Written Comments Received on the Draft Final Event Wagering Rules as of 4/12/2022

Name	Rule	Rule Reference	Comment on Rule	Proposed Changes
Richard Verri	Event Wagering	R19-4-105 (J)	The word “robust” is not a legal standard, is undefined in either the statute or the rules and far exceeds statutory regulatory of the ADG. It would provide the ADG with nearly unfettered discretion to create a standard and to revoke a license which is not permitted under the enabling legislation. The second clause of the proposed rule (“fails to continue operations with the event wagering operator, designee … management service provider that formed the basis for the license allocation.”) is objectionable from a purely business standpoint in that it would provide a vendor, such as a management service provider, with excessive and unilateral negotiation power over a licensed event wagering operator. For example, the servicer could demand unreasonable terms of the licensee under the threat that they would discontinue services and the license could be revoked by the ADG.	Delete the proposed rule R19-4-105 (J). Section 5-1306 of the enabling legislation (HB2772) provides the ADG with the necessary regulatory authority to revoke a license for the criteria listed in the section.
Richard Verri on behalf of the Tonto Apache and Quechan Tribes	Event Wagering (R19-4-113 C)	R19-4-113 C	The word "may" is too general and could trigger an inadvertent violation of this provision should the responsible party merely discuss operational business plans internally.	The word "may" in the proposed rule should be changed to the word "will."

Rob Dalager	Ancillary Suppliers	R19-4-101(B)(27)	The Arizona Department of Gaming (“ADOG”) has requested the Arizona Cardinals to complete and submit an “Event Wagering Ancillary Supplier Short Form Application.” The Arizona Cardinals submit the following timely comments as part of the ADOG open rule-making, the draft of which contains the relevant rule discussed below. ADOG’s promulgation of A.A.C. R19-4-101 et seq. exceeds the Department’s rule-making authority and conflicts with the Act. The Act—A.R.S. § 5-1301 et seq.—defines the term “Supplier” and lists those who must apply for a “supplier license.” Under A.R.S. § 5-1301(22), “Supplier means a person that manufactures, distributes or supplies event wagering equipment or software, including event wagering systems.” The Arizona Cardinals are not a “Supplier” as defined under the Act. Similarly, A.R.S. § 5-1308, which pertains to “supplier licenses,” focuses on event wagering equipment and related services. Specifically, § 5-1308(A) provides that the “department may issue a supplier license to a person that manufactures, distributes, sells or leases event wagering equipment, systems or other gaming items to conduct event wagering and offers services related to the equipment or other gaming items and data to an event wagering operator or limited event wagering operator while the license is active.” The Arizona Cardinals do not provide event wagering equipment, systems or other gaming items to any licensee and therefore do not fall under any of the foregoing enumerated categories. ADOG has recently issued a rule that seeks to expand the Act’s definition of “Supplier” well beyond the definition expressed by the legislature under the Act. Specifically, A.A.C. R19-4-101(27) (hereinafter the “Rule”) defines “Supplier” as follows: 27. “Supplier” or “Vendor” includes persons who satisfy the definition of supplier in the Act and persons who provide goods and/or services, directly or indirectly, to a responsible party in connection with event wagering pursuant to the Act, including those referred to as ancillary suppliers for purposes of the licensing fee structure. Ancillary suppliers include: a. Affiliates; b. Bookmakers; c. Data centers providing physical security and infrastructure; d. Geofence providers; e. Identity verification service providers; f. Independent test laboratories; g. Integrity monitoring providers; h. League data providers; i. Marketing affiliates; j. Payment processors; and k. Any other person as determined by the Department. (Emphasis added). The Rule thus defines “Supplier” to include “persons who satisfy the definition of supplier in the Act” and multiple other enumerated categories of persons nowhere enumerated in the Act. The Arizona Legislature defined “Supplier” under the Act. And “what the Legislature means, it will say.” Canon Sch. Dist. No. 50 v. W.E.S. Constr. Co., 177 Ariz. 526, 530 (1994). Accordingly, the Rule—which seeks to expand the Act’s definition, to impose additional licensing requirements upon, for example, “ancillary suppliers”, and to grant ADOG discretion to determine what other persons shall be subject to licensing requirements—exceeds ADOG’s rule-making authority. See A.R.S. § 41-1030(B) (proving in part that “A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition	R19-4-101 (B) (27) should be redrafted to limit the definition of supplier to be consistent with statute and to eliminate the references to the ancillary supplier that are outside of the statutory scope..

Rob Dalager for the Arizona Cardinals	Procedures of licensing	R19-4-105 (J)	The proposed rule would allow for license revocation if a licensee "… fails to conduct a robust event wagering operation …" In our opinion this phrasing is quite vague and leaves a significant amount of discretion to the Department while providing no clear direction to the licensee. The interpretation of the term "robust" will vary from person to person and likely in a significant manner. For example, if a licensee has an event wagering facility and decides to shut down for a few months to remodel or upgrade the facility, is it no longer conducting a robust operation? Second, the proposed rule would allow for a license revocation should a licensee "… fail to continue operations with the event wagering operator … that formed the basis for its license allocation." As we read that language a licensee would not be able to change its operator or manager from that originally contracted with without potentially being subject to license revocation. We fail to see the point or public benefit of such a restriction.	A.R.S. § 5-1306 provides at least 13 causes for which the Department may revoke a license. The first of those is fairly broad and states a license may be revoked if a licensee, "Violates, fails or refuses to comply with the provisions, requirements, conditions, limitations or duties imposed by this chapter and other laws and rules …" If our opinion the proposed R19-4-105 (J) is unnecessary and should not be enacted. Should the rule remain, we request the addition of this language, "In the event the Department revokes any license pursuant to this paragraph and such license was issued to a designee of an owner, operator or promoter as contemplated by ARS 5-1301(7)(a), the owner, operator or promoter who made such designation shall have the right to appoint another designee to receive such license."
Andrew Kelly	Allocation of Applicants	R19-4-106.C(3)	The first sentence of the proposed rule is very confusing. At a minimum it must be read to add a new requirement for a professional sports team to be qualified for a license. The addition of this new requirement is directly contrary to the text of the Act, which does not impose a seating capacity requirement on professional teams to qualify for a license. A rule cannot directly contradict the Act, and, therefore, this first sentence cannot be adopted. In addition, due to the unclear language in the draft rule, the first sentence might also be read to provide that a licensee can only operate a "retail" location if it has a facility of with a seating capacity of more than 10,000 persons. If this is what this sentence is intended to mean, then (i) it is not a condition to qualify for the grant of a license and is misplaced in subsection C, and (ii) the seating capacity requirement for the right to operate a retail location is already clearly stated in the Act and should not be restated in a confusing way in the Rules. The second sentence of the proposed rule is in direct conflict with the requirements of the Act and cannot be legally adopted. Section 5-1404(D)(1) of the Act provides that a licensee can offer event wagering "through an event wagering facility [a retail location] with a five-block radius of the event wagering operator's sports facility…". The definition of "sports facility" in the Act includes a requirement that the facility "holds a seating capacity of more than ten thousand persons." The second sentence of this draft rule proposes to allow the Department to approve facility seating capacities of "smaller than 10,000 seats." The Act is express in its provision that the seating capacity must be more than 10,000 seats and the Act does not give the Department the authority to grant even temporary reduced seating limits. Therefore, the second sentence cannot be adopted.	Delete proposed language in its entirety.

Christopher Love, Outside General Counsel for the Fort Mojave Indian Tribe	Procedures for Licensing	R19-04-105 J	Fort Mojave Indian Tribe strongly opposes Draft Rule R19-04-105 J ("Draft Rule J") in its entirety. As proposed, Draft Rule J authorizes the Department of Gaming to revoke licenses from a licensee that "fails to conduct a robust event wagering operation or fails to conduct operations with the event wagering operator designee, limited event wagering operator, or management service provider that form the basis for the license allocation." Draft Rule J fails to define "robust event wagering operation" or set forth any factors or metrics to be used in the determination what is or is not "robust," making "robust" an arbitrary term. Draft Rule J fails to lay out a procedure for this determination by the Department, and it does not provide a procedure for a licensee to dispute the Department's finding or remedy any alleged deficiencies. There is simply no due process for a licensee in danger of losing its license. Additionally, Draft Rule J creates a clear conflict of interest for the Department as it is charged with regulating event wagering, while simultaneously being asked to evaluate the robustness/profitability of the same event wagering operation. The Department's function should be purely regulatory, thus it should be ensuring compliance with the law. It should have no role in making determinations on the fiscal health or profitability of an event wagering operation so long as the operation can pay licensing fees and other fees associated with their license. Finally, Draft Rule J proposes that licensees risk losing licenses for changes in "designee, limited event wagering operator, or management service provider;" however, these changes can happen in the normal course of business and should not lead to the immediate revocation of licenses. The license application is a proposal that forecasts how the licensee and its partners plan to operate based upon information available at the time of submittal. However, in a rapidly changing gaming environment, businesses change based upon market conditions, political climate, and business needs. The Draft Rule serves to punish a licensee by revoking its license because of business decisions that may beyond their control or that may be in the best interest of the event wagering operation. Changes or substitutions in designees, operators, and management service providers should be permitted and the Draft Rules should provide a mechanism for newly selected designees, operators, or management service providers to demonstrate suitability rather that immediate revocation of licenses.	The Fort Mojave Indian Tribe proposes striking the Rule in its entirety.

Rob Dalager for the Arizona Cardinals	Allocation for Applicants	Reference: R19-4-106 (C)(3)	The Arizona Cardinals submit the following timely comments to the Arizona Department of Gaming's proposed R19-4-106(C)(3) (the "Rule"). A.A.C. R19-4-106(C)(3) exceeds the Department's rule-making authority. The Act—A.R.S. § 5-1301 et seq.—defines the term "Sports facility" as "a facility that is owned by a commercial, state or local government or quasi-governmental entity that hosts professional sports events and that holds a seating capacity of more than ten thousand persons at its primary facility, one location in this state that hosts an annual golf tournament on the PGA tour and one location that holds an outdoor motorsports facility that hosts a national association for stock car auto racing national touring race." A.R.S. § 5-1301(18) (Emphasis added.) The Rule correctly provides that "use or operation of a Sports Facility that meets the definition of A.R.S. § 5-1301(18) is required for facilities operating retail event wagering under A.R.S. § 5-1304(D)(1)." The Rule in the very next sentence, however, then incorrectly provides that, "to maintain qualification to operate under A.R.S. § 5-1304(D)(1), the use or operation of a Sports Facility that meets the definition of A.R.S. § 5-1301(18) is required unless a different facility smaller than 10,000 seats is approved by the Department." (Emphasis added.) The Rule seeks to grant the Department the discretion to expand the scope of the Act's definition of "Sports facility" to include facilities with fewer than 10,000 seats. This proposal is in direct conflict with the Act, which specifically requires a seating capacity of more than 10,000 persons and does not grant the Department any such discretion. Accordingly, the Rule exceeds ADOG's rule-making authority. The Arizona Legislature defined "Sports facility" under the Act. And "what the Legislature means, it will say." Canon Sch. Dist. No. 50 v. W.E.S. Constr. Co., 177 Ariz. 526, 530 (1994). Accordingly, the Rule exceeds ADOG's rule-making authority. See A.R.S. § 41-1030(B) (proving in part that "A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition."); accord Sharpe v. Arizona Health Care Cost Containment Sys., 220 Ariz. 488, 495 (App. 2009) ("An administrative agency…must exercise its rule-making authority within the parameters of its statutory grant; to do otherwise is to usurp its legislative authority.") (citing Canon Sch. Dist. No. 50, 177 Ariz. at 530 (same)); Arizona Health Care Cost Containment Sys. Admin. v. Carondelet Health Sys., 188 Ariz. 266, 270 (App. 1996) ("It is well settled that the regulations promulgated by an administrative agency must be consistent with the parameters of the statutory grant of authority.").	We believe that the proposed rule should be deleted in its entirety.

Chad Riney, Senior Counsel, Churchill Downs Incorporated	Procedures for Licensing	R19-4-105(J)	Proposed new subsection 19-4-105(J) reads as follows: “The Department may revoke a license where the licensee fails to conduct a robust event wagering operation or fails to continue operations with the event wagering operator, designee, limited event wagering operator, or management service provider that formed the basis for its license allocation.” Churchill Downs Interactive Gaming, LLC ("CDIG") submits the following comments and proposals with respect to this proposed rulemaking: First, we believe the language that ADG “may revoke a license where the licensee fails to conduct a robust event wagering operation” is highly problematic because there is neither a definition nor any set of standards or criteria attached to the term “robust.” It is unclear whether the intent of the rule is to require licensees to offer a certain number of events in their wagering catalog, to maintain a certain level of wagering volume, or something entirely different. Effectively, this rule creates an undefined legal standard and improperly delegates to ADG the unfettered discretion to rescind a costly event wagering license in an arbitrary manner that far exceeds the statutory regulatory authority of ADG. The remainder of the event wagering regulatory and statutory regime sets forth highly specific and objective standards for licensees, and ADG is entitled to take disciplinary action for any licensee that does not act in compliance with those objective requirements. This renders the proposed “robustness” requirement not only improperly vague, but also redundant. The offerings made available by a licensee within its event wagering operation should be left to the business judgment of the licensee within the confines of the existing objective requirements found in the event wagering statute and regulations. Thus, although CDIG objects to this proposed rule in its entirety, we strongly urge ADG to not include any requirements regarding the size or composition of an event wagering operation. We additionally believe that there are multiple problems with the proposed language allowing ADG to “revoke a license where the licensee . . . fails to continue operations with the event wagering operator, designee, limited event wagering operator, or management service provider that formed the basis for its license allocation.” We object to this restriction, and we provide the following comments with regard to this restriction: In essence, this rule would allow ADG to revoke a license any time a licensee elects to change operators, designees, and/or service providers or decide to operate event wagering on its own behalf. Event wagering licensees, which include Native American tribes and professional sports organizations in Arizona, applied for their initial licenses and entered into contracts with designees, operators, and/or management services providers without any notice of such a restriction on their contractual rights. This rule fails to account for the fact that the relationships between these licensees and operators are based on privately negotiated commercial contracts. As a general rule, these contracts typically last for a defined term and provide the parties certain rights necessary to protect their interests. This rule would prevent a licensee from protecting its and the state’s interests should it be become necessary or prudent to continue the licensee’s event wagering operation with a different operator. This ex post facto restriction on the ability to freely contract with other potential partners materially and adversely interferes with the rights and interests of licensees, including their ability to maximize the value of their licenses to themselves and the state. In addition, the proposed rule wholly ignores the other interests and justifications that formed the basis for the licensee’s allocation, which undoubtedly came at a significant price. It seems that this proposed rule may be based upon ADG’s legitimate concern that an event wagering license—which are limited in number in Arizona—may lie dormant if a licensee “fails to continue operations with the event	Although as discussed herein CDIG objects to this new provision in its entirety, as an alternative, we believe the following language for this rule would account for ADG’s legitimate concern that event wagering licenses do not lie dormant while protecting licensees from an unfettered grant of discretion to ADG: “The Department may revoke a license where the licensee fails to conduct event wagering on its own behalf or with any event wagering operator, designee, limited event wagering operator, or management service provider for any consecutive period of at least one-hundred eighty (180) days without the prior approval of the Department.”

Chad Riney, Senior Counsel, Churchill Downs Incorporated	Reserve Requirements and Bank Accounts	R19-4-113(C)	Proposed new subsection 19-4-113(C) reads as follows: “The responsible party shall immediately notify the Department upon determining that it may cease operations and shall provide a written plan to settle any outstanding liabilities and/or refund player account funds.” Churchill Downs Interactive Gaming, LLC (“CDIG”) submits the following comments and proposals with respect to this proposed rulemaking: CDIG agrees that that if a licensee ceases operations in Arizona, notification to ADG should be required and a plan to resolve outstanding issues should be submitted to ADG. As drafted, however, the language requiring *immediate* notification to ADG whenever a licensee determines “that it *may* cease operations” is not only vague and speculative, but it would also be impossible with which to comply from a timing perspective, as a licensee could not possibly have a written plan in place immediately upon becoming aware that it *may* cease operations. Instead, any notification requirement for ceasing operations should be structured in terms of when operations will cease, rather than when a determination to cease operations may or may not be made. Requiring advance notice prior to ceasing operations will ensure ADG is aware of any such plans and provide both ADG and any affected parties the opportunity to plan appropriately and address outstanding issues.	CDIG proposes that the following language be utilized for this proposed rule: “The responsible party shall notify the Department no less than thirty (30) days prior to ceasing event wagering operations in the state and shall provide a written plan to settle any outstanding liabilities and/or refund player account funds.”

Brian Bergin, Bergin, Frakes, Smalley & Oberholtzer	Procedures For Licensing	R19-4-105(J)	This comment is submitted on behalf of Suns Legacy Partners, LLC and Phoenix Mercury Basketball, LLC. The proposed rule sets forth an undefined, subjective, standard and provides no objective guidance as to what qualifies as a “robust” event wagering operation. Arizona law holds that a rule or statute is void for vagueness if it does not give a person of ordinary intelligence a reasonable opportunity to know what is prohibited and fails to contain explicit standards of application to prevent arbitrary and discriminatory enforcement. Franklin v. Clemett, 240 Ariz. 587 (App. 2016). There are no standards for a licensee, the Department, or a judge to apply when assessing whether a licensee’s event wagering operation is sufficiently “robust” under the proposed rule. The Arizona Administrative Code offers no other instance where “robust” is used as a legal standard. This is particularly concerning when the vague standard can be used to imperil a matter of such consequence as a license. This murky language inevitably poses a substantial risk of inconsistent and arbitrary application and is likely to lead to litigation. The rule, as written, is vague, ambiguous, and likely unenforceable. Additionally, the proposed rule exceeds the Department’s rule-making authority. An administrative agency must exercise its rule-making authority within the parameters of its statutory grant. To do otherwise is to usurp its legislative authority. “The scope of an agency’s power is measured by the statute and may not be expanded by agency fiat.” Sharpe v. Arizona Health Care Cost Containment System, 220 Ariz. 488, 494-495, ¶¶ 19-20 (App. 2009). The Legislature enacted thirteen specific criteria for which the Department may revoke a license in A.R.S. § 5-1306(A). The failure to “conduct a robust event wagering operation” is not included or implied by any of the criteria set forth in § 5-1306(A). If the Legislature had intended to grant the Department the power to create additional criteria for the revocation of a license, it could have expressly done so. The proposed rule exceeds the statutory grant of authority given to the Department. It is, therefore, unenforceable.	R19-4-105(J) should be deleted in its entirety.

Brian Bergin, Bergin, Frakes, Smalley & Oberholtzer	Definitions; License Categories; Procedures for Licensing; Internal Audit	R19-4-101(27); R19-4-104(F) and (G); R19-4-105(B)(6); R19-4-141(A)	This comment is submitted on behalf of Suns Legacy Partners, LLC and Phoenix Mercury Basketball, LLC. The Department enacted several rules concerning licensing requirements for "ancillary suppliers" that have exceeded its rule-making authority. The Legislature directed the Department to establish and collect fees for four specific categories of licenses: (1) event wagering operator licenses; (2) limited event wagering operator licenses; (3) management services provider licenses; and (4) supplier licenses. A.R.S. § 5-1310(A). The Legislature made no mention of a separate license category for "ancillary suppliers." Similarly, A.R.S. § 5-1302(C) permits the Department to evaluate all applicants to determine suitability for issuing all event wagering operator licenses, limited event wagering operator licenses, supplier licenses, and management services provider licenses, and to charge and collect fees for such licenses. Again, there is no mention of a separate license category for "ancillary suppliers." The Department does not have authority to create and charge licensing fees for a new license category for ancillary suppliers. An administrative agency must exercise its rule-making authority within the parameters of its statutory grant. To do otherwise is to usurp its legislative authority. "The scope of an agency's power is measured by the statute and may not be expanded by agency fiat." Sharpe v. Arizona Health Care Cost Containment System, 220 Ariz. 488, 494-495, ¶¶ 19-20 (App. 2009). The Legislature expressly created only four license categories. A separate and additional license category for ancillary suppliers cannot be reasonably implied from the statutory scheme. Had the Legislature intended to create a separate license category for ancillary suppliers, it could have done so. Proposed Changes: All references in the Rules to ancillary suppliers should be deleted.	

Charlene Jackson	Procedures for Licensing	R19-4-105J	As proposed the rule presents several issues. The proposed rule includes a vague standard with the terms “robust event wagering operation. There are no standards to determine whether an operation is “robust” for purposes of license revocation or retention and no procedures as to how this decision is made. The Department’s responsibility for event wagering under ARS § 5-1302 is to “enforce this chapter and supervise compliance with the laws and rules relating to regulating and controlling event wagering in this state”. The draft language inappropriately puts the Department of Gaming in a position of acting beyond its statutory authority to render an opinion on whether an operation is “robust” for purposes of maintaining a license while, at the same time, regulating the same business. Satisfaction with the performance of a commercial business is properly with the business owner, not the regulatory state agency. Of additional concern is the Department’s authority to revoke one’s event wagering license due to business changes that may be based routine and ordinary business decisions. As written, the provision completely disregards the reality of business. Businesses change all the time. Businesses cease operations, merge, divide, change vendors regularly based upon what is in the best interest of the business. Likewise, business ownership can change as does the executive leadership. In many instances, these business decisions may be made without the input of the entity eligible to engage in event wagering under the Arizona statues, either the tribes or professional sports team operator or owner. Punishing a tribe or sports team owner or operator by stripping their license because of decisions that may not be within their control or that might be decisions made in the best interest of the business, including decisions to perhaps, make the business more “robust” is inappropriate and extreme, particularly considering the expense of the license in and of itself. Additionally, as written, the rule requires licensees to remain in business with designees, operators or management service providers indefinitely and thus shifts the balance of power to those entities who do not independently meet the eligibility requirements to hold an event wagering license as set forth in ARS § 5-1304. These entities are then free to force renegotiations of contracts and fees, for example. These potential scenarios frustrate the intent of ARS § 5-1301 et seq. To accommodate changes in the industry, the regulations should include procedures for licensees to change or substitute designees, operators, or management service providers so long as the newly selected designee, operator or management service provider is suitable and is either licensed or eligible to be licensed and can be licensed within a reasonable amount of time.	J. A licensee may substitute designees, limited event wagering operators, or management service providers so long as the newly selected designee, limited event wagering operator, or management service provider is licensed or is determined to be suitable for a license under ARS § 5-1301 et seq.

Thomas L. Murphy, Acting General Counsel, Gila River Indian Community	Event Wagering	R19-4-106	The current Rule 19-4, Article 1. Event Wagering, without revision, allows a sports team with an event wagering operator's license to move to a temporary facility with a seating capacity of less than ten thousand persons, without jeopardizing its license. A licensed sports team may offer mobile event wagering while it occupies such a temporary facility, but it would not be authorized to offer retail event wagering. The 2021 Gaming Act, 2021 Ariz. Sess. Laws Ch. 234, A.R.S. § 5-1304.D.1. only authorizes retail event wagering within a five-block radius of a licensee's sports facility. A sports facility is defined as a facility with a seating capacity of more than ten thousand persons. A.R.S. § 5-1301(18). The proposed revision to R19-4-106.C.3, exceeds the rule making authority of the Department by proposing to allow retail event wagering at locations that are not authorized by the 2021 Gaming Act. As proposed, R19-4-106.C.3. adds two sentences in a new subsection (3). The second sentence would allow a retail gaming area surrounding a facility with a capacity of less than 10,000 persons and is thus directly contrary to A.R.S. § 5-1304.D.1. If additional clarity is desired, then the Rule could be amended to clarify that a sports team's event wagering operator's license may be maintained for mobile event wagering, but not retail event wagering, while occupying a temporary facility with a seating capacity of less than ten thousand person. An alternative to accomplish the forgoing is proposed.	Revise R19-4-106. C (3) by deleting (3) as proposed and inserting instead (3) as shown below. [underlining was not available on the feedback portal] C.For a professional sports team (to include the PGA operator, the NASCAR promoter, designee, or management services provider relevant to the initial application) to be qualified for an event wagering operator license: 1. It must meet the definition of an event wagering operator in A.R.S. § 5-1301(7)(a) and the requirements of A.R.S. § 5-1304 (A)(1), (B), and (C). 2. It and its event wagering employees must submit to background checks under A.R.S. § 5-1302(C) and (E), must not be prohibited participants under A.R.S. § 5-1301(16), and must not have a criminal history or other grounds sufficient to disqualify the applicant apparent on the face of the application as noted in A.R.S. § 5-1305(C), which will be determined by the factors listed in A.R.S. § 5-1305(B)(1-5). 3. It may continue to qualify as an event wagering operator while it occupies an event wagering facility with a seating capacity of less than ten thousand persons, with the approval of the Department, for a temporary use pending the construction of a new sports facility or the remodeling of an existing sports facility, and the period does not exceed three (3) years. Notwithstanding the forgoing, a retail event wagering location is only allowed surrounding a sports facility that meets the definition of A.R.S. § 5-1301(18).
Richard Verri on behalf of the Tonto Apache and Quechan Tribes	Event Wagering (R19-4-106(C)(3))	R19-4-106(C)(3)	The proposed rule appears to be contrary to existing law and may trigger a state violation of the poison pill provision of the tribal-state gaming compact which became effective on May 24, 2021. HB2772 defined "sports facility" and required retail operations to be within a certain specified distance to the "sports facility."	Delete the propose rule in its entirety.
Richard Verri on behalf of the Tonto Apache and Quechan Tribes	Event Wagering (R19-4-113 (C))	R19-4-113 (C)	Requiring the responsible party to notify the Department when it "may" cease operations is an unreasonable and unworkable standard. Notification to the Department is reasonable when the responsible party determines that it "will" cease operations.	The responsible party shall notify the Department and submit a plan to resolve outstanding issues, settle liabilities and submit a timeline for ceasing operations no less than thirty (3)) days prior to when it determines that it will cease operations.
Richard Verri on behalf of the Tonto Apache and Quechan Tribes	Event Wagering (R19-4-110 (G))	R19-4-110 (G)	The proposed rule would limit event wagering advertising on college or university campuses but would create unreasonable constrains on certain forms of advertising that tribal designees may engage in on national broadcasts.	Event wagering shall not be promoted on college or university campuses except for generally available advertising, including but not limited to television, radio, mobile technology and digital advertising.

Richard Verri on behalf of the Tonto Apache and Quechan Tribes	Event Wagering (R19-4-105(J))	R19-4-105(J)	The proposed rule would allow the Department to revoke an event wagering operator license if the licensee (1) fails to conduct "robust" event wagering operations or (2) "fails to continue operations with the event wagering operator, designee, LEWO or management service provider that formed the basis for its license allocation. The Tonto Apache Tribe and the Quechan Tribe vehemently oppose the proposed rule on the basis that it would give the Department authority to set criteria that are not permitted in the enabling legislation (HB2772/A.R.S. Section 5-1306 A.1). The proposed rule's use of a subjective standard of "robust" would permit the Department to revoke a license without a legally established standard and replace the tribes' determination of what and how it wishes to conduct its event wagering operations. It would replace the tribes' business determinations as the best and most profitable way to conduct its economic development projects as it relates to the event wagering operator license which it received. It would impermissibly interfere with the private contractual relations that the tribes have established. It would additionally result in the economic loss to the tribes of millions of dollars which they have expended in the development, management, oversight, regulation and licensing fees in their obtaining licensure. The tribes are also vehemently opposed to the second proposed basis to revoke a license. A licensee may make independent decisions on how best to allocate its resources in selecting and continuing relations with, for example, a management service provider. The proposed rule would give the Department the ability to revoke a license merely because of business decisions that the tribe may make regarding its management service provider, or other vendors that formed the basis of their licensure. The proposed rule is unreasonable and beyond the enabling legislation to permit the Department to substitute its judgement for that of the tribal licensees.	Tonto Apache Tribe and the Quechan Tribe recommend deleting the proposed rule R19-4-105 (J) in its entirety.
Jonathan Nabavi, National Football League	Definitions/License Categories	R-19-4-101(27)	The NFL is concerned that the Arizona Department of Gaming's final draft rules for event wagering seek to expand the Act's definition of "Supplier" beyond the definition intended and established by the legislature under HB 2772. Specifically, while the statue defines "Supplier" as a "person that manufactures, distributes or supplies event wagering equipment or software, including event wagering systems," the definition under R19-4-101(27) adds new categories that the Act doesn't contemplate, potentially extending its reach to entities that the legislature never intended to be subject to licensing.	To make R-19-4-101(27) consistent with the Act, we would propose clarifying that sports governing bodies merely providing official league data to operators, as well as professional sports teams that designate operators to receive an event wagering operator license in accordance with A.R.S. § 5-1301(7)(a), are not subject to licensure under the Act. Proposed language below (to be added at the end of R-19-4-101(27)): "Notwithstanding anything to the contrary herein, sports governing bodies that provide official league data to operators, as well as professional sports teams that designate operators to receive an event wagering operator license in accordance with A.R.S. § 5-1301(7)(a), are not subject to licensure under the Act by virtue of such arrangements."
Amilyn Pierce	License Categories	R19-4-101(B)(27) and R19-4-104(F)	ARS Section 5-1301(22) defines "Supplier" as "a person that manufactures, distributes or supplies event wagering equipment or software, including event wagering systems". While ARS 5-1302 provides the Arizona Department of Gaming ("Department") with the authority to promulgate rules related to event wagering, such authority does not give the Department the right to change the legislation itself. These proposed rules go beyond putting rules in place regarding event wagering legislation. Instead, they attempts to change the legislation by expanding the definition of "Supplier" to include "marketing affiliates", among other categories, as "ancillary suppliers" and requiring these suppliers to be licensed.	Remove any reference or definition of "Supplier" that does not match the definition in statute. Remove any reference to "ancillary suppliers".

Amilyn Pierce	Procedures for Licensing	R19-4-105(J)	“Robust” is not defined in statute or in rule and is very vague. Additionally, the statue provides very clear reasons for the revocation of a license, none of which reference whether or not an operation is “robust”. This proposed rule is not necessary, and creates an ambiguous and subjective standard of what is “robust”. Further, the Department does not have the authority to create a rule that goes beyond supporting the existing law.	Delete the rule.
Amilyn Pierce	Allocation for Applicants	R19-4-106(c3)	ARS Section 5-1301(18) makes it clear that a sports facility must hold a seating capacity of more than 10,000 persons in order to operate a physical sports book. This proposed rule is in direct conflict with ARS Section 5-1301(18). The Department does not have the authority to create a rule that would conflict with the existing law.	Delete the rule.