death of a nominator or subscriber shall not void an entry, subscription, or right of entry under it shall become void on the death of the nominator or subscriber.~~
 6. ~~No A person shall not transfer of a horse to an owner or trainer shall be made for the purpose of avoiding to avoid disqualification. The persons person making or receiving such a transfer may be fined and suspended.~~
- E. No change.
1. ~~Entries~~ The racing secretary shall close the entries for purse races, ~~the conditions of which have been published previously, shall close~~ at the time advertised in the condition book ~~such publication~~, and no entry shall be received after that time. If a race fails to fill, additional time may be granted by the stewards.
 2. No change.
 3. ~~When the time for closing is designated, The racing secretary shall not receive entries and declarations for stakes after the designated closing time shall not be received thereafter.~~
 4. ~~Overnight entries shall not be deemed to be finally closed~~ The racing secretary shall not close overnight entries until after the places of declared horses have been filled with horses from the "also-eligible" list. ~~No entry shall be accepted~~ The racing secretary shall not accept an entry until after a race has been drawn even though the number of horses on the "also-eligible" list is insufficient to provide a full field.
 5. ~~Any A horse which is withdrawn from a race after the overnight entries are finally closed shall be deemed considered a scratch. Such a A horse shall lose all of its accrued preferences preference accrued up to that date unless excused by the stewards.~~
- F. No change.
1. A declaration in a stakes race shall be made in writing by the an owner, ~~or~~ trainer, of a horse or by the owner's authorized agent.
 2. A horse which is declared from the "also-eligible" list of a race shall ~~be given not receive no~~ a preference for having entered in that race. ~~Such~~ The horse may retain the position it previously held on the preferred list if a full field is left in the race at scratch time.