

From: [Ty Gray](#)
To: [Jennifer Stewart](#); [Celeste Cook](#); [Jim Odenkirk](#); [Jim deVos](#); [Kent Komadina](#)
Subject: Fwd: Game & Fish Rulemaking Request for A.A.C. § R12-4-402(A)
Date: Monday, August 15, 2016 1:16:34 PM
Attachments: [9D27CB9A-9C43-4C17-886D-173586A09F6C\[150\].png](#)
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FYI

Sent from my iPhone

Begin forwarded message:

From: Hunter Moore <hmoore@az.gov>
Date: August 15, 2016 at 12:38:31 PM MST
To: Larry Voyles <lvoyles@azgfd.gov>
Cc: Ty Gray <tgray@azgfd.gov>, Henry Darwin <hdarwin@az.gov>, Danny Seiden <dseiden@az.gov>, Victor Riches <vriches@az.gov>, Daniel Ruiz <druiz@az.gov>, Daniel Scarpinato <dscarpinato@az.gov>, Annie Dockendorff <ADockendorff@az.gov>
Subject: Game & Fish Rulemaking Request for A.A.C. § R12-4-402(A)

Director Voyles,

I am sending this message after having reviewed the request by the Arizona Game & Fish Department (Department), to initiate rule making for A.A.C. § R12-4-402(A) rules addressing the release of wildlife in Arizona without a state permit. I understand that the Department, and the Arizona Game & Fish Commission (Commission) have conferred with their legal council, and there is a concern that the current rules could be construed as authorizing a federal agency to release or reintroduce threatened or endangered species in Arizona without obtaining a state permit. I understand that the Commission intends to clarify this rule to make it inapplicable to federal agencies. I also understand that you have reviewed the work of your staff, and you are submitting your request to this office pursuant to Executive Order 2016-03 (Executive Order).

I am aware that Federal regulations require agencies within the Department of the Interior to comply with state permit requirements in connection with the release or reintroduction of wildlife, except when the Secretary of Interior determines compliance will prevent an agency from carrying out its statutory responsibilities (43 C.F.R. Part 24). I understand that the Commission and Department expect federal agencies to obtain state permits to release wildlife, and that you wish to eliminate any ambiguity state regulations that a federal agency may bypass state permit requirements if federal law authorizes the

release of wildlife.

I also understand that it is the position of the Commission that federal regulation requiring state permits recognizes that the effective conservation of wildlife resources requires cooperation among the states and the federal government, and that states have broad trustee responsibilities for fish and wildlife with primary authority for wildlife management on federal lands. These same concepts are reflected in the letter to the Secretary of Interior dated November 13, 2015, in which the Governors from Arizona, New Mexico, Utah and Colorado stated that wolf recovery depends on the support and participation of the affected states. The letter mentioned above raised concerns that the affected states had not been provided sufficient opportunities to shape the recovery planning process, and the Fish and Wildlife Service (“Service”) was making decisions without consulting the states.

I believe that this request by the Department meets the criteria for an exception under subsections 2(i) of the Executive Order, which allows an agency to pursue rule making to address matters pertaining to the control, mitigation, or eradication of wasteful, fraudulent, or abusive activities perpetrated against an agency.

Based on authority provided from Henry Darwin, I am hereby approving the rulemaking exemption so the Department can proceed.

I am available for any questions you may have.

Hunter Moore
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