

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-605
R4-23-607

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. § 32-1904(A)(1) and (B)(3)

Implementing statutes: A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1933

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 3059, July 11, 2003

4. The name and address of agency personnel with whom persons may communicate regarding the rules:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@msn.com

5. An explanation of the rules, including the agency's reasons for initiating the rules:

Because of numerous questions from resident and nonresident drug wholesaler permittees seeking clarification regarding the license and permit verification requirements in R4-23-605(D)(a)(2)(ii) and (iii) and the lack of license and permit verification requirements in R4-23-607(E)(3), the Board decided to amend the nonresident permit rule (R4-23-607) by adding license and permit verification requirements for nonresident permittees like the license and permit verification requirement in place for resident drug wholesaler permittees. While reviewing the verification requirements in R4-23-605, the Board staff noticed that R4-23-605(D)(2)(a)(i) as written could be misinterpreted to mean that a nonprescription drug wholesaler or nonprescription drug retailer is allowed to receive a narcotic or other controlled substance or prescription-only drug or device. Allowing a nonprescription drug wholesaler or nonprescription drug retailer to receive a narcotic or other controlled substance or prescription-only drug or device was not the intent of the subsection, and the proposed rules amend the subsection to clarify who may receive a narcotic or other controlled substance or prescription-only drug or device. The proposed rules include format, style, and grammar changes necessary to comply with the current Administrative Procedure Act.

The Board believes the public, resident and nonresident permittees, and the Board benefit from clear, concise, and understandable rules that regulate the receipt and distribution of drugs by resident and nonresident permittees to Arizona citizens.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, 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

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

Not applicable

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

The proposed rules will have minimal economic impact on nonresident wholesalers and manufacturers who ship drugs into Arizona. The proposed rule will require nonresident wholesalers and manufacturers to obtain a copy of the license, permit, or registration of the Arizona individual or business to whom a drug is sold before the drug is sold. The cost will be minimal, because usually compliance will require only a phone call and the subsequent receipt of a faxed copy of the current license, permit, or registration. Subsequent notice of the need for a copy of a customer's current license, permit, or registration could be done through a note attached to or as part of the customer's invoice. Because the existing rule already requires resident permittees to obtain a copy of a customer's license, permit, or registration, the proposed rules will have no economic impact on resident permittees.

9. 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: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@msn.com

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

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, November 3, 2003. An oral proceeding is scheduled for:

Date: November 3, 2003
Time: 10:00 a.m.
Location: 4425 W. Olive, Suite 140
Glendale, AZ 85302

Requests for information on the oral proceeding may be made to the person in item #9.

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. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-605. Resident Drug Wholesaler Permit

R4-23-607. Nonresident Permits

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-605. Resident Drug Wholesaler Permit

- A. Permit.** A person shall not operate a business or firm for the wholesale distribution of any drug, device, precursor chemical, or regulated chemical without a current Board-issued full service or nonprescription drug wholesale permit.
- B. Application.**
1. To obtain a permit to operate a full service or nonprescription drug wholesale firm in Arizona, a person shall submit a completed application on a form furnished by the Board that includes:
 - a. The type of drug wholesale permit;
 - b. Business name, address, mailing address, if different, telephone number, and facsimile number;
 - c. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;
 - d. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;
 - e. Whether the owner, any officer or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 - f. Whether the owner, any officer or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;
 - g. The type of drugs, nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;
 - h. Plans or construction drawings showing facility size and security adequate for the proposed business;
 - i. Documentation of compliance with local zoning laws;
 - j. Manager's or responsible person's name, address, emergency telephone number, and resume indicating educational or experiential qualifications related to drug wholesale operation;
 - k. For an application submitted because of ownership change, the former owner's name and business name, if different;
 - l. Date signed, applicant's, corporate officer's, partner's, manager's, or responsible person's verified signature and title; and
 - m. Fee specified in R4-23-205.
 2. Before issuing a full service or nonprescription drug wholesale permit, the Board shall:
 - a. Receive and approve a completed permit application;
 - b. Interview the applicant and the responsible person, if different from the applicant, at a Board meeting; and
 - c. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
- C. Notification.** A full service or nonprescription drug wholesale permittee shall notify the Board of changes involving the type of drugs sold or distributed, ownership, address, telephone number, name of business, manager, or responsible person, including manager's or responsible person's telephone number.
- D. Distribution restrictions.**
1. Records. A full service or nonprescription drug wholesale permittee shall:
 - a. Maintain records to ensure full accountability of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - b. File the records required in subsection (D)(1)(a) in a readily retrievable manner for a minimum of two years; and
 - c. Make the records required in subsection (D)(1)(a) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days.
 2. Drug sales.
 - a. A full service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, or prescription-only drug or device, any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, or full service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - ii. Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;

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- ~~iii.~~ Maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - ~~iv.~~ Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell or distribute, any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - ii. Maintain a record of the current permit or license of each person or firm who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - iii. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
 - c. Nothing in this subsection shall be construed to prevent the return of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to the original source of supply.
3. Out-of-state drug sales.
- a. A full service drug wholesale permittee shall:
 - ~~a.i.~~ Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, to anyone except a properly permitted, registered, licensed, or certified person or firm of other jurisdictions;
 - ~~b.ii.~~ Maintain a copy of the current permit, registration, license, or certificate of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - ~~e.iii.~~ Provide permit, registration, license, and certificate records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4); and
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell or distribute, any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a properly permitted, registered, licensed, or certified person or firm of other jurisdictions;
 - ii. Maintain a record of the current permit or license of each person or firm who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - iii. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
4. Cash-and-carry sales.
- a. A full service ~~or nonprescription~~ drug wholesale permittee shall complete a cash-and-carry sale or distribution of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, only after:
 - ~~a.i.~~ Verifying the validity of the order; and
 - ~~b.ii.~~ Verifying the identity of the pick-up person, for each transaction by confirming that the person or firm represented placed the cash-and-carry order; and
 - b. A nonprescription drug wholesale permittee shall complete a cash-and-carry sale or distribution of, any nonprescription drug, precursor chemical, or regulated chemical, only after:
 - i. Verifying the validity of the order; and
 - ii. Verifying the identity of the pick-up person, for each transaction by confirming that the person or firm represented placed the cash-and-carry order.
- E. Facility. A full service or nonprescription drug wholesale permittee shall:
- 1. Ensure that the facility occupied by a full service or nonprescription drug wholesale permittee is of adequate size and construction, well-lighted inside and outside, adequately ventilated, and kept clean, uncluttered, and sanitary;
 - 2. Ensure that the warehouse facility:
 - a. Is secure from unauthorized entry and
 - b. Has an operational security system designed to provide protection against theft and diversion;
 - 3. Ensure that only authorized personnel may enter areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is kept;
 - 4. Ensure that any thermolabile narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;
 - 5. Make the facility available for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4) during regular business hours.

6. Provide a quarantine area for storage of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, misbranded, adulterated, or that is in an open container.
- F. Quality controls.** A full service or nonprescription drug wholesale permittee shall:
1. Ensure that any fire, flood, or otherwise damaged or deteriorated narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is not sold, distributed, or delivered to any person for human or animal consumption;
 2. Ensure that a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
 3. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - a. Kept clean;
 - b. Protected from contamination and other deteriorating environmental factors; and
 - c. In compliance with applicable federal and state law and official compendium storage requirements;
 4. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored; and
 5. Develop and implement a program to ensure that:
 - a. Any expiration-dated narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, that has less than 120 days remaining on the expiration date, is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - c. Any quarantined narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to its source of supply.

R4-23-607. Nonresident Permits

- A. Permit.** A person, who is not a resident of Arizona, shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without:
1. A current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit; and
 2. A current equivalent license or permit issued by the licensing authority in the jurisdiction where the person or firm resides.
- B. Application.** To obtain a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permit, a person shall submit a completed application, on a form furnished by the Board, that includes:
1. Business name, address, mailing address, if different, telephone number, and facsimile number;
 2. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;
 3. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;
 4. Whether the owner, any officer, or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 5. A copy of the applicant's current equivalent license or permit, issued by the licensing authority in the jurisdiction where the person or firm resides and required by subsection (A)(2);
 6. For an application submitted because of ownership change, the former owner's name and business name, if different;
 7. Date signed, applicant's, corporate officer's, partner's, manager's, administrator's, pharmacist-in-charge's, or responsible person's verified signature and title, and
 8. Fee specified in R4-23-205.
- C. In addition to the requirements of subsection (B), the following information is required:**
1. Nonresident pharmacy.
 - a. The type of pharmacy;
 - b. Whether the owner, any officer, or active partner has ever been denied a pharmacy permit in this state or any other jurisdiction, and if so, indicate where and when;
 - c. If applying for a hospital pharmacy permit, the number of beds, manager's or administrator's name, and a copy of the hospital's current equivalent license or permit issued by the licensing authority in the jurisdiction where the person or firm resides;

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- d. Pharmacist-in-charge's name and telephone number; and
 - e. For an application submitted because of ownership change, the former pharmacy's name, address, and permit number; and
 2. Nonresident manufacturer.
 - a. Whether the owner, any officer, or active partner has ever been denied a drug manufacturer permit in this state or any other jurisdiction, and if so, indicate where and when;
 - b. A copy of the drug list required by the FDA;
 - c. Manager's or responsible person's name, address, and emergency telephone number; and
 - d. The firm's current FDA drug manufacturer or repackager registration number and expiration date; and
 3. Nonresident full-service or nonprescription drug wholesaler.
 - a. The type of drug wholesale permit;
 - b. Whether the owner, any officer, or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;
 - c. The types of drugs, nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;
 - d. Manager's or responsible person's name, address, emergency telephone number, and resume indicating educational or experiential qualifications related to drug wholesale operation; and
 4. Nonresident nonprescription drug retailer.
 - a. Whether applying for Category I or Category II permit;
 - b. Date business started or planned opening date; and
 - c. Type of business, such as convenience, drug, grocery, or health food store, swap-meet vendor, or vending machine.
- D. Notification.**
1. Nonresident pharmacy. A nonresident pharmacy permittee shall notify the Board of changes involving the type of pharmacy operated, ownership, address, telephone number, name of business, or pharmacist-in-charge.
 2. Nonresident manufacturer. A nonresident manufacturer permittee shall notify the Board of changes involving listed drugs, ownership, address, telephone number, name of business, or manager, including manager's telephone number.
 3. Nonresident drug wholesaler. A nonresident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the types of drugs sold or distributed, ownership, address, telephone number, name of business, or manager, including manager's telephone number.
 4. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall notify the Board of changes involving permit category, ownership, address, telephone number, name of business, or manager, including manager's telephone number.
- E. Drug Sales.**
1. Nonresident pharmacy. A nonresident pharmacy permittee shall ~~not~~:
 - a. ~~Sell~~ Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance or prescription-only drug or device, to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident upon receipt of a valid prescription order for the resident; ~~and~~
 - b. ~~Sell~~ Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident either upon receipt of a valid prescription order for the resident or in the original container packaged and labeled by the manufacturer;
 - c. Except for a drug sale that results from the receipt and dispensing of a valid prescription order for an Arizona resident, maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
 2. Nonresident manufacturer. A nonresident manufacturer permittee shall ~~not~~:
 - a. ~~Sell~~ Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance or prescription-only drug or device, to anyone in Arizona except, a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32; ~~and~~

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- b. ~~Sell~~ Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - c. Maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
3. Nonresident full-service drug wholesaler. A nonresident full-service drug wholesale permittee shall ~~not~~:
- a. ~~Sell~~ Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance or prescription-only drug or device, to anyone in Arizona except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32; ~~and~~
 - b. ~~Sell~~ Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - c. Maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
4. Nonresident nonprescription drug wholesaler. A nonresident nonprescription drug wholesale permittee shall:
- a. ~~not~~ Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - b. Maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - c. Provide permit and license records upon request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(4).
5. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall not:
- a. Sell, distribute, give away, or dispose of, a nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except in the original container packaged and labeled by the manufacturer;
 - b. Package, repackage, label, or relabel any drug, precursor chemical, or regulated chemical; or
 - c. Sell, distribute, give away, or dispose of, any drug, precursor chemical, or regulated chemical to anyone in Arizona that exceeds its expiration date, is contaminated or deteriorated from excessive heat, cold, sunlight, moisture, or other factors, or does not comply with federal law.
- F. When selling or distributing any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona, a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permittee shall comply with federal law, the permittee's resident state drug law, and this Section.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R12-4-102 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. §§ 17-231(A)(1) and 17-231(B)(7)
Implementing statute: A.R.S. § 17-333(B)
- 3. A list of all the previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 475, February 14, 2003
Notice of Public Meeting on Open Rulemaking Docket: 9 A.A.R. 1432, May 9, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Carlos Ramírez |
| Address: | 2222 W. Greenway Road
Phoenix, AZ 85023 |
| Telephone: | (602) 789-3271 |
| Fax: | (602) 789-3677 |
| E-mail: | cramirez@gf.state.az.us |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

For more than a century, the Kaibab Plateau has been recognized for producing exceptionally large mule deer that have been prized by hunters. Since 1930, the Arizona Game and Fish Department (Department) and U.S.D.A. Forest Service (USFS) have maintained a cooperative agreement to collect fees from deer hunters to be used to improve deer habitat on the Kaibab Plateau. Since 1960, this "administrative fee" has been collected under the legislative authority of the Sikes Act (16 U.S.C. 670 g-n). These fees are collected by the Department and transferred to the USFS who implement the habitat improvement projects.

Procedurally, the Department collects the fees by requiring deer hunters to submit an additional \$5 when applying for the limited number of General Hunt permits through the draw process. Currently, archery hunters may also hunt deer on the Kaibab Plateau, but the number of archery tags is unlimited and hunters may purchase a tag from any license vendor rather than go through a draw. Therefore, archers have not been subject to the \$5 fee.

In 2001, the Arizona Game and Fish Commission directed the Department to seek public comment on raising the fee to \$15 and collecting the fee from archers. The Department received strong public support for these proposals. In April 2002, the Commission directed the Department to implement these changes.

Since archers do not apply through the draw, the Department would have to issue a separate "Kaibab Archery Deer Stamp" to collect the fee from archers. Under the current permit process, a hunter might receive a General Hunt permit through the draw and also purchase an archery deer tag from an outside vendor and therefore pay the "Kaibab fee" twice.

The Department proposes to implement the Commission's direction and resolve the above concern by eliminating the "administrative fee" charged to applicants in the draw and establishing a "stamp," which all deer hunters on the Kaibab Plateau will purchase for \$15 and attach to their hunting license.

Therefore, the Department intends to amend R12-4-102 as follows to authorize activities established under the cooperative agreement with the USFS:

- Amend the rule to rename the "Kaibab North Special Deer Hunting Permit" to the "Unit 12A (North Kaibab) Deer Habitat Management Stamp."
- Amend the rule to increase the fee from \$5 to \$15.
- Amend the rule to remove the permit and fee from the "Administrative Fees" section and establish a stamp under the "Stamps and Special Use Permit Fees" section.

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6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to 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

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 preliminary summary of the economic, small business, and consumer impact:

Proposed rule changes are intended to raise the fee charged to deer hunters on the Kaibab Plateau from \$5 to \$15, to charge this fee to all deer hunters, and streamline the fee collection process. Deer hunters support this fee increase, which will generate additional funds for improving deer habitat on the Kaibab Plateau. The proposed rulemaking will result in an impact to the Department, license vendors, all deer hunters that hunt on the Kaibab Plateau, local businesses around the area, and the USFS. The proposed rulemaking will result in no impact to political subdivisions of this state. No small businesses are subject to this proposed rulemaking. The proposed rulemaking will result in no effect on state revenues. The Department has determined there are no less intrusive or costly methods of achieving the purpose of the proposed rulemaking.

9. 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: Linda Melker
Address: 2222 W. Greenway Road
Phoenix, AZ 85023
Telephone: (602) 789-3339
Fax: (602) 789-3919
E-mail: lmelker@gf.state.az.us

10. The time, place, and nature of the proceedings for the making, 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:

Date: January 16-17, 2004
Time: TBA
Location: Arizona Game and Fish Regional Office, Yuma
9140 E. 28th Street
Yuma, AZ 85365

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway Road, Phoenix, AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

The Arizona Game and Fish Department (AGFD) prohibits discrimination on the basis of race, color, sex, national origin, age, or disability in its programs and activities. If anyone believes that they have been discriminated against in any of the AGFD's programs or activities, including its employment practices, the individual may file a complaint alleging discrimination directly with the AGFD Deputy Director, 2221 W. Greenway Road, Phoenix, AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Ste. 130, Arlington, VA 22203.

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

None

12. Incorporations by reference and their location in the rule:

None

13. The full text of the rule follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Notices of Proposed Rulemaking

Section

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

Persons purchasing the licenses, tags, stamps, or permits listed in this Section shall pay the prescribed fees at the time of application, or the fees prescribed by the Director under R12-4-115.

Hunting and Fishing License Fees	
Class A, General Fishing License	
• Resident	\$18.00
• Nonresident	\$51.50
Pursuant to A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is half price; that includes half of the surcharge prescribed as authorized by A.R.S. § 17-345.	
Class B, Four-month Fishing License	
• Nonresident	\$37.50
Class C, Five-day Fishing License	
• Nonresident	\$26.00
Class D, One-day Fishing License	
• Resident or Nonresident	\$12.50
Class E, Colorado River Only Fishing License	
• Nonresident	\$42.50
Class F, Combination Hunting and Fishing License	
• Resident Adult	\$44.00
• Nonresident Adult	\$177.50
• Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$25.50
Class G, General Hunting License	
• Resident	\$25.50
• Nonresident	\$113.50
Class H, Three-day Hunting License	
• Nonresident	\$51.50
• Resident Youth Group Two-day Fishing License	\$25.00
Class U, Urban Fishing License	
• Resident or Nonresident	\$16.00
Hunt Permit-tag Fees	
Antelope	
• Resident	\$59.50
• Nonresident	\$299.50
Bear	
• Resident	\$13.00
• Nonresident	\$183.00
Bighorn Sheep	
• Resident	\$179.50
• Nonresident	\$915.00
Buffalo	

Arizona Administrative Register / Secretary of State

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• Adult Bulls or Any Buffalo	
• Resident	\$750.00
• Nonresident	\$3,750.00
• Adult Cows	
• Resident	\$450.00
• Nonresident	\$2,250.00
• Yearling	
• Resident	\$240.00
• Nonresident	\$1,200.00
• Yearling or Cow	
• Resident	\$450.00
• Nonresident	\$2,250.00
Deer and Archery Deer	
• Resident	\$17.50
• Nonresident	\$108.50
Elk	
• Resident	\$71.50
• Nonresident	\$366.00
Javelina and Archery Javelina	
• Resident	\$11.00
• Nonresident	\$63.00
Mountain Lion	
• Resident	\$13.00
• Nonresident	\$183.00
Turkey and Archery Turkey	
• Resident	\$10.00
• Nonresident	\$50.50
Sandhill Crane	
• Resident or Nonresident	\$5.00
Nonpermit-tag and Restricted Nonpermit-tag Fees	
Antelope	
• Resident	\$59.50
• Nonresident	\$299.50
Bear	
• Resident	\$13.00
• Nonresident	\$183.00
Bighorn Sheep	
• Resident	\$179.50
• Nonresident	\$915.00
Buffalo	
• Adult Bulls or Any Buffalo	
• Resident	\$750.00
• Nonresident	\$3,750.00
• Adult Cows	
• Resident	\$450.00
• Nonresident	\$2,250.00
• Yearling	
• Resident	\$240.00
• Nonresident	\$1,200.00
• Yearling or Cow	

Notices of Proposed Rulemaking

• Resident	\$450.00
• Nonresident	\$2,250.00
Deer and Archery Deer	
• Resident	\$17.50
• Nonresident	\$108.50
Elk	
• Resident	\$71.50
• Nonresident	\$366.00
Javelina and Archery Javelina	
• Resident	\$11.00
• Nonresident	\$63.00
Mountain Lion	
• Resident	\$13.00
• Nonresident	\$183.00
Turkey and Archery Turkey	
• Resident	\$10.00
• Nonresident	\$50.50
Stamps and Special Use Permit Fees	
Arizona Colorado River Special Use Permit Stamp. For use by California fishing licensees, resident or nonresident.	\$3.00
Arizona Colorado River Special Use Permit Stamp. For use by Nevada fishing licensees, resident or nonresident.	\$3.00
Arizona Lake Powell Stamp. For use by resident Utah licensees.	\$3.00
Bobcat Permit Tag. For resident or nonresident.	\$2.00
State Waterfowl Stamp. Validates resident or nonresident Class F, G, or H license for ducks, geese, and swans.	\$7.50
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03. Resident or nonresident.	\$3.00
Trout Stamp. When affixed to the back of the license, validates Class A license for trout.	
• Resident	\$10.50
• Nonresident	\$49.50
Two-Pole Stamp. When affixed to the back of a Class A, B, C, D, E, F, Pioneer or Urban fishing license, allows simultaneous fishing as defined in R12-4-101.	\$4.00
<u>Unit 12A (North Kaibab) Habitat Management Stamp, resident or nonresident</u>	<u>\$15.00</u>
Other License Fees	
Falconer License	\$75.00
Field Trial License	\$5.00
Fur Dealer's License	\$100.00
Guide License	
• Resident or Nonresident	\$100.00
License Dealer's License	\$75.00
Minnow Dealer's License	\$30.00
Private Game Farm License	\$40.00

Notices of Proposed Rulemaking

Shooting Preserve License	\$100.00
Taxidermist License	\$50.00
Trapping License	
• Resident	\$10.00
• Nonresident	\$50.00
• Resident Juvenile	\$10.00
White Amur Stocking License	\$100.00
Wildlife Hobby License	\$5.00
Zoo License	\$100.00
Administrative Fees	
Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps.	\$3.00
Permit Application Fee.	\$5.00
Kaibab North Special Deer Hunting Permit, resident or nonresident	\$5.00

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R19-2-106 | Amend |
| R19-2-109 | Amend |
| R19-2-111 | Amend |
| R19-2-113 | Amend |
| R19-2-114 | Amend |
| R19-2-115.06 | 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 statutes: A.R.S. §§ 5-104(B) and 5-107.01
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
 Notice of Rulemaking Docket Opening: 9 A.A.R. 1244, April 18, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: William J. Walsh
 Address: Arizona Department of Racing
 1110 W. Washington, Suite 260
 Phoenix, AZ 85007
 Telephone: (602) 364-1700
 Fax: (602) 364-1703
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
 The rules changes were initiated at the behest of industry stakeholders with the intent to bring the current rules up to date with industry standards. They allow for a grace period to complete the license application process, expand the

Notices of Proposed Rulemaking

category of licensees eligible for one year license, clarify the types of races in which an apprentice jockey may claim a weight allowance, lessen the restrictions on the employment of assistant trainers, allow for the possibility of uncoupled entries in certain types of races, permit spouses who are jockeys and trainers to participate against each other with fewer restrictions, make maidens above the age of six eligible to race, and eliminate the penalty on winning horses in claiming races to run their next race within a period of 30 days at a higher level. Other changes are made to modernize the rules' language.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not rely on any study in this rulemaking.

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

None

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

The proposed rules may cause additional runners to be entered in some races or may cause additional betting interests in some races. If so, this may increase the wagering in those races which would provide additional purse money for owners of race horses and would provide additional revenue for race tracks and the state of Arizona.

9. 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: William J. Walsh
Address: Arizona Department of Racing
1110 W. Washington, Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1700
Fax: (602) 364-1703

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

The Arizona Department of Racing will conduct an oral proceeding on the proposed rule if a written request is submitted to the person named in item #4 within 30 days after the date this notice is published. The Arizona Racing Commission will consider the rules at an open meeting at least 30 days following the publication of this notice. The Department will accept written comments on the proposed rule for at least 30 days following publication of this notice.

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follow:

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

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

- R19-2-106. Licensing
- R19-2-109. Jockeys
- R19-2-111. Trainers
- R19-2-113. Entries and Subscriptions
- R19-2-114. Penalties and Allowances
- R19-2-115.06. Claiming Races: Claimed Horse Racing and Ownership Restrictions

ARTICLE 1. HORSE RACING

R19-2-106. Licensing

- A.** No change
 - 1. No change
 - 2. No change
- B.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- C.** No change
- D.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - 5. No change
 - 6. No change
 - 7. Temporary license time-frames. All licenses are temporary for 90 days under A.R.S. § 5-108(F). Applicants for owner's and trainer's licenses may have up to 30 days to complete the license application process. Unless the Department denies the applicant, the temporary license automatically becomes a license after 90 days. The administrative completeness review time-frame for a temporary license is ± one day, the substantive review time-frame is ± one day, and the overall time-frame is ± two days, excluding time for mailing. A temporary license is considered administratively complete unless the Department issues a written notice of deficiencies to the applicant.
- E.** No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
- F.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. One-year licenses may be issued for mutuel workers, concession workers, grooms, and peace officers. Such licenses shall expire on the 30th day of June, ~~1995, and every of each year thereafter.~~
 - 5. No change
- G.** No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- H.** No change
- I.** No change
 - 1. No change
 - 2. No change
 - 3. No change

R19-2-109. Jockeys

- A.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 - a. No change
 - b. No change
 6. No change
 7. No change
 - a. No change
 - b. No change
- B.** No change
1. No change
 2. No change
 3. No change
- C.** No Change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 6. No change
 7. No change
 - a. No change
 - b. No change
 - c. No change
 8. No change
- D.** No change
1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 2. No change
 - a. No change
 - b. An apprentice jockey who has not been licensed previously in any country may claim an allowance in all over-night races except handicaps and stakes as follows:
 - i. Five pounds for ~~4~~ one year from the date of the apprentice jockey's ~~5th~~ fifth winner.
 - ii. If an apprentice jockey has not ridden a total of 40 winners within a period of ~~4~~ one year from the date of the apprentice jockey's ~~5th~~ fifth winner, the Department shall allow the jockey to claim the ~~5~~ five pound allowance for ~~3~~ three years from the date of the apprentice jockey's ~~4th~~ first winner or until the apprentice jockey has ridden a total of 40 winners whichever comes ~~4th~~ first.
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
 - i. No change
 - ii. No change

- E.** No change
- ~~1. A jockey shall not ride in a race against a starter of the jockey's contract employer unless both the jockey's mount and the starter of the jockey's contract employer are trained by the same trainer.~~

Notices of Proposed Rulemaking

- ~~2.1.~~ No change
 - a. No change
 - b. No change
- ~~3.2.~~ A jockey ~~or a jockey's spouse~~ shall not own, either in whole or in part, a horse registered for racing at a track where the jockey is riding.
- ~~4.3.~~ No change
- ~~5.4.~~ No change
- ~~6.5.~~ No change

R19-2-111. Trainers

- A. No change
- B. No change
- C. No change
- D. No change
 - 1. No change
 - 2. Trainers shall not ~~enter~~ start a horse in any race, ~~except handicaps, stakes, futurities, derbies and maturities~~, if they have reason to believe that the owner or owners of such horse is not licensed by the Department prior to the time of entry the race. ~~In handicaps, stakes, futurities, derbies and maturities, entries may be taken prior to the time the owner or owners of such horse is licensed; provided, however, that if~~ If there are no horses on the also-eligible list, the owner must be licensed at least ~~+~~ one hour before post time of the first race of the day. If there is an also-eligible list with eligible horses, any trainer who has entered a horse and does not have the owner or owners licensed, shall, at the designated scratch time for the race, have the horse scratched.
 - 3. No change
- E. No change
- F. No change
- G. No change
- H. ~~Trainers~~ A trainer shall notify the stewards prior to the transfer of horses to or from trainers during the meeting. ~~Any such change shall be approved by the stewards. The stewards shall approve any such change.~~
- I. ~~No~~ A trainer shall not shoe any horse which is not under ~~such the~~ the trainer's care except by permission of the stewards.
- J. When a trainer is absent from the grounds where the trainer's horses are racing, ~~such the~~ the trainer shall provide a substitute licensed trainer to be responsible for such horse or horses. Responsibility for any violation of subsection (C) of this Section or R19-2-112(16) shall be determined, as between the ~~2~~ two trainers, by the stewards. No provision of these rules shall be construed to relieve the absent trainer of responsibility or to limit ~~such the~~ the trainer's responsibility under subsection (C) of this Section. Both trainers shall sign a "Trainers' Responsibility Form" provided by the Department and shall be approved by a steward.
- K. ~~No~~ A trainer shall have ~~any no~~ ownership interest in a horse for which such trainer is not the trainer and which is located at the track where such trainer trains. ~~No~~ A trainer shall have ~~any no~~ ownership interest in any other horse in the same race. For purposes of this rule, a reversionary interest created pursuant to an agreement transferring control of a horse is not an ownership interest.
- ~~L. Horses trained by husband or wife, registered at the same track, for entering purposes shall be considered trained by same trainer.~~
- ~~M.L.~~ A trainer who is actively participating in more than one race meeting at one time may employ an assistant trainer with the approval of the stewards. ~~Such~~ The assistant trainer shall comply with all the requirements for a trainer as prescribed by this Section and shall be completely responsible for all horses under ~~their~~ the trainer's care.

R19-2-113. Entries and Subscriptions

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. A person nominating a horse in a stakes race shall write ~~his or her~~ the person's full name, mailing address, and telephone number on the nomination form.
 - 6. A person shall not enter a horse in more than ~~+~~ one race in ~~+~~ one day.
 - 7. No change
 - 8. No change
 - 9. The owner or trainer shall sign and certify the performance record and shall include the following information for the horse's last ~~4~~ four races in the record:
 - a. No change

Notices of Proposed Rulemaking

- b. No change
- c. No change
- 10. The ~~2nd~~ second half of an entry has no preference over a single entry except in stakes, handicaps and qualifying races.
- 11. An owner entering 2 ~~two~~ or more horses in a race shall indicate the owner's preference for the horse that is to start if the race overfills. Horses excluded as part of an entry receive no consideration.
- 12. Two or more horses which are entered in a race and are owned in whole or in part by the same person, or are trained by a trainer who owns any interest in any other horse in the same race, may be uncoupled for wagering purposes in stakes, handicaps, futurities and maturities if approved by the stewards.
- 13. In races in which spouses who are both licensed trainers have entered horses, the trainers are not required to list a preference unless there is common ownership of the horses entered.
- ~~12-~~14. The racing secretary shall decide whether there shall be an "also-eligible" list for any meeting.
 - a. No change
 - b. If the number of entries to a race exceeds the number of horses permitted to start, the racing secretary shall determine the starters by lot in a drawing supervised by a steward and witnessed by those making entries. If any of the ~~1st~~ first group of starters declares out, the racing secretary shall draw, by lot, an equal number of horses from the "also-eligibles" to fill the vacancies in the race.
 - c. The racing secretary shall assign horses, other than quarter horses, which gain a position in a race from the "also-eligible" list, to the outside post positions in the order in which they are drawn from the list. The racing secretary shall assign quarter horses to the stalls of the horses ~~which that~~ are declared out.
 - d. If a horse on the "also-eligible" list ~~is not given the opportunity to~~ does not start because of insufficient declarations, the racing secretary shall place the name of the horse on the preferred list. The racing secretary shall not place a horse on the preferred list if the owner did not accept the opportunity to start.
 - e. No change
 - i. No change
 - ii. No change
 - f. No change
- ~~13-~~15. A person shall make a claim of preference at the time of entry by noting it on the entry blank or the preference will be lost.
 - a. No change
 - b. No change
- ~~14-~~16. If an owner or trainer does not declare his or her horse from the "also-eligible" list by the prescribed time, the racing secretary shall consider that owner or trainer willing to start the horse in the event of a scratch from the body of the race. The racing secretary shall not place a horse on the preferred list if the owner did not accept the opportunity to start a horse.
- ~~15-~~17. A person may not alter an entry after the closing of entries. The racing secretary may correct an error in an entry at any time.
- ~~16-~~18. If the name of a horse is changed, the racing secretary shall publish the new name and the former name in the official entries for the horse's ~~1st~~ first 3 ~~three~~ starts. If the name of an Arizona-bred horse is changed, the racing secretary shall report it to the Department in writing within 30 days, listing the new name and the former name.
- B.** No change
 - 1. No change
 - 2. ~~A horse which has reached its 6th birthday or, on the County Fair race meets, a horse which has reached its 7th birthday, and which has not won a race is ineligible to race in Arizona.~~
 - 3-2. A horse ~~which that~~ has reached its 14th birthday is ineligible to race in Arizona.
 - 4-3. The stewards shall not permit a horse to run for a purse or stakes unless it has been entered in a race and is eligible for the race.
 - 5-4. The stewards may 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 a person who is disqualified, or to produce proof of the extent of a person's interest or property in the horse. Failure to produce satisfactory proof may result in the stewards declaring the horse out of the race.
 - 6-5. A horse is not qualified for entry if it is on the stewards', paddock judge's, starter's, or veterinarian's list, or if it has been ruled off.
 - 7-6. The racing secretary shall consider the performance records of horses racing on the county fair circuit 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.
 - 8-7. The owner, trainer, or authorized agent shall ensure that a horse that has not started within 45 days has 2 ~~one~~ official ~~works~~ workout before starting at a commercial meet.

Notices of Proposed Rulemaking

C. No change

1. A person shall not ~~enter~~ start a horse in a race unless it has been fully identified and tattooed, unless otherwise authorized by the stewards. A person who participates in any manner in establishing the identity of a horse, including the breeder, owner, trainer, and identifier, is responsible for the accuracy of the information the person provides.
2. No change
3. No change
4. No change
5. No change

D. No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change

E. No change

1. No change
2. No change
3. No change
4. No change
5. No change

F. No change

1. No change
2. No change

R19-2-114. Penalties and Allowances

A. No change

B. No change

C. No change

D. No change

E. No horse shall receive an allowance of weight or be relieved from extra weight as a result of having been beaten in ~~+~~ one or more races. This rule shall not prohibit maiden allowances or allowances to horses that have not won a race within a specified period or a race of a specified value.

F. No change

G. No change

H. No change

I. No change

J. No change

K. No change

1. No change
2. No change
3. No change

L. No change

1. No change
2. No change
3. No change
4. No change

M. No change

1. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
3. ~~Any A~~ horse claimed in a claiming race must ~~be entered~~ subsequently start for a claiming price to establish new eligibility for a starter allowance race.
4. No change

R19-2-115.06. Claiming Races: Claimed Horse Racing and Ownership Restrictions

~~A.~~ If a claimed horse is claimed from a winning race, it may not start in a claiming race for a period of 30 days from the day of the claim, for less than 25% more than the amount for which it was claimed. When a race is in dispute, both the horse finishing first and any horse claiming the race shall be liable to this penalty for 30 days from the date of the claim, unless decided beforehand.

~~B.~~A. No change

1. No change
2. No change
3. No change

~~C.~~B. No change